

DISSERTATION

**Dividing society, dividing estates. Probate and will-making in
Hermannstadt, 1720-1800: a social, economic and administrative
perspective.**

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Introduction

From a meta-historical perspective, there are two main ways of seeing late medieval, early modern, and eighteenth-century last wills and testaments. On the one hand, there is a rich strand of literature that regards wills – and especially women’s wills – as manifestations of individual agency, formulated against the structures and strictures of legal and social milieus that allowed too little space of action and privileged (male) authority, and the community over the individual. In this sense, wills are exceptional documents. On the other hand, last wills and testaments are regarded as a polyphonic source, which speaks to a variety of topics, revealing important findings about various extra-testamentary fields. In this sense, testaments figure as keyholes into wider narratives, such as the history of consumption and material culture, that of family and gender, or that of piety and confessionalisation.

Last wills and testaments perform many functions, bending and moulding themselves to various research designs and methodological approaches. While being acknowledged as exceptional sources, demonstrating untypicality, they are concurrently employed to make larger arguments about typical trends and normative issues beyond their narrow reach. Giving the impression that they at least partially mirror some of the true concerns of historical individuals presumably silenced in other contexts, they are elevated as shards that reflect a relevant piece of a larger narrative; the more of them one collects, the more defined the image they can convey. The present work will show that this is not the case: testaments shed light on a very context-dependent segment of historical individuals, who differed from what could be regarded as the ‘typical’ urban population in a myriad of ways. The mirrors they held up to society alternately distorted or clustered together various unrelated issues, presenting historical research with seemingly bespoke views for a variety of topics.

Even when testaments were considered within the broader context of a well-researched timeframe and area, the possibilities to contextualise the specific ways in which they biased the historical gaze remained limited by the need to integrate other types of sources. Depending on the particular historical milieu explored, these complementary sources might range from being almost inexistent to being overabundant, thus limiting the option for a comprehensive coverage that could turn them into terms for a robust comparison. Thus, the lion’s share of historical attention has generally been drawn to what testaments and testators sought to achieve, rather than to the who’s and why’s of will-making.

The present thesis temporarily pushes aside these two meta-narratives, arguing that testaments may be productively regarded as parts of an intertwined legal, social, economic, and demographic ecosystem. As opposed to paying lip-service to contextualisation, the present work seeks to operationalise, harmonize, and deconstruct the various layers of political, social, economic, and legal context within which will-making was embedded. Thus, the thesis works to outline a collective profile of testators in Hermannstadt (Sibiu), the administrative capital of the Habsburg province of Transylvania, between roughly 1720 and 1800. As a novelty within studies of testaments, this collective profile is re-situated into the social and economic layers of the urban population, in order to understand what drove some groups and individuals to make wills, and why some did not despite sharing at least part of the same characteristics. Given the juridical character of the testamentary act during the eighteenth century, will-making in Hermannstadt is also examined in light of the legal pluralism extant in the province. Thus, the thesis shifts the predominant historiographical focus from the content and authorship of testaments to the act of will-making as a sort of vital event, which can be paralleled, compared, and contrasted with other events and transitions.

The introduction is structured as following: firstly, it outlines the working theoretical and methodological premises of the thesis, in relation its main goals; secondly, it provides a cursory survey of the main fields and sub-fields of literature which guided the endeavour, explicitly arguing for necessity of the present work's orientation; thirdly, it sketches in broad strokes the structure of the thesis.

A first working premise of the present work is that in order to make any broader arguments on the basis of testaments, they should be placed back *in situ*. Thus, the fundamental aim of the work is to answer the question of “who left wills” by also examining its corollary – who did not? It achieves this by outlining a series of collective profiles, focusing on testaments, probate records, and burial records, nesting each type of event into the next broader category from which its main actors could have potentially been recruited. There are thus three main categories of sources employed at a first level of analysis: firstly, the testaments left by the urban inhabitants of Hermannstadt between 1720 and 1800; secondly, the probate records kept by the city's two departments of estate division, or probate courts; thirdly, the burial registers for the Lutheran and Roman Catholic parishes in the urban milieu.

Testaments are treated as one potential pathway of property devolution at death, and as such, as a sub-set of the larger field of probate events. Moreover, together with probate events,

testaments are examined as sub-samples of all deaths which occurred in the city over the second half of the eighteenth century.

The secondary aim of this thesis is to establish the contours of a methodological framework than can be employed in working with historical probate records created by institutional actors in the Transylvanian Saxon jurisdictional milieu. The secular probate courts which grew alongside the administrative and legal institutional framework of the Transylvanian Saxon nation-estate since the late sixteenth-century deserve particular attention. The specifics of the documents they produced, the practices they employed in record-keeping, and the biases they operated with in record production are essential matters. These issues must be clarified if these records – exceptional in the East-Central European milieu – are to be employed in answering trans-national inquiries about wealth and inequality in the future.

A third major goal underpinning both of these endeavours is to achieve a comprehensive image of legal, social, and economic stratification in eighteenth century Hermannstadt. This is direly necessary to be able to formulate any broader statements regarding the relation between testamentary behaviour and the milieu within which it emerged. For this purpose, several contemporary cross-sectional and longitudinal sources with wide coverage will be employed. Thus, the fiscal censuses of 1720 and 1750, as well as the burgher rolls of Hermannstadt between 1720 and 1800 will be split into their smallest constitutive units, and then re-moulded so as to allow the formulation of wide-ranging and readily-verifiable statements about larger segments of the urban social fabric.

Finally, all of these aims are encompassed within a broader narrative that grows alongside the analysis proper, contributing to a process of reciprocal weighing and modulation. On the one hand, the thesis resituates the quantitative findings concerning the social and economic gradients present in eighteenth century Hermannstadt within the wider political narratives. This enables a clearer understanding of the underlying phenomena that gave rise to bias in the socio-economic data examined. It also re-frames the political narratives and counter-narratives of resistance and institutional renewal, which seem to characterise much of Transylvanian Saxon history during this time. On the other hand, this reciprocal weighing allows a perpetual re-interrogation of historical assumptions concerning the social and economic make-up of the urban milieu of Hermannstadt as a stand-in for the Transylvanian Saxon body politic. Given the primary focus of the work, namely outlining the collective profile of will-making within the boundaries of the Transylvanian (Saxon) capital, it was direly necessary to revisit some of the monolithic approaches to the Transylvanian Saxon social structure during the eighteenth-century Habsburg rule.

Having briefly outlined the main aims of the present work and the rationale behind its overarching approach, the endeavour will be situated within three successive frames of reference. These are employed to clarify the specific theoretical and methodological underpinnings of the work. Because the present work enters into a historiographical dialogue that spans into historical demography and economic history, emphasis will be placed on the seminal approaches that informed the scope of the analyses. Moreover, certain choices that involved the elision or exclusion of certain historiographical segments in order to increase the coherence of the present work will also be made explicit.¹ Within this framework, a survey of the state-of-the-art Romanian, German (Transylvanian Saxon), and Hungarian historiographies from Transylvania will highlight the extant gaps in literature concerning will-making, with special reference to the theoretical and methodological issues previously outlined.

The first theoretical and methodological frame informing the present approach draws from the historiography of eighteenth-century serial judicial (ego) documents. For several reasons, it can be regarded as a more basic and fruitful pathway of contextualising the position of last wills and testaments from a para-textual perspective. Thus, the present work's overarching approach to testaments was generally informed by recent contributions to the eighteenth and early nineteenth-century history of individual engagement with authority in the judicial or para-judicial context, in the form of petitions and litigation.² It considered that a productive avenue of enquiry involved an examination of eighteenth-century testaments in a different but no less *quellenkundlich* approach, compared to late medieval, sixteenth, or even seventeenth-century wills. Because a certain shift in the political culture of the province began to make itself felt towards the second half of the eighteenth century, which put to question previous assumptions

¹ Given the wide coverage of various sub-topics in the following chapters, this incursion into secondary literature will only delve in to the most essential or recent studies which directly informed the present approach, rather than plan to exhaust the historiography of eighteenth-century testamentary behaviour. The purposeful exclusion or partial inclusion of certain historiographical strands from the discussion – such as the important work done in the field by the representatives of the Annales school – does not imply a value judgement on the contribution these works brought to the field.

² Maarten F. Van Dijck, Bert De Munck and Nicholas Terpstra, “Relocating Civil Society: Theories and Practices of Civil Society between Late Medieval and Modern Society”, in *Social Science History*, Vol. 41, Special Issue 1, *European Civil Society*, p. 1-17; Henry Miller, “Introduction: The Transformation of Petitioning in the Long Nineteenth Century (1780–1914)”, in *Social Science History*, Vol. 43, Issue 3, *The Transformation of Petitioning*, 2019, p. 409-429; Karin Bowie, Thomas Munck, “Early modern political petitioning and public engagement in Scotland, Britain and Scandinavia, c. 1550–1795”, in *Parliaments, Estates, and Representation*, Vol. 38, Issue 3: Early modern political petitioning and public engagement in Scotland, Britain, and Scandinavia, c. 1550-1795, p. 271-278.

regarding the boundaries between public and private, the approach to testaments as documents straddling this conceptual divide required revisiting. As opposed to earlier centuries, after the 1730s, when the Government was well established in Hermannstadt, and especially after the 1750s, opportunities to make a will expanded and more models of will-making that were not specific to the Transylvanian Saxon legal milieu increasingly emerged. This prompted a reconsideration of eighteenth-century testaments from a broader perspective, that engaged with a different set of issues than might have been the norm for earlier documents.

As part of a general reconsideration of the emergence of the public sphere and the specific sociability of modernity, historians like David Zaret have emphasized the existence of continuities in how persons transacted and negotiated with those above them. Zaret theorised the existence of a hybrid form of petitioning which incorporated both elements of traditional deference as well as claims to rights which stemmed from a new understanding of one's position in the political scheme, as citizen, rather than a subject.³ The “transactional citizenship” constructed through continuous engagement with authority, envisaged by Charles Tilly and developed further by Maarten Prak also constituted a conceptual building-block in the architecture of the present work.⁴ As the following chapters will show, the business of probate and will-making often involved negotiating one's position vis-à-vis the Transylvanian Saxon body politic and the city. This matter gained in importance especially in the decade of Joseph II's rule (1780-1790), but was in many cases implicitly present throughout the time interval covered by the present work. Prak's extensive study on the meaning and content of formal urban citizenship up to 1800 helped to more clearly delineate the sample of testaments and to limit the overall inquiry to what happened within the city walls, where the burghers of Hermannstadt lived. By restricting the enquiry to the ranks of the burghers, and using them as a basis for the overall assessment of social and economic structures in the urban environment, the enquiry also focused on one of the most stable and well-researched segments in the social history of East-Central Europe.⁵ Especially in the Hungarian and German-speaking milieus,

³ Zaret, David, “Petition-and-Response and Liminal Petitioning in Comparative/Historical Perspective”, in *Social Science History*, Vol. 43, 2019, p. 442-444.

⁴ Maarten Prak, “Burghers into Citizens: Urban and National Citizenship in the Netherlands during the Revolutionary Era (c. 1800)”, in *Theory and Society*, Vol. 26, No.4, Special Issue on Recasting Citizenship, 1997, p. 403-420; Also Prak's recent contribution *Citizens without Nations: Urban Citizenship in Europe and the World, c. 1000-1789*, Cambridge: Cambridge University Press, 2018.

⁵ Burgers were the most stable group in the East-Central European urban milieus, as per Jaroslav Miller's extensive account in *Urban Societies in East-Central Europe, 1500-1700*, Aldershot: Ashgate, 2008, p. 30-34.

the ranks of the urban burghers drew the lion's share of attention of eighteenth and nineteenth-century historiographies.⁶

Just as petitions, last wills and testaments may benefit from a wider gaze that critically examines two overarching theoretical stances concerning the extent to which they reveal the concipient's beliefs and words, as opposed to the writer's formulaic vocabulary. Although testaments written in historical milieus where notarial positions were plentiful and will-making well-disseminated clearly present the historical gaze with a form of mediated discourse, which might or might not reflect how the testator spoke, their examination cannot halt at acknowledging this. Thus, while notions of "situated oralities" that shined through in such documents should be taken into account,⁷ and the broader question of "notarial truth" be considered,⁸ the approach employed in analysing such documents should not take the form of an "either-or". If narratives in early modern litigation – as well as in testaments or petitions – are taken at face value, then the historical account is biased towards the amplest documents, which are likely also the least representative. On the other hand, if emphasis is laid on the formulaic aspects of such documents, the recurring use of tropes and thus the "ideological encoding" through which they had passed, then ideology is elided into day-to-day experience, and thus the value of individual experiences and tactical, purposeful use of language is partially negated.⁹ The same holds for instance for early modern women's involvement in legal proceedings as initiators of lawsuits. Either women who wrote petitions – or more likely, had them written – were possessed of agency and engaged in "rational, conscious political actions", or their legal statements and depositions were the product of a mediated discourse, wherein gender and power intersected to obscure "self-knowledge and representation."¹⁰ Did this legal agency disappear with the sealing of a petition, or was it just one of many signs of autonomy?

⁶ The most recent and synthetic account of research into the ranks of the urban burghers in Hungarian towns was provided by Árpád Tóth, Gábor Czoch, and István Németh, "Urban communities and their burghers in the Kingdom of Hungary (1750-1850). The possibilities databases offer for historical analysis", in Justin Colson, Arie van Steensel (eds.), *Cities and Solidarities. Urban Communities in Pre-Modern Europe*, London, New York: Routledge, 2017.

⁷ Susan Cohen, "She Said: He Said: Situated Oralities in Judicial Records from Early Modern Rome", in *Journal of Early Modern History*, Vol. 16, 2012, p. 403-420.

⁸ Kathryn Burns, "Notaries, Truth, and Consequences", in *American Historical Review*, Vol. 110, Issue 2, 2005, p. 350-379; The issue of truth and fiction in the archives forms a sub-field of enquiry on its own, which stands on the shoulders of historiographical landmarks, such as Natalie Zemon Davis' *The Return of Martin Guerre*, Harvard University Press, 1983 or her *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France*, Stanford University Press, 1987. The present work does not explicitly seek to engage with the matter of truth, fiction, or the how one or the other might be mediated through the notarial record.

⁹ Joanne Bailey, "Voices in court: lawyers' or litigants'?", in *Historical Research*, Vol. 74, No. 186, 2001, p. 406-408.

¹⁰ Bianca Premo, "Before the Law: Women's Petitions in the Eighteenth-Century Spanish Empire", in *Comparative Studies in Society and History*, Vol. 53, Issue 2, 2011, p. 263-264.

The same oppositional view underpins much of the literature dealing with individuals' involvement in the will-making process, although it is far from explicitly acknowledged in all cases.¹¹

Thus, making a final disposition cannot be equated with a manifestation of individual agency simply because fewer individuals left wills, as it would mean denying agency – or ascribing a lesser degree of agency – to all those who for some reason died intestate or made other, less durable or visible arrangements. Moreover, while far from being entirely judicial documents devoid of any religious considerations, eighteenth century wills in the context of Hermannstadt were far from being the only means of fulfilling confessional goals, or principally a conduit of charity and pious bequests. The absence of wills in the eighteenth century was certainly not as harshly regarded as it had been during the medieval period, or in milieus such as late medieval England, where “to die without making a will was considered sinful, and the failure to divest the soul of its attachment to worldly affairs might prevent it from properly embarking on its spiritual journey.”¹²

It would also imply that outside of this context, agency (and especially female agency) was curtailed, limited, and barely visible. As the following chapters will show, both women and men were exercising forethought and making “conscious, political action” at every step of the way in probate proceedings, although they did not start off on equal footing. At the same time, the formulaic nature of wills, just as that of petitions or legal proceedings, requires a cautious approach in search of whatever laid behind “notarial truth”.¹³

In order to lessen the impact of the choice between one approach – ascribing agency – and the other – removing it through “encoding” – other perspectives have been counselled for the study of judicial ego-documents. Studies of petitioning have pursued a shift from approaching the document-as-narrative to focusing on the goal it served and what it achieved. In addition, rather than a focus on the text, the emphasis has been placed on the event and its circumstances. For instance, in many cases, early modern female authored petitions were only one small part of female engagement with the law through other means, one particular way of achieving one's

¹¹ Some exceptions are for instance Mia Korpiola and Anu Lahtinen, “Introduction”, in Mia Korpiola, Anu Lahtinen (eds.), *Planning for Death. Wills and Death-Related Property Arrangements in Europe, 1200-1600*, Leiden, Boston: BRILL, 2018, p. 18, who note wills' “individualistic” tendencies. Likewise, Anthony Musson, in “Medieval English Lawyers' Last Wills and Property Strategies” in Korpiola and Lahtinen, *Planning for Death*, p. 128-129, acknowledges that “Before considering the scope and provisions of the wills surveyed, it is noticeable that for a number of lawyers no will in fact survives. Some historians find this strange considering their position in medieval society.”

¹² Musson, “Medieval English Lawyers' Wills”, p. 129.

¹³ Burns, “Notaries, Truth, and Consequences”, p. 354.

goal located “on a grid of multiple legal possibilities.”¹⁴ The need for a “holistic approach” to individual engagement with authority in the judicial milieu has also been emphasized, which goes beyond “an exploration of polyphony” and involves a clear and systematic process of comparing and contrasting situations encountered with “those relating to other individuals of a similar status and sex.”¹⁵

The focus of the present research has therefore shifted from a primarily text-based analysis to an elucidation of the context in which it emerged, or “the *praxis* accompanying the text”, and to an exploration of testaments as “actions” or events, rather than legal artifacts imbued with narrative.¹⁶ Thus, while the present research acknowledges the myriad of works that deal with what testaments set out to do or what they achieved, a direction of study which can already be regarded as self-standing field of social-historical research, it does not directly engage with this historiographical or methodological orientation directly.¹⁷ Rather, it is meant as a cautionary precursor to any study about what eighteenth-century Transylvanian (Saxon) testators intended to achieve, showing that this group’s collective profile was distinctive, and therefore testators were not a stand-in for the urban social fabric as such.

It should be noted at this point that the approach to will-making and testaments in Transylvania is at least partially guided by similar considerations as research into the probate process. Despite the emergence of recent works that focus primarily on the practice of piety,¹⁸

¹⁴ Premo, “Before the Law”, p. 287-288.

¹⁵ Bailey, “Voices in Courts”, p. 408.

¹⁶ Premo, “Before the Law”, p. 265-267.

¹⁷ Given that the historiography of the examination of testamentary practices, tactics, or strategies in the past several decades can easily form the object of a dissertation-level study by itself, I only mention a few of the seminal or most recent works dealing with this issue in what I regard as a comprehensive manner. Kadri-Rutt Hahn’s work is the most recent monograph-worthy exploration of last wills and testaments that properly contextualises these sources - *Revaler Testamente im 15. und 16. Jahrhundert*, Schriften der Baltischen Historischen Kommission, Berlin: LIT Verlag, 2015. Likewise, seminal for the Habsburg areas in early modernity are Margareth Lanzinger’s many works on inheritance, power and testation, including for instance “Geld und Güter, Transfers und Arrangements. Vermögen und Geschlecht in der Frühen Neuzeit“, in *Geschichte in Wissenschaft und Unterricht*, Vol. 70, Issue 11-12, 2019, p. 605-622 or Lanzinger, „Gerechtigkeit und Erbgänge – ein historisch-anthropologischer Blick auf Testamente und Vermögen“ in Aleida Assmann, Jan Assmann u. Oliver Rathkolb (eds.), *Geschichte und Gerechtigkeit. Festschrift für Hubert Christian Ehalt*, Wien 2019, p. 152–157; Worth mentioning is also Korpiola and Lahtinen, *Planning for Death*, p. 1-25, which provide an abrupt but systematic review of recent or extensive works on testamentary behaviour and practices in during the medieval and early modern eras. Also, given the similar urban context, worth mentioning is the extensive research by Katalin Szende and Judith Majorossy (eds.) on the late medieval wills of Pressburg (Bratislava), materialized in *Das Pressburger Protocollum Testamentorum 1410 (1427)-1529, Vol. 1. 1410-1487, Vol. 2 1487-1529*, Wien, Köln, Weimar: Böhlau Verlag, 2010-2014 and in an extraordinary wide range of studies and articles.

¹⁸ Mária Lupescu Makó, “The Transylvanian Nobles: Between Heavenly and Earthly Interests in the Middle Ages”, in *Studia Universitatis Babeş-Bolyai, Series Historica*, Issue 58, 2013, p. 78-106;

charitable behaviour¹⁹, or even material culture in the light of last wills and testaments²⁰, Transylvanian historians' contribution to the field remains mostly settled within the boundaries of source editing. While undeniably important for the research process, critical editions which reproduce samples of early modern²¹ or nineteenth-century last wills and testaments,²² sometimes alongside other sources pertaining to family law²³ are of limited use. One of their primary contributions is to further entrench the notion that testaments are relevant primarily from the perspective of their content, or that they are directly relevant for a variety of other extra-testamentary issues and can therefore be used uncritically.²⁴

A second frame of reference has been provided by recent enquiries into how historical inequality might be studied through the lens of probate records. The documentary corollary of last wills and testaments were probate records: wills and testaments were generally verified and proven in special courts, where they were marked with the words *probatum est* – hence the specific term of “probate”. Probate records have long formed the object of historical enquiry in general, especially in areas where they were present in an overabundance. Anglo-Saxon historiography was likely one of the most productive in terms of working with probate.²⁵ Despite many historians having intensively used probate records to tackle each and every imaginable topic, with a particular focus on material culture, the Cambridge Group for the History of Population and Economy has recently begun to cast doubt on the robustness of previous findings.²⁶ Despite the extremely high rate at which testation and probate occurred

¹⁹ Mária Lupescu Makó, “Miért? Kinek? Mit? Erdélyi középkori végakaratok szerkezeti jellemzői”, in *Erdélyi Múzeum-Egyesület- Certamen*, Issue 1, 2013, p. 191-210.

²⁰ Mária Lupescu Makó, “(Nu) haina îl face pe om. Îmbrăcămintea și purtătorii ei în Transilvania (secolele XVI-XVII)”, in Dan Dumitru Iacob (ed.), *Avere, prestigiu, și cultură materială în surse patrimoniale. Inventare de averi din secolele XVI-XIX*, Iași: Editura Universității “Alexandru Ioan Cuza” Iași, 2015, p. 71-92.

²¹ Ildikó Horn, Enikő Rűsz-Fogarasi, Tűdős S. Kinga (eds.), *Erdélyi testamentumok*, vols. 1-5, Marosvásárhely: Mentor, 2003-2014.

²² Daniela Deteșan, Adrian Onofreiu, Mircea Prahase, Claudia Septimia Sabău (eds.), *Testamente din Districtul Năsăud (1861-1871)*, Cluj-Napoca: Argonaut, 2011; Gudrun-Liane Ittu, „Testamentul lui Jenny Schmidt (1842-1913), un exemplu de preocupare pentru binele comunității săsești”, in Iacob (ed.), *Avere, prestigiu și cultură materială*, p. 135-153.

²³ Daniela Deteșan (ed.), *Căsătorie și moștenire în Transilvania. Documente din a doua jumătate a secolului al XIX-lea*, Cluj-Napoca: Presa Universitară Clujeană, 2013.

²⁴ Nineteenth-century *Landeskunde* scholarship also published exceptional testaments. See for instance G.D. Teutsch, “Das Testament des Denndorfer Pfarrers Antonius Schwartz vom 8. Dezember 1570”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 1. Band, 1855, p. 363-374.

²⁵ The basic introductory text to early modern Anglo-Saxon probate is Tom Arkell, Nesta Evans, and Nigel Goose, *When Death Do Us Part. Understanding and Interpreting the Probate Records of Early Modern England*, Oxford: Leopard's Head Press, 2000.

²⁶ Sebastian A.J. Keibek, “Correcting the probate inventory record for wealth”, Working Paper No. 28 – March 2017, Cambridge Working Papers in Economic and Social History, Cambridge Group for the History of Population and Social Structure & Queen's College.

within the early modern English-speaking milieus, the fact that probate was approached as a catch-all for entire social, occupational, or economic layers perpetuated a significantly skewed image of material culture, employment, etc.²⁷ Just as early modern individuals took part in a “pan-European industry centred on death” during testation²⁸, the probate process also occurred outside the British Isles, and took on a variety of forms in other European or even extra-European environments.²⁹ Inventories of estates drafted on the occasion of individuals’ passing drew the concerted attention of social and economic historians, an interest that only recently echoed into the historiography of the former Romanian Principalities.³⁰ In the Transylvanian milieu, the existence of systematic, wide-ranging, and exceptional probate registers for the Transylvanian Saxon Royal Lands has been well-known at least since the late nineteenth century, when the *Landeskunde* movement published snippets of estate inventories which had belonged to various outstanding individuals.³¹ In the twentieth century, historical biographies and histories of outstanding Transylvanian Saxon families used selections of these documents to describe their subjects.³² Most recently, the apparently cyclical nature of historical research in this area has led to a renewed discovery and restatement of probate registers’ importance,³³ and to the publication of exceptional sources, such as Samuel von Brukenthal’s estate inventory.³⁴

Meanwhile, probate began to be incorporated into large-scale economic history research since the early 1980s, when its specific problem – how does it bias the historical gaze in favour of a particular social-economic stratum and to the detriment of others – began to be

²⁷ Keibek, “Correcting the probate inventory record”, p. 9-10.

²⁸ Katie Jakobicc, “The Architecture of Benefaction: The Last Will and Testament of a Grain Merchant”, in *Journal of Interdisciplinary History*, Vol. XLVIII, Issue 4, 2017, p. 476.

²⁹ Two of the most recent examples are Johan Fourie, “The Remarkable wealth of the Dutch Cape Colony: measurements from eighteenth-century probate inventories”, in *Economic History Review*, Vol. 66, Issue 2, 2013, p. 419-449; Erik Bengtsson et al., “Aristocratic Wealth and Inequality in a Changing Society: Sweden, 1750-1900”, in *Scandinavian Journal of History*, Vol. 44, Issue 1, 2019. A fuller introduction into this strand of literature is provided in the appropriate chapter.

³⁰ Iacob (ed.), *Avere, prestigiu și cultură materială*.

³¹ Johann Gross, “Teilbrief über den Nachlass Albert Huet’s ausgestellt für Margaretha Wolfin im Jahre 1607“, in *Korrespondenzblatt des Vereins für Siebenbürgische Landeskunde*, 12. Band, 1889, p. 104-116, 177-121; A. Von Veress, “Ein Nachlass aus dem Jahr 1748 [Verlassenschaft des Herrn Michäel Waida gewest Fürstl. Sieb. Hoff-Rath]”, in *Korrespondenzblatt des Vereins für Siebenbürgische Landeskunde*, 17. Band, 1894, p. 61-63. The probate registers for Hermannstadt were also mentioned in the capstone work by Franz Zimmermann on the composition of the archival funds in the urban milieu, *Das Archiv der Stadt Hermannstadt und der Sächsischen Nation*, Hermannstadt: Verlag des Archives, 1887, p. 47-52.

³² Maja Philippi, Ernst Wagner, *Siebenbürgische Familien im sozialen Wandel. 200 Jahre Familie Scherg in Kronstadt. Vom Wollzieher Michael Schürge zur Tuchfabrik Scherg in Kronstadt*. Köln: Balduin Herter, 1993.

³³ Enikő Rűsz-Fogarași, „Avea orașenilor în Transilvania premodernă. Surse și posibilități de cercetare”, in Iacob (ed.), *Avere, prestigiu, și cultură materială*, p. 101-114.

³⁴ Monica Vlaicu, *Der Nachlaß Samuel von Brukenthals : Einblicke in Haushalt und Lebenswelt eines siebenbürgischen Gouverneurs der Barockzeit*, Quellen zur Geschichte der Stadt Hermannstadt Hermannstadt, Vol. 4, Sibiu: Hora-Verlag, 2007.

tackled intensively.³⁵ This direction of economic history intersected in recent years with the study of historical inequality, and especially inequality of living standards, for which probate offers a potentially exceptional perspective. Generally, in order to delineate the distribution of income or wealth, the study of historical inequality preferred to employ cross-sectional sources with clear and more extensive coverage, such as numerous variants of fiscal censuses.³⁶ In the past two decades, probate has begun to feature increasingly prominently in this direction of study, following the creation of extensive databases and increasingly refined sampling or correction methods that made it possible to ascertain to what extent probate records were representative for anything more than themselves.³⁷ Research on early modern probate records in Transylvania or other East-Central European milieus has remained entirely unaffected by this orientation in economic history. Transylvanian Saxon probate is merely repeatedly “re-discovered” and re-emphasized as an essential source for social history.³⁸

A third frame of reference stems from both economic history and historical demography. The creation of large-scale demographic databases and the increasingly comprehensive inquiries into the “anatomy of inequality”, as per Amartya Sen, have led to extensive and in-depth studies into the relationship between economic growth and an entire host of extra-economic factors, such for instance human capital formation (i.e. the increase in skilled individuals among the labour force, the increased in educated individuals, etc.). The agency manifested by various groups of individuals, particularly women, was a central node in this line of enquiry, which allowed the establishment of a bridge between economic history and historical demography that has become increasingly well-treaded in the past decade.³⁹ Individual agency – i.e. an individuals’ ability to “determine -within given constraints and

³⁵ Peter Lindert, “An Algorithm for Probate Sampling”, in *The Journal of Interdisciplinary History*, Vol. 11, Issue 4, p. 649-668.

³⁶ Summaries of the literature on historical inequality were provided throughout the recent studies of Guido Alfani, Thomas Piketty, Erik Bengtsson, and Wouter Ryckbosch. See for instance Ryckbosch, “Economic inequality and growth before the industrial revolution: the case of the Low Countries (14th-19th centuries)”, in *European Review of Economic History*, Vol. 20, Issue 1, 2016, p. 1-3. The present work does not explicitly enter into the realm of historical inequality research, but does employ some of the broader principles that historical inequality research operates with.

³⁷ See for instance Erik Bengtsson and Patrick Svensson, “The wealth of the Swedish peasant farmer class (1750-1900): composition and distribution”, in *Rural History*, Vol. 30, 2019, p. 129-145; Erik Bengtsson et al., “Aristocratic Wealth and Inequality in a Changing Society: Sweden, 1750-1900”, in *Scandinavian Journal of History*, Vol. 44, Issue 1, 2019, p. 1-26.

³⁸ One reason has been structural and infrastructural: the facilitation of large-scale economic or social history endeavours through technological or institutional means, such as the establishment of dedicated research centres or the design of state-of-the-art curricula has been disregarded, if not actively hindered.

³⁹ Jan Luiten van Zanden, Auke Rijpma, Jan Kok (eds.), *Agency, Gender and Economic Development in the World Economy 1850–2000. Testing the Sen Hypothesis*, London: Routledge, 2017.

opportunities – their own life course”⁴⁰ has concomitantly entered the broad field of social historical enquiry in the past decade, from its narrower and more specific confines of historical demography and economics. As the study of female petitions in the Spanish colonial milieu showed, “agency” is in growing danger of becoming a catch-all for every instance in which a woman demonstrated any kind of capacity to self-manage and resist social or legal constraints.⁴¹ Like “identity”, “agency” has become increasingly diluted with excessive and uncritical usage.⁴² Some scholars have noticed the continuation of the trend, and particularly its consistent emergence in the realm of the legal and social history of women’s work, financial dealings, and management of property.⁴³

However, a crucial part of the notion of “agency” in its historical demographic and macro-economic setting, namely that of the “constraints and opportunities” allotted to historical individuals, as a set of measurable and very clear factors, is largely missing from the pictures limned by studies focused for instance on discrete cases from early modernity. The problem with the proliferation of agency is visible not only in the study of gender and society in early modernity, or in other words, not only in those studies which elevate certain women’s actions over those of a presumably silent and invisible majority. Rather, it is a larger issue that occurs when groups of individuals which were historically ascribed marginal roles are sought out and displayed as exemplary for the triumph of individual will over circumstance and constraint. This issue has had a direct bearing on the present work’s approach to testaments and those who had them made. Instead of ascribing agency, it has looked towards the origins of the concept and how it was employed in practice. Thus, testaments and will-making were examined from the perspective of the larger framework in which they were embedded, without direct reference to individuals’ agency or the lack thereof.

Finally, although the present work recognizes the essential contributions made by in-depth studies of bequeathing practices and legal strategies employed in medieval and early modern testaments, it argues that both these practices and strategies should not obscure the wider backdrop of testation itself. In other words, I am not convinced that all widows’ concerns were similar to those outlined by widows who left last wills and testaments, or that family

⁴⁰ Jan Kok, “Principles and Prospects of the Life Course Paradigm”, in *Annales de Démographie Historique*, No. 1, 2007, p. 204.

⁴¹ Premo, “Before the Law”, p. 263-264.

⁴² Rogers Brubaker and Frederic Cooper, “Beyond ‘Identity’”, in *Theory and Society*, Vol. 29, Issue 1, 2000, p. 1-47.

⁴³ Martha Howell, “The Problem of Women’s Agency in Late Medieval and Early Modern Europe” in Sarah Joan Moran and Amanda C. Pipkin (eds.), *Women and Gender in the Early Modern Low Countries, 1500-1750*, Leiden, Boston: BRILL, 2019, p. 21-31.

relations as they were revealed in these documents canvassed the entire spectrum of potential ties one might have with kin. I argue, rather, that it is possible to learn more about the explanatory power of testaments by also examining those who could have left a testament, but didn't, as well as by looking at what distinguished testators from those whose living conditions, occupations, and gender they shared.

The thesis is structured into five major parts, each of which corresponds to a successively smaller frame of reference for the practice of will-making, from several different perspectives. Although each of these frames comprises several chapters (or sub-sections), each part also constitutes a thematical self-standing unit. Thus, conclusions are provided for each of these five major units, rather than for each of the smaller chapters. This allows the reader to grasp overarching themes and notions, while also breaking down the analytical issues discussed into manageable and coherent sections. Each new chapter begins with a coherent and synthetic view of the main historiographical benchmarks relevant to its particular undertaking. This approach to conveying the extremely diverse historiographical underpinning of the present work was preferred to the alternative, which would have involved the canvassing of a high number of works with a limited thematic coherence, and thus resulted in a fragmentary and apparently inconsistent image.

Given the major aim of the work, namely to re-situate the practice surrounding will-making into all of the layers of its historical context, the first section takes the broadest approach, focusing on the political developments at provincial level, and how they reverberated in the urban social fabric of the Transylvanian Saxon nation-estate. The section's extensive introductory vignette details an estate division from the late eighteenth-century, in which state-building, competing national interests, personal intervention, and institutional pressure intersected to a wide degree. The section dwells on three layers of institutional history, discussing firstly the broad frame of Habsburg policies concerning the province, with an emphasis on state-building initiatives. Secondly, it examines the stages and directions of this state-building, which was visible most starkly in Hermannstadt, where all major institutions with provincial-level attributions were settled starting from the early 1730s. Thirdly, it chronicles the meaning of state-building for some of the elites of the Transylvanian Saxon nation, as seen through the lens of the memoirs kept by a contemporary Transylvanian Saxon employee in the imperial administrative framework.

The second major section represents a mirror-image of the first, by dwelling on Hermannstadt's political and administrative legacy prior to the commencement of Habsburg

state-building, as the political capital and “head” of the Transylvanian Saxon nation. It showcases the precarious balances between the two mantles that Hermannstadt had assumed, as home to Habsburg institutional frameworks and as decision-maker in the *negotia nationalia*, the affairs of the nation-estate. The opening of the section conveys the image of Hermannstadt as seen through the essential imperial lens, namely Joseph II’s travel diaries and the numerous reports he received in the early 1770s. It serves to highlight the detachment between these two roles played by the city, and the inherent contradictions between the imperial gaze and the national view. The chapters in this section present a cursory overview of the urban *cum* national administration of the Transylvanian Saxons in Hermannstadt, emphasizing the ways in which the initial conditions of settlement (from a legal perspective) left an imprint on administration and politics. Moreover, the two main historiographical approaches to Hermannstadt’s eighteenth-century, which alternately emphasize the *natio*’s struggle or the Habsburg attempts to tackle malversations, are placed side-by-side and contrasted, in order to obtain a clearer image of how administration and politics intertwined in this milieu.

A third section begins the re-evaluation of the legal, social, and economic structures present in the province, with a focus on the Transylvanian Saxon urban environment and Hermannstadt. It introduces the extension of the two gazes – the imperial and the provincial – in the legal and fiscal fields, and the resulting juxtapositions between the notions of “citizen” and “taxpayer”. Based on the 1720 and 1750 fiscal conscriptions for Hermannstadt – part of the broader endeavours at provincial level – the second chapter in this section sketches out in broad strokes the professional and economic contours of the city’s taxpayer and burgher corps. The burgher rolls for 1720-1800 are concomitantly employed as a way to observe the changes occasioned in the social-occupational structure of the city over time. What is more, the use of the burgher rolls – and the accompanying critical re-assessment of literature which discussed the information they conveyed – serves to highlight the limited and symbolic character of changes in the political corps of the nation in Hermannstadt as a result of Habsburg reforms. This section also presents a view into the stark rural-urban migration which accounted for most of the limited population growth experienced by the city over the course of the eighteenth-century. Finally, the section overlays social-occupational stratification – operationalised through the use of HISCO-encoding for professional titles – with economic stratification, as measured by income and tax rates in the two conscriptions. This section therefore creates a more precisely described and assessed empirical benchmark, according to which probate and will-making can be measured.

The fourth section provides a comprehensive and structured overview of the legal framework within which testamentary law was embedded. It begins by chronicling the codification of the Transylvanian Saxon customary law, joined by the strong subsidiarity of Roman law in the *Statuta Iurium Municipaliū*, the law code according to which Transylvanian Saxon civil matters were settled between the late sixteenth and the mid-nineteenth-century, when the *Allgemeines Bürgerliches Gesetzbuch* began to apply for Transylvania and Hungary. As part of this chapter, the research also directly engages with the issue of legal pluralism in the province, prior to Habsburg state-building. It dedicates the broadest discussion to property and inheritance law, clearly situating it from a geographical-cultural perspective, and drawing several comparisons to other German-speaking and East-Central European milieus. Testamentary law in the Transylvanian Saxon milieu, as an incomplete transplant of post-classical Roman law, lacking the institution of heirs, is also explicitly dealt with. As a pendant to the exploration of legal frameworks, the gradual establishment of the institutional infrastructures which applied inheritance law and judged the validity of last wills and testaments – the so-called offices of estate division – is also explored in detail. Finally, a summary of changes incurred by the legal landscape of property and inheritance in the eighteenth century is provided.

The fifth section represents the analytical nucleus of the present work. It is divided into three main chapters, as follows: firstly, it presents a clear overview of the sources that were employed in the quantitative analysis, and explicitly discusses the sampling procedures and criteria used; secondly, it provides a wide-ranging account of the practices surrounding will-making and the probate of decedents' estates, which veers into micro-historical directions meant to highlight the unexpected variety encountered in this realm of historical *praxis*; thirdly, it tackles the main issue for which the entire theoretical, methodological, and empirical scaffoldings were purposefully constructed, namely the collective profile of will-making and probate. The four sub-sections of the final chapter discuss these series of collective profiles from several perspectives, such as social class, gender and age, civil status and family circumstances, as well as wealth.

Finally, the image achieved through this analysis is placed back into the overarching legal, political, and narrative frameworks from which it emerged in a synthetic conclusion, that summarizes the main findings of the entire work.

The approach employed by the present thesis and the fulfilment of its analytical goals owes much to the recent development of digital infrastructures which supported the switch to a data-

driven analysis. The development of both the *Historical Population Database of Transylvania* and the *Probate Database of Transylvania* at the Centre for Population Studies at the Babeş-Bolyai University of Cluj-Napoca allowed me to work with an overwhelming number of sources, which resulted in tens of thousands of data lines and would have been exceedingly difficult to manage otherwise. Both of these relational databases were documented by their developer, Angela Lumezeanu, in her recently-defended PhD Thesis.⁴⁴ Given the specific purpose of the present work, the digital methodology employed does not feature prominently in the discussion of research findings.

A final note on individual and place names is also in order. I have elected to use the most-often employed eighteenth-century vernacular names for localities and individuals, instead of the Romanian standards usually used in English-language works pertaining to the early modern and modern history of Transylvania. Thus, Hermannstadt has remained Hermannstadt instead of being referred to as Sibiu, especially given that the overwhelming majority of sources eighteenth-century sources employed in this work used this variant for the toponym, rather than the Latin version of *Cibinium*. Likewise, Marosvásárhely has remained Marosvásárhely rather than being transformed into Neumarkt am Mieresch or Târgu Mureş, as the first variant was also widely employed in German-language sources from the Transylvanian Saxon milieu in the eighteenth century. The only exception was made for Klausenburg, which could have been referred to as Kolozsvár, but for which the German version of the toponym was maintained to enhance readability. Likewise, individual proper names were given in their German versions, when provided, or translated into German when provided in Latin in the original sources, again in order to increase readability. Hungarian or other names were reproduced as in the original sources. All texts in German or Latin were translated into English in the main text by the author, unless otherwise specified. For lengthier texts – at least one sentence-long – the originals were also provided in the footnotes. Archival descriptions of cited units were provided in the original Romanian in the first instance of citation, and then only in the English translation (i.e. register, document, will, etc.) for ease of reading. Because the text frequently used of German-language or Latin terms, such as *Vergleich*, *natio* or *Teilherr*, these were italicized instead of resorting to inverted commas in order to increase the fluidity of the text. Other field-specific terms such as *probate* received a clear explanation in the beginning, stemmed from the sources themselves

⁴⁴ Angela Lumezeanu, *Digital Infrastructures for Social History. Building Historical Databases.*, PhD Thesis, Manuscript, Babeş-Bolyai University, Cluj-Napoca, 2019.

(*testatrix*), or were widely-used in secondary literature relating to probate and will-making (*decedent*).

Part I. The empire, the nation, and the city

Introduction

On a July morning in 1789, in Hermannstadt, the administrative capital of the Grand Principality of Transylvania, a province of the Habsburg Empire and part of the Realm of St. Stephen, the former administrator of the estate of the deceased Countess Katarina Szekely, neé Toroczkai, was rather unceremoniously loading a golden-framed portrait of His Imperial Majesty Joseph II into a wagon. Beside it would arrive several bookchests, a coffee mill, and a garden hoe.⁴⁵ It is worthwhile to examine the shifts that had led to this apparently mundane situation in more detail.

Firstly, the administrator should not be blamed for his lack of care in relocating His Majesty's portrait, seeing as it had taken more than a year to see the inheritance dispute preventing him from taking back his property resolved. This legal quarrel had mobilized quite a large segment of the Hungarian nobility present in Hermannstadt, while also preventing several office clerks from adequately fulfilling their duties in the chancellery of the Transylvanian Gubernium. Most significantly, the numerous protractions exhibited by the dispute reveal the resilience of entrenched institutional structures, such as the province's estate-based political and social fabrics, as well as the extent to which these structures diverted the reformatory policies implemented in the political and administrative fields.

The main source of the dispute, which had commenced more than one year prior, was the fact that the majority of the actors involved in the matter had alternately refused, delayed, and protested the provincial government's orders attesting to the fact that several particular items in the estate of the deceased Countess were the rightful property of its administrator. In the summer of 1788, the judges of the municipal department overseeing the inventory and devolution of decedents' estates had recorded that, following the issuing of two ordinances by the provincial government, the estate of the Countess Katarina, widow of Ladislaus Szekely, was finally no longer under sequester.

⁴⁵ The Sibiu County Branch of the National Archives (Serviciul Județean Sibiu al Arhivelor Naționale, hereafter abbreviated SJANS), *Magistratul orașului și scaunului Sibiu - Registre de inventariere și partaj a averii locuitorilor decedați* [*Magistrate of the city and seat of Sibiu - Registers of inventory and division of deceased inhabitants' estates*], Fund no. 214, Protocollum Divisionale Civitat[is] Cibini[ensis] Pars Superioris, June – December 1788, no. 126, p. 126. The records of the dispute span some 100 pages, starting at p. 61 and ending at p. 161.

Present at this first meeting were the noble heirs to the estate, brothers and sisters of both the Count and the Countess, the latter of whom had resided in Hermannstadt as official urban citizens of the since the beginning of the decade. Their interests would be represented formally by the procurator and advocate of the Royal Court Stephanus Intze of Lisznyo, as well as by various other individuals employed in the provincial administration. At this first gathering, the heirs noted that they were against lifting the sequestration entirely until a detailed inventory of all assets forming the estate was drafted, although the ordinances had mentioned nothing of the sort. The former administrator, a certain Sigismund Kis, acquiesced to this demand, while nevertheless expressly mentioning that he held fast to the provisions of the ordinance, and that it was perhaps wisest to proceed in this manner, given that the passive debts burdening the estate well exceeded the value of its actives. Following this meeting, the municipal judges proceeded to draft a detailed inventory of the estate, spanning more than 30 pages, and amounting to over 8000 Rhenish Florin. Some three days later, the pretender Kis also submitted a detailed list of assets which he claimed as his own from the mass of the estate, worth a considerable share of 1098.41 Hungarian Florin. The parties would only reconvene in early February of 1789, but not much would be resolved at the time: the former administrator renewed his request that the ordinances be upheld, and that his part of the estate be released. At this stage, the first of many delays would occur: one of the heirs, the Baron Nalatzi, could not appear in person on this occasion, and had therefore delegated the representation of his interests to the Baron Simon Kemény, also a judge at the Royal Court. However, owing to a delay in the circulation of correspondence, the Baron Kemény had not been notified of this in a timely fashion, and therefore had not managed to make his appearance at the meeting. The officials handling the division of the estate would then have to notify the Baron of this delegation of responsibilities, and after a brief negotiation regarding the best date for a future meeting – given that the 24th of February was the last day of *Fasching* - , the 25th of February was settled upon.

The new meeting in the Winter of 1789 would not bring about any major advances either: the family agent Intze would express his disagreement with the ordinances, stating that it was first necessary to carefully review all of the “family papers” discovered during the inventory. What is more, the pretender – Kis – needed to provide clear written evidence to support his claims to ownership, for each individual item in the inventory. As the municipal official Carl Franck von Franckenstein recorded, „after extensive exchanges” the parties agreed that all items purchased by Kis from his own funds could be extradited from the estate, provided he submitted a solemn declaration attesting to the veracity of his claim. However, the heirs

were not yet ready to give in to the matter: even if the administrator could prove ownership, the supposed existence of a contract prevented the Countess from estranging any of the family's assets. According to the heirs, this piece of writing should have been located in the documents recovered from the deceased's home, but, seeing as they were not yet processed, the procedure could not continue until this step was completed.

At this point, the heirs began to make use of their standing and ties to the highest political milieus to involve yet another segment of the provincial administration: tasked with perusing, registering, and inventorying the family documents were the office clerks Joseph Halmagyi, Sigismund Kelemen, and Michael Kis. All three clerks were designated as "Gubernial Cancellist", meaning that they were employed in the already overburdened chancellery of the provincial government in Hermannstadt, an institution which had recently incorporated several branches of the provincial administration, leading to the emergence of what has been called a "mammoth department."⁴⁶

What is more, even after more than a century of supposed institutional and inter-estate cooperation in the province, the heirs, as members of the noble estate, were wary of involving the Transylvanian Saxon Small Council of Hermannstadt in their affairs, beyond what was strictly necessary. Thus, when the city officials requested that they receive a copy of the inventory of documents, the clerk Kelemen engaged himself to supply it from the original, so that "the family does not incur additional costs through the appointment of a writer employed by the Small Council."⁴⁷

All parties reconvened on the same afternoon. Upon receiving the official statement made by Kis in support of his claims on the estate, Stephan Intze would renew his position that the pretender could receive nothing more than what he could prove to have been purchased from his own funds. Moreover, he thought it "quite impossible" that most of the guild masters who could have testified in the administrator's favor, providing evidence that he had indeed purchased the contentious items himself, were no longer living. Therefore, he regarded the government ordinance as clearly "insufficient", and blatantly refused to extradite anything to the pretender. The municipal officials would have to record the matter as remaining "in suspenso", at least until the inventory of the family documents could be completed.

⁴⁶ Rolf Kutschera, *Landtag und Gubernium in Siebenbürgen, 1688 – 1869*, Köln, Wien: Böhlau Verlag, 1985, p. 161-162.

⁴⁷ SJANS, *Magistrate - Registers*, Fund no. 214, Protocollum Divisionale Civitat. Cibini. Part. Superioris, June – December 1788, no. 126, p. 114-115: "damit die Familie nicht auch durch einen von dem Magistrat hinzu verordneten Schreiber neuen Nachkosten verursacht werden möge."

The parties would reassemble on the 7th of April in the home of the deceased Countess. On this occasion, the municipal official von Franckenstein had been joined by the actuary Johann Dietrich, one of the most visible urban civil servants involved the convoluted network of testamentary property transmission in eighteenth century Hermannstadt. However, two of the mandatories of the heirs – Intze and another personal agent by the name of Szent-Kiralyi – were absent from the proceedings, having sent in their stead two provincial office clerks, namely Halmagyi and Kemeleny. During the inventory of the deceased's writings, the latter had located an original document written in the Countess' hand and sealed with her official seal. The matter turned to ascertaining the authenticity of the deceased's signature and the document's seal, which could not be solved in the absence of the two higher officials. As a result, the clerks were sent to inquire about their whereabouts, but would return unsuccessful from their mission: Intze was apparently traveling, and Szent-Kiralyi could not be found in his quarters. At this point, the pretender Kis, understandably disturbed by this situation, added that he could not continue to accommodate himself with great costs in Hermannstadt until the new governmental orders were officially communicated to the two procurators, especially given that these added nothing new to the previous commands, but rather merely restated the veracity of his claims. The representatives of the urban leadership were in agreement. Even more, seeing as the two office clerks had been delegated by the two procurators to deal with the matter, neither the urban officials nor the pretender understood why the contested items should not simply be extradited at this time. The clerk Kelemeny would reply to this that, although "he was too small to oppose the command of the government", he did not find it appropriate to resolve the matter in the absence of the two procurators, especially seeing as the Baron Simon Kemény was presumably still in the city.⁴⁸ Despite these protests, the urban officials would decide to allow Kis to take possession of his goods. Kis had however rejoiced too early: the procurator Szent-Kiralyi would finally make his appearance, arguing vehemently that the extradition could not continue in the absence of his colleague and that of the heirs. Expectedly, Kis was displeased, replying "angrily" that if the items were not given to him presently, he would take his complaint yet again to the highest provincial authority, His Excellence the Governor, Georg Bánffy.

⁴⁸ SJANS, *Magistrate - Registers*, Fund no. 214, Protocollum Divisionale Civitat. Cibini. Part. Superioris, June – December 1788, no. 126, p. 116: „...worauf Hl. Kelemeny erwiedert, er wäre zu kleine dem Befehl des Hl. Gubernii zu widerstehen, jedoch da weder seyn Hl. Principal Baron Kemeny Simon, noch dessen Mandatario Steph. Intze n.m. Plenipotentiarus in Hermannstadt wären, so gefalle ihm nicht, daß derer Gegenwart nicht abgewartet werden solle.“

Another day would pass until the handover of the items commenced. The controversy was however far from over, as some of the pieces listed could no longer be located in the home of the deceased; instead of twelve green armchairs and two green settees, only six blue and six yellow armchairs, one cloth and one green settee were found. Although the administrator had provided written evidence that the original pieces of furniture had been exchanged during the Countess' lifetime with the objects present at the time, further delay was elicited by this issue. Because the agent Intze was absent and could not verify the documents himself, the urban officials commanded Kis to return all of the items as he had found them, pending the input of the other parties. Kis acquiesced, but not without commenting that he would not wait for them any longer, at least as far as the other objects on the list were concerned.

Despite his assertion, the administrator would have to maintain patience for a while longer: the commission handling the affairs would only reconvene on the 13th of May, more than a month later. To his dismay, the matter was far from over. On this new occasion, Stephan Intze condescended to appear, and was provided with the documents that had collected in this absence: the recent governmental orders and the original document drafted by the deceased Countess which clearly outlined the items to be ceded to her administrator. Upon reading the order issued by the government, Intze would take issue with its use of the term "tergiversation", countering that this was the first time he had laid eyes on this order, and that without special additional commands, he could not acquiesce to the matter. What is more, he was quite busy at the time, seeing as on the same morning his presence was required at a very important trial at the Royal Provincial Court. To this, the municipal official von Franckenstein countered that, according to the discussion he had had with the Baron Kemény, every piece of documentation pertaining to the dispute had been transferred in such a way "that he only has to have [things] done, and what he does is appropriate, therefore they should proceed with him."⁴⁹ To this, Intze repeated that he had to hurry to the session of the court, but vowed to discuss the matter with Baron Nalatzi, and give notice of his decision by afternoon. Such a notice would not be forthcoming until 3 pm, when the city officials, Sigismund Kis, and the office clerk Kelemeny reconvened. At this point, the clerk noted that the Baron Kemény required to see the document presumably made by the deceased, in order to verify the authenticity of its signature. The judges again acquiesced, but wondered whether the government's orders would ever be accepted as

⁴⁹ SJANS, *Magistrate - Registers*, Fund no. 214, Protocollum Divisionale Civitat. Cibini. Part. Superioris, June – December 1788, no. 126, p. 120: „daß er nur zu thun und zu lassen habe, und was er thun seine Richtigkeit habe, mithin fange es von ihm ab (*sic*).”

sufficient by the heirs. The clerk only replied that he could not make any statements with certainty by the end of the day.

Meanwhile, Kis had again made use of his connections to the Governor, and received a final order from the government, which plainly stated that all his items be released “without delay”. The minutes committed to paper by Franckenstein on the 9th of July also recorded that the government had taken the extra step of sending copies of the new decree “per superabundance” to all of the parties involved, and to each of their representatives. The decree now mandated that its provisions be followed “quam totius”, as a whole. Still, the actors had means to delay the proceedings. One hour prior to the proceedings, the clerk Kelemeny had visited von Franckenstein in his quarters, in order to submit an official petition from the Baron Kemény according to which the latter requested to receive the original complaint made by Kis to the Government pertaining to the matter. The Baron’s request was expectedly denied, but the clerk was invited at 3 pm to the building of the city council in order to see the document for himself. Refusing to go before the city council, the clerk Kelemeny made his appearance at the deceased’s residence, where he stated, much to everyone’s surprise, that “he was no plenipotentiary and had not received any mandate”. Moreover, “the matter did not concern him, he did not want to be present at the handover at all, nor to know anything about the whole thing.”⁵⁰

At this point, it had appeared that all parties had had enough of the entire dispute, and that Kis would finally be permitted to take his items from the household inventory. Nevertheless, after an hour had passed, the administrator of the Baroness Nalatzki made his appearance, requesting that the presence of her official delegate be awaited. Again the municipal officials produced the governmental order, which clearly stated that no other delays were permitted, to which the Baroness’ administrator replied that “the matter did not concern him directly” and that he preferred to report it directly to Her Excellency the Baroness.

After this interlude, the urban officials and the pretender returned to the matter of the armchairs: as Kis recalled, it was likely that the Countess had gifted the items of furniture to a certain friend on the occasion of his wedding, and had probably forgotten about the matter when drafting the inventory of the objects claimed by her administrator. However, as the

⁵⁰ SJANS, *Magistrate - Registers*, Fund no. 214, Protocollum Divisionale Civitat. Cibini. Part. Superioris, June – December 1788, no. 126, p. 123: „er wäre kein Plenipotentiarus und hätte auch keinen Auftrag bekommen, in ginge die Sache gar nichts an, er wolle bey der Herausgabe gar nicht seyn, und überhaupt von der gantzen Sache gar nichts wissen.”

document needed to be followed to the letter, and no mention of differently-coloured furniture was made in it, only the single green settee was released to Kis.

At this point in the proceedings, the administrator for the Nalatzi family returned bringing a letter from his master, according to which all actions needed to be halted. The urban officials again replied that the renewed governmental order needed to be followed to the letter, and that therefore everything from the smallest items to the largest, veneered chests, was to be handed over. As far as the latter pieces of furniture were concerned, Kis requested that he be allowed to postpone their pick up, as he needed help carrying them.

On the 10th of July, the handover continued, despite the fact that some of the parties involved had attempted yet again to re-interpret the governmental orders in order to impede the proceedings. Almost every item claimed by Kis elicited extensive disputes: His Majesty's portrait had not even been listed in the pretender's inventory, but was taken in replacement of "four boudoir images under glass", which could no longer be located. The proceedings continued on the 18th and 25th of July, and seemed for all intents and purposes to have concluded.

However, neither the heirs nor the urban officials would have a long respite. The cause recommenced in 1791, on the 21st of April, when a will made by the deceased countess was discovered. At this point, the pace of the meetings accelerated, taking place almost daily for some three weeks. The first of these gatherings would occur in the home of the President of the urban office handling estate divisions and property devolution, Martin Ludvig von Rosenfeld. This change in setting signalled that a change had occurred, to which the parties were not yet privy. Kis would find this moment auspicious to recount that the Countess had summoned various persons some six days prior to her passing, including a Hungarian clergyman, her handmaid, two preceptors and two noble relatives, and had made several bequests, though not in clearly written form. Kis engaged to provide written evidence of this event, and the proceedings were therefore postponed for the 25th of April.

The following assembly on the 2nd of May would overturn the very foundations on which this case had been based. Two new figures would be in attendance: the orator of the city's Great Council, who occupied one of the leading positions in the urban administrative hierarchy, joined by one of the Senators on the Small Council. Without preamble, they stated that they had been informed that a process of estate division involving real estate located in Hermannstadt was underway, and that, according to the Imperial Rescript no. 1334 of 28th January 1789, as "all of the Saxon rights and freedoms" had been reinstated, the house formerly in the possession of the Countess Szekely would return to the urban patrimony, while any

presumable heir would only be compensated with a limited cash sum. As far as the records mention, the other parties present “remained silent” as the urban representatives made their exit. The Transylvanian Saxon nation-estate had been restored to its centuries-long complex of autonomy and rights, and would proceed to swiftly right the damages incurred by the national body in the decade of Josephinian reforms (1780-1790). The dispute would be transmitted to the appropriate provincial forum – the reinstated Royal Table – as it no longer directly concerned the urban magistracy. The house of the deceased Countess would fall to the city as a part of its inalienable patrimony, and the sequester of the remaining assets would be maintained until further notice. The upheaval of the traditional provincial administration, of its entrenched jurisdictions and legal framework, the collective and political ingression of individuals who stood out in the urban social fabric of Hermannstadt were erased “in the stroke of a feather.”⁵¹

The convoluted narrative presented above depicts one of many neuralgic moments in the eighteenth-century history of the Transylvanian Saxon nation, as viewed through the lens of contentious property transmission. It highlights several issues which the current chapter will tackle: on the one hand, it manages to capture the very visible presence of the imperial administration in Hermannstadt, which had officially become the capital of the province in the early eighteenth century; on the other hand, it provides a vivid image of just how complex a private issue such as property devolution could become when politics intersected with personal and collective interests. The Hermannstadt in which these scenes played out was no longer the Hermannstadt of the early 1720s and 1730s, where the Habsburg presence was barely beginning to be felt.

On the contrary, what this brief narrative shows are both the intended and unintended consequences of the process of bureaucracy-building in the province. The Hermannstadt of the late eighteenth century was a city where an entire host of elites and upper-middle class individuals of varied background had congregated, in the search for employment in the imperial frameworks, of advantage, fortune and even novelty. It was also a city wherein the legal levelling enacted by various Habsburg reforms had striven to alleviate some of the formal differences between various groups, such as the noble members of the Transylvanian Saxon estate and their Hungarian counterparts. The latter’s involvement in provincial politics, which

⁵¹Ferdinand von Zieglauer, *Die politische Reformbewegung in Siebenbürgen zur Zeit Joseph's II. und Leopold's II*, Wien: Verlag von Carl Graeser, 1885, p. 62.

came with a steady presence in Hermannstadt, had also marred them into perpetual tenancy in the Transylvanian Saxon milieu, where real estate devolved as firmly as could be only within the boundaries of the Transylvanian Saxon nation, i.e. to those individuals who had acceded to formal citizenship. An essential manifestation of Transylvanian Saxon territorial autonomy, this provision which had aided in policing the content of the nation-estate had been repealed in 1781 through the so-called Concivility Edict, which allowed all individuals, regardless of “national” background, to gain burgher rights in the Transylvanian Saxon milieus, and thus to purchase property.

The narrative presented above also paints a distorted image, as the case of the pretender Kis, or even the presence of the Hungarian nobility as homeowners in the city were not typical features of urban property transmission. In most cases, property devolved without conflict, with little protraction, through an efficient system that had balanced intestate and testamentary law. What the conflict above did depict in a very vivid manner was the unassailable complexity with which personal and collective interests overlapped, which, will be argued, was a constant characteristic of eighteenth-century politics in Transylvania. That it was most visible in Hermannstadt has only to do with the city’s high concentration of *Beamten*, hopeful clerks, and haughty political figures.

Thus, the following chapters chronicle the convoluted institutional developments that had made Hermannstadt the administrative centre of the province, and their repercussions at the level of the upper-most social and political milieus.

Depending on the focus and perspective employed by historical narratives dealing with the Habsburg Empire, the developments it witnessed during the eighteenth century are regarded either as an omen of the Empire’s inevitable collapse, or, alternately, as a chronicle of its successes in crafting a new kind of state construct. Historians dealing with the Empire as a whole emphasize the manifold ways in which modernising concepts of citizenship ultimately replaced entrenched hierarchies and identities, while national historiographies turn their focus towards its inability to successfully quench increasingly effervescent manifestations of “national” adherence, stemming from ingrained “national” divisions. Connecting both of these orientations is the notion that the changes elicited by Habsburg policies and reforms, especially after mid-century, had an unprecedented impact on the day-to-day lives of provincial inhabitants. Shifts in policy directly affected various social and “national” categories, which were often regarded as overlapping to a significant degree. What is more, the same policies aimed at promoting the establishment of an essential instrument of control for the “good of the

state”, namely the imperial bureaucracy, also unwittingly led to the emergence of various increasingly vocal stakeholders, who would seek to counter what they perceived to be the damaging effects of rash reforms, which disregarded the historical bases of provincial life.⁵²

The present chapter enquires into the social dimensions of this immense and wide-ranging political change, as well as the fact that it was anything but a linear, clearly-designed, and objectively implemented program. Firstly, it examines the entrenched coordinates of political and corporative identity in the province, with a particular focus on the Transylvanian Saxons. Thus, it begins by chronicling the evolution of the concept of the Saxon “nation-estate” and the means through which it gradually acquired a different political contour. It then delves into the main institutional framework established after the introduction of Habsburg rule in the late seventeenth century, and the impact of this framework on the social and political landscape of the province. Of particular interest in this sense is the extent to which individual historical actors managed to mould policy to their benefit, and resist the objectivising impulses stemming from Vienna. As the trial for the deceased Countess’ estate amply showed, personal interests and allegiances to one’s *Stand* often hijacked the normal functioning of various legal and administrative procedures, turning what should have been a straightforward process into protracted disputes. The Procurator Intze, the pretender Kis, the governmental clerks and the officials of the urban community were in a sense wearing several mantles, acting as enforcers of Habsburg policy, servants of the state, but also members of nation-estates, and representatives of different strands of the nobility. Owing at least partially to the political exercise earned in the framework of provincial leadership, they transposed various strategies learned in this field to that of property transmission. Even if, in theory, a clear hierarchy of institutional control had been set in place by the edicts of the 1780s, as the trial has shown, numerous avenues to circumvent it were still available to those with sufficient means. While one might find the proceedings briefly summarized above as hair-splittingly tedious, it was in such instances that the opposite effects of centralizing policies meant to streamline and increase the predictability of day-to-day legal affairs became most visible.

1. Nations, estates, and politics during early modernity

Hermannstadt’s history functioned in many regards as a *myse en abyme* for the political scene of eighteenth-century Transylvania. The pathway followed by Hermannstadt was akin to

⁵² See for instance Gary B. Cohen, “Nationalist Politics and the Dynamics of State and Civil Society in the Habsburg Monarchy, 1867-1914”, in *Central European History*, Vol. 40, No. 2., 2007, p. 241-278.

an image within an image of Transylvanian-wide developments, endlessly reflecting the trends which shaped the entirety of the province in miniature, through sequences such as that with which the present section began. The changes operated by the Empire within the province reverberated more powerfully in certain areas, while in other respects, life continued mostly unchanged for many of the province's inhabitants. The same patterns were visible in Hermannstadt: for some, Habsburg state-building brought significant changes, facing them with essential choices, while for others the broadest political movements had little effective impact. The shifts occurring in the eighteenth century were accompanied by the apparent persistence of medieval forms of government and legal-political autonomies present in the province. It is therefore necessary to briefly return to the late medieval period, in order to clarify Hermannstadt's and the Transylvanian Saxons' positioning in this deeply entrenched system.⁵³

From the eleventh century onwards, the Kings of Hungary increasingly recognized the necessity to adopt a strategic policy of colonization, in order to better profit from the land's natural resources.⁵⁴ Coupled with the need to ensure the newly-acquired territory's defense, this had led to the stepwise and piecemeal settlement of several German-speaking groups in multiple areas. These guests or *hospites*, as they were originally referred to in early medieval Hungarian documents, had been entreated to leave their homelands – sometimes relocating entire villages as a consequence - in exchange for several very clear benefits. First and most significant was land: the *hospites* received from the monarch the so-called royal lands (*Königsboden, fundus regius*), broadly encompassing the territories upon which they had settled, though not precisely covering them completely. Secondly, they were ensured personal freedom and liberty of movement. At the time, these three major privileges were regarded as the cornerstones of communal autonomy, and were geared to transform this group into a self-standing historical actor that could successfully defend and develop its areas of settlement, thus bringing prosperity to the Kingdom as a whole.⁵⁵

⁵³ Not in the least because synthetic and systematic treatments of medieval and early modern Transylvanian history from the Saxon perspective are only available to a German or Hungarian-speaking audience.

⁵⁴ The most comprehensive view into the colonisation strategy pursued by Hungarian Kings between the eleventh and fourteenth centuries is provided by Katalin Szende, “*Iure Theutonico?* German settlers and legal frameworks for immigration to Hungary in an East-Central European perspective”, in *Journal of Medieval History*, Vol. 45, Issue 3, 2019, p. 360-379; For the settlement of the Transylvanian Saxons and the establishment of the Royal Lands (*fundus regius*), the most authoritative work remains that by Thomas Nägler, *Die Ansiedlung der Siebenbürger Sachsen*, Bukarest: Kriterion Verlag, 1979; See also Konrad Gündisch, *Siebenbürgen und die Siebenbürger Sachsen*, Bonn: Langen Müller, 1998.

⁵⁵ Konrad G. Gündisch, “Ständische Autonomie und Regionalität im Mittelalterlichen und Frühneuzeitlichen Siebenbürgen”, in Heinz-Dietrich Löwe, Günther H. Tontsch und Stefan Troebst, *Minderheiten, Regionalbewusstsein und Zentralismus in Ostmitteleuropa*, Köln, Weimar, Wien: Böhlau Verlag, 2000, p. 33.

One essential consequence that flowed from the granting of these rights was the fact that the groups of colonists were from there on regarded as a unitary political entity. As the text of the initial privilege stated, “*unus sit populus*”. Privileges, freedoms, and duties were granted and assumed collectively, as a separate and clearly-definable group. As further corollaries, the colonists were also bestowed the right to govern themselves, administer justice by means of their own self-elected judges, and according to their own customs.⁵⁶ The Saxons were not the only ones to achieve this situation: the Szeklers, a Hungarian-speaking population, partially received some of the same benefits and were therefore regarded as a collective entity by the Kingdom, which made use of their services for the purpose of defense. The third major political actor throughout Transylvania’s medieval and early modern history was the similarly privileged and (mostly) Hungarian nobility.

Despite the consolidation of these group autonomies, the Hungarian monarchs were not always true to their promises, sometimes encroaching upon territories that had been safeguarded in perpetuity for one entity or another. Moreover, the clear preference of the monarchy tended towards the nobility, members of which were sometimes gifted with cities or villages set on the Saxons’ royal lands. Especially in the case of free royal cities – additionally privileged – these were worrying developments.⁵⁷ These and other centralizing tendencies found their first denouement in the second half of the fifteenth century, when the Hungarian King Matthias Corvinus finally agreed to the mayor of Hermannstadt’s request to re-confirm the privileges this group had been initially granted in perpetuity. Thomas Altemberger – who would also play a key role in the development of the legal framework to be discussed later on – had presented this request in the name of ‘the entirety of the Saxons in the Transylvanian parts of our kingdom’ (*universorum Saxonum nostrorum patrium regni nostri Transsilvanarum*). At least from then onwards, the term of Saxon University (*universitas Saxonum*) would designate the highest echelons of the Saxon society, occupying its highest administrative and judicial offices, and representing it as a collective entity in the power-plays of the successive state configurations of early modernity, up until the mid-nineteenth century.⁵⁸

The political system of the province also included a regional parliament (*Landtag* or *Diet*), wherein the three privileged collective historical actors of the territory were represented:

⁵⁶ Gündisch, “Ständische Autonomie”, p. 34.

⁵⁷ Konrad G. Gündisch, “Zur Entstehung der Sächsischen Nationsuniversität”, in Wolfgang Kessler (hrsg.), *Gruppenautonomie in Siebenbürgen. 500 Jahre siebenbürgisch-sächsische Nationsuniversität*, Köln, Weimar, Wien: Böhlau Verlag, 1990, p. 78 – 81.

⁵⁸ Gündisch, “Ständische Autonomie”, p. 41. The only interlude in this process of representation occurred briefly during Joseph II’s reign.

the nobility, the Saxons, and the Szeklers. At least initially, its attributions were however quite limited, as it served mostly as an open forum where cases concerning inter-group disputes could be arbitrated and tax issues discussed.⁵⁹ During the second half of the eighteenth century, Habsburg initiatives often bypassed the Diet and the estates entirely, preferring to work through its newly-established counterweight, the provincial imperially-appointed bureaucracy.⁶⁰

The present chapter has until now referred to collective actors and autonomies, purposefully skirting the issue of particularism. The Saxons were represented by the University, lived (mostly) on the royal lands, and enjoyed collective rights as a unitary political entity. But matters were, as was usual in the East-Central European early modern context, not as clear-cut as they might appear. When writing about the Transylvanian Saxons, historians are almost always eager to clarify their terms, lest they be misunderstood.⁶¹ Works dealing with post-1867 developments may freely make use of the term “nation” or “ethnicity” without further qualms,⁶² just as discussions situated in the middle ages employ *natio* and expect that it will be recognized for its primarily political and legal meaning. On the contrary, the early modern period – and particularly the eighteenth century – is stranded in terminological uncertainty between the two poles of medieval and nineteenth century understanding of the nation. Though acknowledging the need to tread carefully, it would prove insufficient to continue referring to the Saxons as a ‘collective actor’ throughout the entire work.⁶³

Transylvania was a *Ständegesellschaft*, a political entity partially organized into estates, reunited in the Diet. It was also home to several groups that would later be, in nineteenth-century terms, characterized as nationalities, or ethnicities: the Saxons, Szeklers, Romanians,

⁵⁹ Gündisch, “Ständische Autonomie”, p. 39.

⁶⁰ See Orsolya Szakály, “Managing a Composite Monarchy: The Hungarian Diet and the Habsburgs in the Eighteenth Century”, in D. W. Hayton, James Kelly and John Bergin, *The Eighteenth-Century Composite State. Representative Institutions in Ireland and Europe, 1689–1800*, Palgrave Macmillan, 2010, p. 205-217.

⁶¹ And famous miss-readings do exist, generally caused by the back-projection of nineteenth-century meaning of nation onto the earlier texts. This was one of the main tenets of communist-era protochronistic discourse, and not even figureheads such as David Prodan – decidedly against protochronism in historical discourse - were entirely free of the tendency to use *natio* as ethnically-charged concept for the Romanians in eighteenth-century Transylvania. See Krista Zach, “Begriff und Sprachgebrauch von *natio* und Nationalität in vorhumanistischen Texten des 13. bis 16. Jahrhundert aus Siebenbürgen”, in Zach, *Konfessionelle Pluralität*, p. 14, note 63. On David Prodan’s approach to eighteenth-century Transylvanian history within the political context of the time, see Katherine Verdery, *National Ideology under Socialism. Identity and Cultural Politics in Ceaușescu’s Romania*, Berkeley, Los Angeles, Oxford: University of California Press, 1991, p. 229 – 235, 240 – 241.

⁶² Though this statement is not entirely accurate either, given that several changes occurred in the categorization and definition of ethnical identity between the nineteenth and early twentieth-century censuses conducted in Hungary during Dualism. The fluidity of ethnical identity – defined sometimes by primary language, or language spoken at home, or other times by confessional belonging – is a classic symptom of the area for most of its modern history. See for instance Pieter M. Judson, “‘Not Another Square Foot!’ German Liberalism and the Rhetoric of National Ownership in Nineteenth-Century Austria”, in *Austrian History Yearbook*. Vol. XXVI (1995), p. 83-97.

⁶³ This would prove especially problematic in the case of the discussion of property and inheritance legislation.

Hungarians, etc. They did not however make up clearly distinct ethnic groups during the medieval period, did not regard themselves as part of such groups and were not seen as such by the state. Some of them, such as the Saxons, the Szeklers, and the Hungarian nobility, did however constitute jurisdictional enclaves, virtually and practically rooted in the territories that each group had been initially awarded. Perhaps the clearest example is that of the noble estate: in the Diet, and as a collective actor, it represented the interests of those noble persons, located on the noble lands of Transylvania, which they had been similarly granted by the monarchy in exchange for their services. These noble lands were organized into counties (*Komitate, vármegye*). They included not only primarily Hungarian-speaking individuals – or even communities – but rather a composite population: for the majority of its existence, around 45% of the primarily Saxon-inhabited settlements of Transylvania were located on noble, county lands. It has been estimated that 25% of the Saxon serfs in the province were legally and economically dependent on Hungarian noble landlords.⁶⁴ Beyond their representation in the Diet by the delegates of the Saxon estate – the upper political, social, and economic levels – the Saxons had no collective noun that could encompass them entirely. The estate itself was in some ways like that of the nobility: it was clearly an upper-level group that grounded its power in its territoriality.⁶⁵ It could most accurately be described as a *Landstand*, or territorial estate.

⁶⁴ Rolf Kutschera, “Zur historischen Verwaltungsgliederung Siebenbürgens”, in *Zeitschrift für Siebenbürgische Landeskunde*, Vol. 1, 1989, p. 12. Kutschera also offers this figure – 25% - in one of his earlier works, but in this case for the entirety of Saxons – free and unfree – who lived in the Hungarian counties. It is not clear if such cities as Cluj, which had originally been inhabited by both Saxons and Hungarian speakers, are included in the count. This would then imply that the German-speaking free burghers were also part of this category. Kutschera’s percentages come from Schuler von Libloy’s earlier works. See Kutschera, *Landtag und Gubernium*, p. 46 – 47.

⁶⁵ Gündisch, “Ständische Autonomie”, p. 39, refers to “Diese Gruppen sind als Stände zu bezeichnen, wenngleich sie sich nicht vorrangig, wie in Westeuropa üblich, nach sozialen, sondern nach territorialen Gesichtspunkten, den von ihnen dominierten Gebietskörperschaften definierten.” The concept of “territoriality” was deemed an appropriate way of describing this situation.

Figure 1. The territories of the three estates in eighteenth-century Transylvania



Source: Map courtesy of the Hungarian Academy of Sciences, Budapest.

The *Königsboden*, depicted in pink on the map of the territorial distribution of the three types of administrative units – counties, Saxon lands, and Szekler seats – represented the smallest category, and, with the exception of the two major clusters located in the South-East and the North-East of Transylvania, was exceedingly dispersed. What is most apparent is that this administrative distribution did not reflect an accompanying ethnic division in any sense, but rather a legal differentiation, which split inhabitants according to their legal identity, as members of a nation-estate.

Another term used since at least the fifteenth century for what now may appear as elusive groups was that of *natio*. For instance, the nobility was sometimes referred to as ‘noble nation’ (*Adelsnation*), while some sources – though fewer – wrote of *natio hungarica*. What this term lacked was its primarily ethnic component: the noble nation included, at least in the late medieval period, members of what would nowadays be called different ethnicities. As Krista Zach has aptly expressed it, ‘the ethnic component was no more than an ingredient, the social or political was rather the meaning-bearer’.⁶⁶ Therefore, the term of *natio* signified

⁶⁶ Zach, “Begriff und Sprachgebrauch”, p. 8 – 9. At least prior to the eighteenth century, the so-called Boyaren and Vecini stemming from the Land of Făgăraș, located between the seats of Sibiu and Brasov, were also included in this group. Their ethnic belonging could also be best characterized as Romanian. In time, the Hungarian character of the noble nation would however become increasingly pronounced.

the ‘affiliation to a hereditary legal status’, inextricably tied both to political rights and rooted in the ownership and inhabitancy of a designated category of land.⁶⁷ The employment of this term was contiguous with the context in which it was used, which was demonstrated by the medieval and early modern Transylvanian Saxon students who went to pursue an education in the liberal arts abroad, especially in German-speaking environments: in these universities’ enrollment registers, they referred to themselves as being part of the “*natio hungarica*”.⁶⁸

But turning towards the late early modernity, even the term of *natio* began to take on the coloring of its ethnical ingredient. As Zach has also noted, even during the late sixteenth century, this term was polysemic, and sometimes used to encompass entities that could just as well have been understood as “Volk, Nationalität, Volksgruppe.” It is only in the regional-level legislative-political context, when referring to the so-called union of the three nations – the nobility, the Saxons, and the Szeklers – that it is patently wrongly employed.⁶⁹

What then did the Saxons – a legally-tinged term itself⁷⁰ – and the other estates envisage, when they wrote about the Saxon nation?

Already by the early and mid-seventeenth century, the struggles between the three estates for the purpose of preserving the political status-quo, and maintaining roughly the same balance in numerical terms – an expression of power – had sharpened considerably. To be more concrete, the more German-speaking members the Saxon nation received within its midst, the stronger and therefore more dangerous politically did it appear to its neighbors. One of the main tenets of the privileges the Saxons had received was the exclusionary right to own landed property on the *Königsboden*, and real estate in the Saxon cities situated in this territory. In the cities, this was of particular importance, as house ownership was (at least in theory) a precondition for accession to any kind of political-administrative function. It made the difference from being part of the *natio* in the broader, vaguely ethnical-historical sense, to being part of the *natio* as political estate.

⁶⁷ Gündisch, “Ständische Autonomie”, p. 42: “Mit dem Begriff *natio* wurde damals die Zugehörigkeit zu einem ‚Stand angeborenen Rechts‘ gleichgesetzt, mit den *universitates* die auf das jeweilige Land ‚bezogenen Personalverbände mit dem Charakter von Rechtsgemeinschaften, an denen die Landstandschaft haftet.”

⁶⁸ Several notable Saxon individuals appeared as students at early modern Western-European institutions under this designation. See Angelika Schaser, *Reformele iozefine în Transilvania și urmările lor în viața socială. Importanța edictului de concivilitate pentru orașul Sibiu*, translated from German by Monica Vlaicu, Sibiu: Hora Press, 2000, p. 50 – 51.

⁶⁹ Zach, “Begriff und Sprachgebrauch”, p. 14.

⁷⁰ Gündisch notes, in “Ständische Autonomie”, p. 34, that several German-speaking populations had been settled during the medieval period on Hungarian territories, and that not all of them had received the same package of privileges, rights, and duties. ‘Sachse’ was therefore used as a designation in order to distinguish an individual’s legal status in relation to the Kingdom, and decidedly not a concept that would point to a geographical place of origin.

The Saxons increasingly associated inhabitancy and ownership on the *Königsboden* to an ideal-typical notion of German identity, or rather the potential to be assimilated into the fold of the Transylvanian Saxon nation.⁷¹ At the time, particularly in East-Central and South-East Europe, German identity was an exceedingly fuzzy concept. As Pieter Judson aptly explains, it was highly situational, and was best assimilated to “a system of social and cultural values that helped people to mark their particular place in local society.”⁷² Employing a common topos of early modern discourse on ‘national’ purity, the Transylvanian Saxons claimed to have maintained themselves free of the admixture of other early modern nations, and at the same time attempted to increase their ranks with those whom they deemed to fit the criterion of “German”, especially as a means of replenishing and strengthening manufacturing and guilds in the cities. As the next chapters will show, the understanding of who was or could be German was exceedingly broad and fluid, having little to do with ethnicity in the nineteenth-century sense.

These new incomers were also often granted citizenship within the cities – achieved through settlement and property ownership – and therefore could ascend to public life and political power. This had been occurring throughout the late seventeenth and early eighteenth centuries with the more or less explicit support of both the Habsburgs and the governors of Transylvania, and had expectedly drawn the wrath of the noble estate. During one meeting of the provincial parliament in 1653, the Hungarian nobility starkly criticized this tendency of encouraging “foreign Germans” to settle in Transylvania and to pave their way towards becoming a part of the *natio*: “they have no difficulty to take in a stray German coming from Japan or from beyond the sea, whom they have not laid eyes on during their lives, of whom they know nothing”. The implication was that foreign German-speakers were awarded more trust and consideration purely on the basis of their background, while those with whom government of the province had been shared for centuries were constantly rebuked. Certainly, this was displeasing to the members of the noble nation, as well as to the Szeklers.

It has been argued that the core of the issue was not about real estate-ownership itself, but rather about the desire to observe the inter-estate provincial status-quo: the nobility had shown itself prepared to renounce its pretences should the Saxons cease their colonization project. At the same parliament meeting, the reunited estates passed the code of laws titled

⁷¹ G.A. Müller, in *Stuhle und Distrikte als Unterteilungen der Siebenbürgisch-Deutschen Nationsuniversität 1141-1876*, Hermannstadt, 1941, p. 101 – 103.

⁷² Pieter M. Judson, “Changing Meanings of ‘German’ in Habsburg Central Europe”, in Charles Ingrao & F. Szabo (eds.), *The Germans and the East*, Purdue University Press, 2007, p. 113.

Approbatae, which applied to the entirety of the province – and even to the *Königsboden*, despite the clear clash with the Saxons' privileged jurisdiction.⁷³ Among its provisions, it explicitly allowed both the Hungarian nobility and the Szeklers to settle and buy real estate in the Saxon cities. As very few non-Saxon estate members would however make any use of this provision until Transylvania became a Habsburg province, the matter could possibly be framed as primarily concerning the power balance in the province, and not dependent on property ownership itself.⁷⁴

This tense issue reflected the peculiar but nevertheless functional balance of legal pluralism in the province, as jurisdictional autonomy manifested in the form of the Royal Lands *de facto* overshadowed the theoretical prevalence of central or state-law. The main problem was in fact again related to the territoriality of estates and to their cornerstone-privileges: land, freedom, and jurisdiction. Any member of another estate settling into a Saxon city as a house owner would mean the ingression of noble power, or even of central, state jurisdiction into the impenetrable legal environment of the Saxon *natio*. Despite its legally plural regime, early modern Transylvania was founded precisely on this inter-estate jurisdictional and territorial balance, which proved to be a strikingly resilient construct. While this type of confrontation was a general feature of East-Central Europe at the time, free royal cities often bearing the brunt of what were essentially jurisdictional and fiscal clashes between the nobility and the higher representatives of the urban layers⁷⁵, it took on a special character in Transylvania due to the existence of the Royal Lands as a separate administrative category, as well as to the separate autonomies granted to the urban centres within its midst.

2. Rethreading power lines: Habsburg policies and the imperial framework

“So gewann das ganze Land eine Gestalt, die es seit seiner Entstehung nie gehabt hatte.”⁷⁶ In the poignant characterisation of the changes witnessed by Transylvania during the

⁷³ More information on the *Approbatae* and other legal codes underpinning the framework of property and property transmission in early modern and eighteenth-century Transylvania will be offered in the following chapters.

⁷⁴ This is Müller's argument at least, whom I tend to agree with. See Müller, *Stuhle und Distrikte*, p. 101 – 102. Yet another argument in favor of this view is the fact that German serfs, even if stemming from the *Königsboden*, were also not allowed to accede to citizenship.

⁷⁵ See Jaroslav Miller, *Urban Societies in East-Central Europe*, p. 214.

⁷⁶ Zieglauer, *Die politische Reformbewegung in Siebenbürgen*, p. 34, who quotes George Michael Hermann's *Das Alte und Neue Kronstadt*, recently edited and published by Bernhard Heigl and Thomas Şindilariu, as *Das alte Kronstadt. Eine siebenbürgische Stadt- und Landesgeschichte bis 1800*, Köln, Weimar, Wien: Böhlau Verlag, 2013.

1780s, a contemporary Saxon chronicler from Kronstadt portrayed the results of Joseph II's (Holy Roman Emperor from 1765, and sole ruler between 1780 and 1790) program to refashion the province's political and social bases: the reforms had seemingly succeeded in severing the historical privileged roots tying the estates to their territory. Regardless of the reforms' temporary character, as most would be repealed in the early 1790s, the estates would never quite manage to situate themselves on the very same entrenched positions they had been holding since the middle ages. While the Empire was still far from changing its Transylvanian subjects into citizens at the turn of the eighteenth century, some considerable headway had been made in this sense. It is therefore worthwhile to explore how and to what extent the novel political and administrative "shaping" of the land contributed to the re-shaping of individuals' concerns, opportunities, and constraints. This is achieved in the present chapter by chronicling the emergence of the imperial administrative framework, as the conduit through which policy flowed from the centre and grievance could be aired from the province. It also explores the provisions of the Leopoldine Diploma, as the broadest constitutional document for eighteenth-century Transylvania, whose provisions were repeatedly breached, reinterpreted, or simply circumvented during the process of the state-building.

The narrative of abrupt and devastating change employed when discussing the onset of Habsburg rule in Transylvania often manages to obscure both the continuities and the incremental character of transformations experienced by the province since the late seventeenth century. It also has the added effect of drawing harsh lines between the imperial institutions and modes of governance, perceived as unyielding, external forces, and the various provincial bodies and institutions that had grown "organically" since the late middle ages as an expression of Transylvania's needs, and presumably to its benefit.⁷⁷ Refocusing the enquiry on Hermannstadt during the eighteenth century serves to highlight several issues: firstly, that both the imperial and the provincial institutional scaffoldings underwent a continuous process of adaptation, which echoed in the day-to-day lives of the provincial capital's inhabitants; secondly, that this process was two-sided, historical actors often managing to drive changes in

⁷⁷ Zieglauer, *Die politische Reformbewegung in Siebenbürgen*, p. 14: "Niemand verkennt das reinste Wohlwollen und die edelsten, nur auf Völkerbeglückung abzielenden Tendenzen Joseph's II., aber es fehlte ihm die aus der Geschichte zu gewinnende Erfahrung, daß das künstlich hervorgebrachte Werk oder gar die gewaltsame Schöpfung nicht die Bedingungen einer gesunden Entwicklung in sich tragen. Er begriff nicht, daß die verschiedenen staatlichen Institutionen in einfacher organischer Entwicklung ihrer Wurzeltriebe sich fortgestalten müssen."

institutional frameworks, thus changing the scope of the latter's functions.⁷⁸ Moreover, what now may appear to be abstract political and confessional notions, divorced from the immediate concerns of individuals who were only weakly bound to the highest political and administrative milieus of the province, were in fact more general sources of disquietude. Repeated waves of reform and reorganisations could constrain chances of social advancement, or alternately open up new avenues of opportunity, and consequently mobilize various individuals and groups to action. This is not to argue, against Judson, that the sense of belonging to the Saxon nation and its understanding were the major animating forces behind all manner of activities and decision-making processes, but rather that, in the context of great upheaval targeting precisely the particularisms of the Saxon privileged status, these issues gained a greater currency in the mind-sets of Hermannstadt's eighteenth-century inhabitants.⁷⁹

This chapter therefore provides brief re-examination of the major institutional and administrative scaffoldings constructed by Habsburg policies in eighteenth-century Transylvania, and within this framework, closely examines the changes elicited by various waves of reform, focusing particularly on the Josephinian period. Where precisely the eighteenth-century inhabitants of Hermannstadt were situated on the long thread of collective self-understanding connecting "modern" citizenship to entrenched medieval privilege depended on the challenges this group identity faced in practice. By targeting the main tenets of national or provincial particularism, the Habsburgs would temporarily dissolve the Saxon nation as such and strip it of most of its defining characteristics. This could not have failed to leave deep-seated marks on how the Saxons envisaged their situation and their roles as political subjects and members of a particular nation-estate.

Moreover, this enquiry acknowledges that the establishment of an extensive administrative apparatus in the city, regardless of the provenance of its staff, would transform day-to-day lives of certain groups of individuals. It therefore emphasizes the need to explore the gradual construction of an imperial bureaucracy in this provincial setting, both structurally and in terms of personnel. Civil servants would play increasingly significant roles in society

⁷⁸ Kathleen Thelen, *How Institutions Evolve. The Political Economy of Skills in Germany, Britain, the United States, and Japan*, Cambridge: Cambridge University Press, 2004, p. 31.

⁷⁹ One of Pieter Judson's main arguments in *The Habsburg Empire: A new history*, Cambridge, MA. & London: Belknap Press of Harvard University Press, 2016, p.10, is that "Nationalist movements did not always influence the concerns and rhythms of everyday life in more than a passing manner. Attempts to persuade people to pattern their economic behaviors or educational goals along nationalist lines often failed to gain much popular traction." It is worthwhile to explore if prior to the nineteenth-century, when 'nation' had a distinctively different connotation in many Habsburg provinces with entrenched estate systems, the same could be said of the relation between ethnical/national adherence and day-to-day concerns.

and politics, helping to shape subjects into citizens by implementing policy.⁸⁰ They would also be active, if unintended participants in the fashioning of the public sphere in its particular Central European version.⁸¹ While imperial civil servants, often recruited from outside Transylvania's boundaries at the highest levels, rarely involved themselves directly in the webs of property transmission within the city, they would nevertheless contribute to the mapping of the social world of the province through various means, or to the implementation of policy that influenced individuals' chances of social and economic advancement.

Finally, the development of the system of imperial governance hosted by Hermannstadt for most of the eighteenth century also changed the social and professional landscape by providing new opportunities for waged employment for middling and upper middle class individuals. Labour in the service of the imperial bureaucracy also entailed adherence to a new type of work ethos, which was in many different to that espoused by the municipal or national administration.

Transylvania's formal incorporation into the Habsburg Empire following the passing of the Diploma by Leopold I in 1691 can, in some ways, be regarded as footnote in a bellicose narrative spanning several centuries. At the time, Transylvania itself had not been the Habsburgs' primary concern, as the situation in the region had somewhat balanced against the Ottoman forces, which had led to Hungary sliding down in the hierarchy of battle theaters.⁸²

⁸⁰ The development of bureaucracy has been a traditional field of enquiry for Imperial historians for many decades, owing to the salient advances made in this domain in the Habsburg Empire post-1750. For a recent overview of this matter, see for instance the special issue on the *Sinews of State Building* of the *Austrian History Yearbook*, Vol. 37, January 2006. Despite its appeal, the topic has remained relatively understudied for the territories acquired by the Empire towards the end of the seventeenth and the beginning of the eighteenth century (the Banat and Transylvania). While the structural developments of institutional scaffoldings have received more attention, the staffing of these organizations beyond the uppermost levels of decision-making has been largely disregarded. For the imperial institutional framework of eighteenth-century Transylvania, see Anton Dörner, *Reformismul austriac și administrația din Transilvania în secolul al XVIII-lea*, Cluj-Napoca: Napoca Star, 2009, and the older but still authoritative work by Kutschera, *Landtag und Gubernium in Siebenbürgen*. For the Banat, recent work has been done by Sabine Jesner, "Personnel management during times of crisis. The Austrian Banat and the Austro-Russian-Turkish war (1736-1739)", in *Istraživanja – Journal of historical researches*, Vol. 27, 2016, p. 120-138. A comprehensive overview of imperial administrative development in the Banat has been offered by Costin Feneșan in *Administrație și fiscalitate în Banatul Imperial/Verwaltung und Steuerwesen im kaiserlichen Banat, 1716 – 1778*, Timișoara: Editura de Vest, 1997. The imperial staff and administrative networks in other Habsburg provinces have also drawn the attention of social historians, attesting to the value of this avenue of enquiry. See for instance Rita Krueger, *Czech, German, and Noble. Status and National Identity in Habsburg Bohemia*, Oxford: Oxford University Press, 2009; Iryna Vushko, *The Politics of Cultural Retreat. Imperial Bureaucracy in Austrian Galicia, 1772-1867*, New Haven & London: Yale University Press, 2015; Miriam J. Levy, *Governance & Grievance. Habsburg Policy and Italian Tyrol in the Eighteenth Century*, West Lafayette, Indiana: Purdue University Press, 1988.

⁸¹ Derek Beales, "Joseph II, petitions and the public sphere", in Hamish Scott and Brendan Simms, *Cultures of Power in Europe during the Long Eighteenth Century*, Cambridge: Cambridge University Press, 2007, p. 250.

⁸² Michael Hochedlinger, *Austria's Wars of Emergence. War, State, and Society in the Habsburg Monarchy, 1683 – 1797*, London: Longman, 2003, p. 160-161.

Even after regaining supremacy in the area, the balance of power in the province, caused among other things by the need to rely on local lords for leadership in campaigns, was still precarious.⁸³ However, the Diploma was in no way regarded as a temporary solution, but was rather the result of a well-thought out project, spanning several years, if not decades. It is worthwhile to briefly summarize its provisions, as they would prove significant for the later developments of both the province and Hermannstadt itself, having constitutional value for more than one and a half centuries.

What the Diploma maintained was just as important as what it proposed to change. Firstly, it ensured that the religious status-quo of the province, grounded in the four-pronged system of received (*rezipiert*) confessions would remain in function, preserving the lands and possessions of these churches precisely as they were at the time. Like the three-estate political basis, the confessional construct pertained only to a selection of the denominations actually present in the province, having been set in place towards the mid-sixteenth century.⁸⁴ At the time, the communities of Transylvania had been granted the right to freely choose their clergy, and thereby to situate themselves as adherents of Catholicism, Lutheranism, Calvinism, or Unitarianism. The other denominations present in the province – for instance Orthodoxy – had not been acknowledged by this royal edict, and were from there on officially regarded as ‘tolerated’. Moreover, confessional splits had in the case of the estates covered quite well precisely those fault lines that had been developing due to the provision of special privileges: the overwhelming majority of Saxon inhabitants on the royal lands would gradually switch to Lutheranism by the early seventeenth century, while the Hungarian nation would remain Catholic, or adhere to either Calvinism or Unitarianism, depending on the area.⁸⁵ Secondly, the Diploma preserved the legal bases of the three-estate system, namely their own laws and law codes. Among these were Werböczy’s *Tripartitum*, the *Approbatae* and *Compilatae* collections, and the Saxons’ sixteenth-century *Eigenlandrecht*.⁸⁶ Implicitly, it also preserved the administrative divisions and organization of justice within the province, two of the major components of the estates’ territorial autonomies. Moreover, the Habsburg monarchy duly noted that it had no desire to intervene directly in the running of the province (beyond the

⁸³ Hochedlinger, *Austria’s Wars of Emergence*, p. 163-164.

⁸⁴ On the protracted and convoluted instatement of the official system of confessions, see Istvan Keul, *Early Modern Religious Communities in East-Central Europe: Ethnic Diversity, Denominational Plurality and Corporative Politics in the Principality of Transylvania (1526-1691)*, Leiden: BRILL, 2009.

⁸⁵ See Keul, *Early Modern Religious Communities*, p. 15-28, 29-116.

⁸⁶ The sole exception pertained to the article of the *Tripartitum* that allowed the Hungarian nobility the so-called *ius resistendi*, the right to resist the monarch militarily. This had also been dealt with previously, when Hungary had been incorporated into the Monarchy, and had given rise to protests from the Hungarian estates. See Orsolya Szakály, “Managing a Composite Monarchy”, p. 210.

institutions it would establish), therefore granting exclusionary rights to accede to public office only to the native members of the four confessions. It also pledged to abstain from granting any other foreigner the so-called *indigenat*, or right to settle in the province as a native, which would have infringed upon the native political system. Finally, the provincial diet would be summoned yearly, and fiscal matters would be decided between the three nation-estates, without impingement from the central government.⁸⁷

The formal establishment of central imperial institutions in the province also attested to the fact that the Empire anchored its efforts in the historical traditions extant in Transylvania, as a means of displaying its desire to recognize and uphold the inter-estate status-quo. However, in practice, a continuous process of adaptation would take place during the eighteenth century, reflecting the changing Habsburg modes and “practices of governance”. This adaptation was not by any means linear, nor did it follow a clear pathway from the 1690s to the late 1790s. By chronicling the main tenets of this process as far as they concerned the institutions settled in Hermannstadt, a clearer image of the piecemeal Habsburg policies designed to unify the institutional landscape of the principality will emerge.⁸⁸

The province was appointed an *Obersten Staatsdirektor*, a position explicitly equated with the older role played by the ‘Vajvod’. This terminological continuity did not however entail a constancy in regards to attributions, compared to the era of the principality. The holder of this office, eventually referred to as ‘governor’, was to be selected by the Emperor from amongst the Transylvanian-born peers (*Edelleute*), regardless of confessional adherence.⁸⁹ The governor was meant to reside in the province, while his office could be put up for election yearly, according to the Diploma. Despite this provision, governors generally held their office for much lengthier periods.⁹⁰ At least initially, the governor was not given precise tasks, beyond upholding the provisions of the Diploma, and displaying both loyalty to the emperor and a

⁸⁷ For a very brief review of these main provisions, see Paul W. Roth, “Das Diploma Leopoldinum. Vorgeschichte, Bestimmungen”, in Zsolt K. Lengyel, Ulrich A. Wien, *Siebenbürgen in der Habsburgermonarchie. Vom Leopoldinum bis zum Ausgleich (1690 – 1867)*, Köln, Weimar, Wien: Böhlau Verlag, 1999, p. 6-8. The most well-documented and systematic account remains however that of Rolf Kutschera, *Landtag und Gubernium*.

⁸⁸ Pieter Judson, *The Habsburg Empire*, p. 28, aptly describes what drove this process, noting that the Habsburgs „developed ad hoc ideas about how best to unite their territories more effectively” and that “the Habsburgs and their advisers did not follow a single model of state-building”, but rather adapted their “new practices of governance” to the specificities of their territories.

⁸⁹ Kutschera, *Landtag und Gubernium*, p. 141.

⁹⁰ Kutschera, *Landtag und Gubernium*, p. 143-144.

‘neutral’, ‘nonpartisan’ stance in administering the business of the province.⁹¹ In practice, this was difficult to achieve, especially when the governor hailed from the native peasage.

Beside this highest civil office stood its military equivalent, the General Commander of the military troops in the province. This office could only be occupied by an Austrian nobleman.⁹²

The General Commanders were tasked to cooperate fully with the governor, but at the same time their potential sphere of attributions beyond their main military-related tasks was not quite clearly defined. As has been noted, per the Diploma, the General Commander was the embodiment of the ‘imperial prerogative’ in the province, while at the same time clearly separate from the provincial administration. He would play no role in civil matters, merely confining himself to his own tasks, which were by no means few or lacking in difficulty.⁹³

This was not always the case, as shall be seen later on. Although the Diploma was clear in its provisions, the *modus operandi* of the General Commander would be as much determined by the personality of the officer in question and by his experience with the Transylvanian (Saxon) administration as by the document in virtue of which he had been appointed. At the time when the Diploma was being drafted, the first General Commander, Antonio Caraffa, had submitted a project outlining what should have been, in his opinion, the main areas of focus in the administrative incorporation and subsequent rule of Transylvania. Caraffa, who had spent some time in the Transylvanian battle theater and was relatively well acquainted with the provincial realities – and particularly the precarious inter-estate balance – had suggested that military and civil powers had to be clearly delimited. While the Diploma did not spell out the reason for this separation, Caraffa plainly stated that a military officer in charge of civil matters

⁹¹ Kutschera, *Landtag und Gubernium*, p. 146.

⁹² Differentiating between ‘Austrian’ and ‘German’ during the eighteenth century may seem tenuous from a historical perspective, at best. It does however appear that the Saxons – and it is mainly from the perspective of their eighteenth-century records that the present account has been written – did differentiate between these two broad identitary designations. For instance, the exiled Protestants from Upper Austria who saw themselves transported to Transylvania (and Sibiu) were invariably referred to as either ‘Transmigranten’ or ‘Österreicher/Österreichischer Transmigrant’ for the great majority of the eighteenth century. They appeared to have never been fully assimilated as the kind of ‘Germans’ that the Saxon nation wished to strengthen its ranks with. On the other hand, those newly-settled ‘colonists’ from areas such as the Margraviate of Baden-Durlach were invariably referred to as ‘Teutschen’, even if some were Catholic. ‘Austrian’ was therefore a contemporary label for both the German-speaking, non-native upper levels of the provincial administration and the lowest of the monarchy’s subjects, who suffered displacement on account of their belief. This was not a primarily ethnical differentiation, as these designations were in fact transposed onto social-legal categories of provenance: the “Colonists” had settled willingly in the city, enjoying the support of imperial forces; the Transmigrants were forced into exile by the same empire, had their estates confiscated, and benefitted from very little support from either the Empire or the municipal administration.

⁹³ Frederik Krabbes, ‘“dass er in re wirklich dominire, und doch nicht so scheine“. Das kaiserliche Generalat in Siebenbürgen unter Jean Louis de Bussy-Rabutin während des *Großen Türkenkrieges*“, in *Ungarn-Jahrbuch*, Vol. 32, Issue VIII, 2014-2015, p. 116 – 117. Among the attributions assigned to the General Commander was the onerous duty of ensuring the billeting of Imperial troops in Transylvanian homes. This was a highly contentious issue throughout the province, and much more so in the capital of Sibiu.

in the province would be met with hate ('odios') by the local administration.⁹⁴ What is more, Caraffa regarded the Saxons as the key to successful leadership in the province, noting that they had been locked in a long-lasting stiff 'discrepancy' with the Hungarian nobility. This is where the General Commander was supposed to intervene: in alleviating or, when it was necessary from the Imperial perspective, increasing the conflictual potential of inter-estate relations.⁹⁵ However, all of the influence and decision-making power wielded by the General had to remain cloaked in secrecy, most likely in order to prevent a common action by the estates.⁹⁶

Beside the General Commander and the Governor, the imperial administration consisted in a Gubernium, or provincial government. Its design took into account the particularities of the province, particularly the inter-estate and accompanying inter-confessional balance: Catholics and adherents of Calvinism were entitled each to four seats on the council, the Unitarians would receive two or later one seat, while the Lutheran Saxons would hold two such positions, in addition to that reserved for the Saxon *Comes*, who at the same time served as Royal Judge of Hermannstadt (*Königsrichter*). The election to the office of provincial counsellor was not uncontentious: it would take almost two decades for a clearer system in this sense to be devised, as prior to 1712 twelve candidates were announced – three from each denomination – from whom the emperor was supposed to select the most suitable individual.⁹⁷ The composition of the government would remain unstable up to Maria Theresia's reign (1740-1780), especially in regards to the four upper-level positions.⁹⁸ The remaining eight 'simple' councilors were drawn from the ranks of both the high Hungarian nobility and those of the leading political figures of Saxon urban centers.⁹⁹

⁹⁴ Krabbes, „dass er in re wirklich dominire“, p. 118 – 119.

⁹⁵ Krabbes, „dass er in re wirklich dominire“, p. 120.

⁹⁶ Krabbes, „dass er in re wirklich dominire“, p. 121.

⁹⁷ Kutschera, *Landtag und Gubernium*, p. 141 – 142.

⁹⁸ One of the upper-level positions in the government was held by the head of the provincial Treasury (*Thesaurarius*). Following irregularities in the financial administration of the province, noted by Ludwig Albert Thavonath, who had been sent to Transylvania in charge of a Cameral Commission (*Comissio Cameratica*) in order to assess the territory's sources of income, the Baron Stefan Apor attempted to resign from his position as Treasurer in the autumn of 1699 in protest of what he regarded as the Habsburgs' unlawful ingressions into this institution. Thavonath recommended, among other things, that the Court remove all Transylvanians from the Treasury's staff, as 'no improvement would be noticed in financial matters' until it was wholly controlled by the central power. Apor was expectedly displeased with this recommendation. The Court was initially wary of accepting his resignation, instead sending its well-wishes on the occasion of Christmas in the same winter, and notifying Apor that he could receive his salary. Finally, his resignation was accepted, the Treasury was appointed a President (*praeses*) drawn from the ranks of the Austrian nobility. It was also subordinated to the Royal Chamber. The position of Treasurer would remain unfilled until Maria Theresia's reforms, some four decades later. See Dörner, *Reformismul austriac*, p. 142 – 144.

⁹⁹ Kutschera, *Landtag und Gubernium*, p. 145.

The provincial government was foremost characterized by instability during its first decades of existence. Hazy delimited competencies, governors who were unused to following anything other than their estate's best interests – when not following their own –, and a general lack of professionalism plagued the empire's institutional anchors in Transylvania.¹⁰⁰ This internal disequilibrium was compounded by external factors during the early eighteenth century: between 1703 and 1711 a revolt of the anti-Habsburg Hungarian nobility shook the fragile foundations of the empire's dominion in Hungary and Transylvania; additionally, several waves of plague ravaged the province, further unsettling the precariously tethered components of the provincial government. The scaffolding's instability was best displayed by the shifting seat of the government: though it was initially meant to be located in the heavily-fortified urban center of Alba Iulia (Weisenburg), the government's matters were decided upon at the Governor Georg Bánffy's estate in Bonțida, near Cluj. Only as the provincial diet began to regularly hold its sessions in Alba Iulia, did the government slowly relocate to this initial setting. After the outbreak of the anti-Habsburg revolt, the government saw itself forced to retreat to Hermannstadt, which offered a safer haven from military disturbances.¹⁰¹ By the end of the revolt, the plague had hit Hermannstadt, and thus the government relocated yet again, first to the nearby village of Cîsnădie (Heltau), then to the larger settlement of Cincu (Großschenk), and finally to Mediasch, one of the main Saxon urban centers in the province, where a diet meeting was also held at the time. As the plague swept the area again in 1717, the government returned to its seat in Klausenburg, where it would remain until 1732, when General Wallis commanded that it be settled in Hermannstadt.¹⁰² It was in Hermannstadt that the system would eventually find its bearings, having to contend only with the administrative changes each new Habsburg ruler regarded as necessary.

In 1732, upon its resettlement in the Saxons' administrative capital, the Gubernium was also appointed a new leader, namely the General Commander Franz Anton Wallis. This blatant contradiction to the provisions of the Diploma, according to which civil and military competencies were to be kept separate, was seemingly resolved by giving Wallis the title of 'President of the Gubernium' (*praesides*).¹⁰³ At the same time, the Habsburgs employed a strategy that had proven successful in governing other peripheral provinces, such as Hungary:

¹⁰⁰ Not that this situation was unique to Transylvania. As Vusko, *The Politics of Cultural Retreat*, p. 61 notes, early on after the Habsburg conquest of Galicia, in 1772 and 1773, the province "was possessed of neither" an "efficient bureaucracy" or a "diligent governor".

¹⁰¹ Kutschera, *Landtag und Gubernium*, p. 146.

¹⁰² Kutschera, *Landtag und Gubernium*, p. 153.

¹⁰³ See Dörner, *Reformismul austriac*, p. 176-179 for a more detailed account.

when a high office was vacated, due to various reasons, it was either left unfilled for a lengthy period of time, or it was filled temporarily with an Austrian-born official favoured by the Crown.¹⁰⁴ Among the major changes occurring between the 1730s and early 1750s, when the Government re-entered the spotlight of Habsburg reforms, was the change in the hierarchy of councillors: the Roman Catholic Bishop of Transylvania would take the second position after the Governor, and would therefore replace the Governor in the event of his sudden passing or removal. In an entrenched multi-confessional environment such as that of Transylvania, this new development was expectedly ill-received.¹⁰⁵ The Catholic Bishop's rise in the hierarchy of the Government was accompanied by a general tendency towards the promotion of Catholic (or at least non-Evangelical) councillors: around the 1740s, the Saxons only managed to retain two of the four seats that they had been traditionally allotted.¹⁰⁶

This loss of decision-making power at the central level from the Transylvanian Saxon perspective was also accompanied by increased control under Maria Theresia. Following complaints that had been steadily adding up since the beginning of the century, which focused on the government's inability to properly conduct its affairs due to various reasons, in 1750 a *Reskript* would task it to send monthly minutes of its meetings to Vienna.¹⁰⁷ When these were not forthcoming, a 1752 *Reskript* would reiterate the command. In 1754 new rounds of instructions meant to improve the functioning of this institution were passed, establishing among other things a so-called 'Gubernium Classicum': Maria Theresia mandated that over summer there needed to be at least 3-4 councillors present in Hermannstadt, accompanied by one secretary, several registrars and scribes.¹⁰⁸ The *Reskript* also noted that "the secretaries were often burdened with many tasks, which rightfully fell under the responsibility of the councilors", and that the latter should therefore "endeavor to balance the sharing of burdens".¹⁰⁹ One of the contemporary observers of the functioning of the Government around mid-century was the Saxon Michael Conrad von Heidendorf, who was employed as an office clerk at the recently established Provincial Commissariat. Heidendorf aptly described the hazy boundaries between official and private life for most of the councilors and how the Government's affairs were conducted in practice:

¹⁰⁴ The same strategy had been employed in Hungary, as a way of 'working around' the estate system, which, as in Transylvania, constituted a bulwark in the face of Habsburg governance. See Orsolya Szakály, "Managing a Composite Monarchy", p. 213.

¹⁰⁵ Dörner, *Reformismul austriac*, p. 184.

¹⁰⁶ Dörner, *Reformismul austriac*, p. 177-178. The adherents of the Unitarian denomination would also lose their two seats on the Government.

¹⁰⁷ Kutschera, *Landtag und Gubernium*, p. 148.

¹⁰⁸ Dörner, *Reformismul austriac*, p. 183-184.

¹⁰⁹ Kutschera, *Landtag und Gubernium*, p. 156.

„In order to preserve for posterity a survey of the past times, which appear to me so contrasting to nowadays, I note that, at the time, the councilors on the government from the Hungarian nation were generally rich knights [*Chevaliers*], who also offered free but reasonable meals. It was customary to introduce young office clerks from good houses on the same occasions, to whom then the free meals were offered. I was introduced to all of these by the abovementioned Brukenthal before my employment at the Commissariat, as the grandson of the governmental councilor Heidendorf, and was then invited by each to a free meal. [...] According to the way of the times, it was not the councilors who gave the reports, but rather their secretaries. The councilors would only give their votes verbally. It was customary to reveal then what had occurred during the government’s meetings. At these meals offered by the councilors, open discussions concerning what had been debated in the previous session were carried, [including] what one or another had specifically said and how he had voted. Therefore, each afternoon the public was aware of what had occurred during the same morning.”¹¹⁰

While clerks would certainly often feel burdened by their onerous tasks, the generosity of the government councilors – upon which Heidendorf remarks extensively – more than made up for this excessive conveyance of responsibility. More interesting is however not that the reports were given and presumably prepared by the secretaries, with councilors only adding their verbal vote, but the fact that all the affairs of the Government were freely discussed in the councilors’ homes, at daily lunches that often gathered up to 24 persons, not all of them under direct employment of the Imperial administration. Heidendorf also notes that the guest lists for the daily meals given by the Governor Graf Sigismund Kornis included not only “his subordinate high and low staff, the adjuncts, commissaries, Exchequer officials, and the office clerks of the three nations” but also “all the remarkable foreign or native individuals who came to Hermannstadt”. Additionally, “those who belonged to his Dicasterium¹¹¹ were allowed to

¹¹⁰ Rudolf Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 344: “Um der Nachwelt einen Abriß der damaligen Welt, die mit der jetzigen in so großem Contraste steht, zu hinterlassen, bemerke ich, daß die damaligen Gubernialräthe der ungarischen Nation meistens reiche Chevaliers waren, die auch freie, aber mäßigere Tafel gaben. Es war Sitte, junge Kanzelisten aus guten Häusern bei denselben einzuführen, denen sie dann gleich ihre freie Tafel antrugen. Mich führte der vorgedachte Brukenthal vor meiner Anstellung bei dem Comissariat bei einem jeden als den Enkel des Gubernialrathes Heidendorf auf und ich wurde von jedem zur freien Tafel eingeladen.[...] Nach der damaligen Einrichtung der Geschäfte referierten nicht die Gubernialräthe, sondern nur die Secretäre. Die Räte gaben nur ihre Vota mündlich. Es war Gewohnheit, was im Rath voring, nach dem Rath auszusagen. Bei diesen Tafeln der Gubernialräthe wurde von dem öffentlich gesprochen, was in der vorigen Sitzung verhandelt worden war, was einer namentlich gesagt und wie er sein Votum abgegeben habe. An jedem Nachmittag also wußte das Publikum, was Vormittag geschehen war.” The second part of this passage appears in Kutschera’s *Landtag und Gubernium*, p. 156. Dörner, *Reformismul austriac*, p. 184 only refers to Kutschera’s quoted passage, additionally stating that “all the situations analyzed during the meeting were centralized during lunch on a graph and were made public in the afternoon of the same day, with those interested parties being notified about the progress of the matter.” Reviewing Heidendorff’s account, I do not find that to be the case. Discussions of governmental matters did occur during mid-day lunches, but they took place in a highly informal atmosphere. That they were made public in this type of setting could not have been the intention of the Empire.

¹¹¹ The term of ‘Dicasterium’ refers to a collegially-organized body, and, within the framework of the imperial bureaucracy, denotes the mid- and lower-level staff as a collective entity. The departments of the various institutions which were tasked with handling the issues of ‘Dicasterialia’ were in practice dealing with all types of staff issues.

bring one of their acquaintances”, without prior notice.¹¹² The issues of the Government were therefore common knowledge to the general public, as news from the upper echelons of decision-making spread hastily to the lower levels and beyond the framework of the imperial administration. To this contributed the entangled kinship ties which often bound civil servants such as Heidendorf to the local Saxon administration.¹¹³

The Government’s competencies remained somewhat hazy until at least 1760, when a *Reskript* dated July 25th finally imposed more clarity in the matter. Practically, there was very little in Transylvania that escaped this institution’s gaze. In religious matters, the government was tasked with actively promoting the re-Catholicisation of the province, with a special focus on the adherents of Lutheranism and Orthodoxy. A special committee on this matter operated independently of the Government since the 1770s, and was only subordinated to the latter institution formally, upon the request of Samuel von Brukenthal. The Government’s attributions concerning the vaguely titled ‘public affairs’ (*publica*) extended to the supervision of foreigners, the functioning of yearly fairs, guilds, and manufactures, encompassing everything that came under the purview of the ‘police control’.¹¹⁴ Under this heading, three separate sub-commissions existed: the *Bücherrevisorat*, overseen by the Roman-Catholic bishop, handled the censorship of printed material; the *Landesbaudirektion* was responsible for the supervision of public buildings; finally, the Sanitary Commission (*Sanitätskommission*) dealt with all matters of healthcare education and administration. The directors of the latter two commissions were not directly placed under the jurisdiction of the Government, but could be required to attend its meetings when need arose.¹¹⁵ The Government had further attributions in the supervision of local economy, where it was tasked with increasing productivity and regulating grain prices, and was also involved in overseeing the entire spectrum of commercial and trade issues in the province. Through its various more or less subordinated sub-institutions, such as the Treasury and the Provincial Bookkeeping Department (*Exactoratus Provincialis*),

¹¹² Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 343-344.

¹¹³ Michael Conrad von Heidendorff (the Elder) was related, on his mother’s side, to some of the most noteworthy Patrician families in Sibiu – the Baußnern family, the Fleischers, and the Meltzers. Several individuals drawn from these three lineages had held some of the highest-level positions in the city and the nation’s administration, serving as mayor of Sibiu or *comes* of the Saxon nation. On his father’s side, he was a descendant of former mayors of Mediaş and Bistriţa. See Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 340.

¹¹⁴ On the contemporary understanding of the police-state, the comparative study by Marc Raeff, “The Well-Ordered Police State and the Development of Modernity in Seventeenth- and Eighteenth-Century Europe: An Attempt at a Comparative Approach”, in *The American Historical Review*, Vol. 80, No. 5, (Dec.) 1975, p. 1221-1243, remains one of the most authoritative accounts.

¹¹⁵ Kutschera, *Landtag und Gubernium*, p. 150-151, 205.

the Government also exerted some control over mining enterprises and the extraction of raw materials in the province, while supervising all sources of income and expenditures. As a corollary, this highest institutional setting was responsible for the assessment and collection of taxes to be paid by the inhabitants of the province, and would, to this purpose, endeavor to obtain a much clearer image of both the territory and its residents. Finally, it headed the administration of justice at the highest level in Transylvania.¹¹⁶ Another *Reskript*, dated 1771, would finally impose a clear separation of tasks between the Gubernial councilors. For instance, at the time, Count Wolfgang Kemény oversaw the settlement of in-migrant foreigners, cases pertaining to matrimony, soldiers, and deserters from the Imperial army. Other councilors were responsible for varied issues, ranging from cases of apostasy (conversion from Catholicism to a Protestant confession), questionable ennoblements, to the extermination of harmful fowl species.¹¹⁷

The most significant waves of reform would engulf the province between 1780 and 1790, when most of the essential Saxon privileges underwent a concerted process of dismantling.¹¹⁸ If one examines concurrent developments in other Habsburg territories, it appears that the policies implemented during Joseph II's reign were not regionally-focused, but rather aimed to take apart every shape of particularism that stood as a barrier to fully-centralized Habsburg statehood, wherever it might have resided. This was an essential difference in policy implementation, compared to Maria Theresa's time: before 1780, the most deeply-entrenched autonomies distinguishing the various ethnical or social enclaves in the provinces were sometimes tested or circumvented, but never fully breached.¹¹⁹ Habsburg policies before this watershed moment acknowledged that a decisive attack on these issues would run the danger of alienating entire groups, and that small stepwise reforms were more prudent in the long run. Joseph II however had no such qualms, as he would explain in his Pastoral Letter:¹²⁰

“As the good of the state is always indivisible, namely that which affects the population at large and the greatest number, and as in similar fashion all the provinces of the Monarchy make up one single whole with one common objective, from now on there must be an end to

¹¹⁶ Kutschera, *Landtag und Gubernium*, p. 151 – 152.

¹¹⁷ Dörner, *Reformismul austriac*, p. 190 – 191.

¹¹⁸ In nineteenth-century Saxon historical discourse, many of these reforms were more or less explicitly assimilated to a coordinated action targeting precisely the Saxon nation. However, this was not necessarily the case.

¹¹⁹ Krueger, *Czech, German, and Noble*, p. 71; Judson, in *The Habsburg Empire*, p. 35-36, also argues that “it was not her intention to act radically” and that “She preferred a process of negotiation and compromise.”

¹²⁰ On the ‘Pastoral Letter’, also known as the *Hirtenbrief* in imperial scholarship, see Derek Beales, *Enlightenment and Reform in Eighteenth-century Europe*, London, New York: IB. Tauris, 2005, p. 276-277.

all that jealousy and prejudice which hitherto has so often affected relations between provinces and between national groups.”¹²¹

While the reforms should not be reduced to ‘acts of imperial volition’, as they were backed by a considerable and complex state bureaucracy, already increasingly trained by an extensive state-supported educational system, and attuned in many ways to Enlightenment thought¹²², it cannot be denied that they targeted resolutely and precisely the neuralgic points identified in Joseph II’s writings, seen as preventing the accomplishment of the *Gesamtmonarchie*. At least part of the reforms that would be undertaken in Transylvania after 1780 had already been implemented in Bohemia some decades earlier¹²³, and were also carried out in Tyrol¹²⁴ and Galicia¹²⁵. While all these transformations were noteworthy despite their temporary character, this section will only briefly examine three of the less-often discussed attempts to refashion the administrative and political bases of the province, which were particularly relevant to the Transylvanian Saxons.¹²⁶

Among these attempts to increase the centralized character of imperial administration in the province was the motion to transform the Government into the highest judicial authority. This meant that any suits previously appealed at the Gubernium and then transmitted to the two other major “national” courts in the province, – the Royal Table or the Saxon University – were to be solved by the Gubernium. Beginning with 1762, these courts were aided by a newly-established institution present in the counties, the so-called “Continuous Tables” (*Tabulae Continuae*), which functioned throughout the year, as opposed to the other judicial forums, which only assembled periodically. While various trials could be appealed to the Government at least since 1754, upon fulfilling several conditions, in 1779 clearer conditions for this type of appeal were set forth, as the province’s inhabitants had increasingly made use of this avenue, thus contributing to the workload of an already overburdened executive forum. Among the types of civil causes appealed at the Saxon University that fell under the competence of the Government from at least 1783 onwards were those pertaining to immovable property, or moveable assets worth over 40 Florins.¹²⁷ This meant that the jurisdictions that had grown ‘organically’ alongside entrenched legal and partially ethnical environments were momentarily

¹²¹ Joseph II’s ‘Pastoral Letter’, quoted in Rita Krueger, *Czech, German, and Noble*, p. 72.

¹²² Franz A. Szabo, “Camerarism, Josephinism, and Enlightenment: The Dynamic of Reform in the Habsburg Monarchy, 1740–92”, in *Austrian History Yearbook*, Vol. 49, 2018, p. 14.

¹²³ Krueger, *Czech, German, and Noble*, p. 66-75.

¹²⁴ Levy, *Governance & Grievance*, p.46-47, 128.

¹²⁵ Vushko, *The Politics of Cultural Retreat*, p. 70-78.

¹²⁶ Some of the other reforms, with a more pronounced social or confessional character, will be discussed in the following chapters pertaining to property law and the impact of confessional developments of individual life-courses, and the family.

¹²⁷ Dörner, *Reformismul austriac*, p. 208-209.

overturned, the Saxons having temporarily lost their right to litigation within the framework of their own institution, populated with individuals of the same national background. This shift in jurisdiction was also briefly made visible in Hermannstadt's records of property inventory and transmission, where estates of deceased individuals inhabiting the city – be they Saxon, Transylvanian, or hailing from other regions – were probated, and where particular patterns of division could be challenged in the first instance. It is interesting to note that the practice of justice at the time must have been exceedingly difficult: while the Saxon laws of inheritance had been temporarily bypassed, the urban magistracy remain compelled to handle the transfer of property, as the case discussed in the beginning of the present chapter shows. The officers of the department handling divisions would have to remain equidistant when overseeing matters involving members of the nobility, who only a few years before would have been prohibited from owning real estate in the city. The magistracy's authority was doubled by that of the Government, which was often strategically bypassed by noble actors, leading to protracted trials, particularly in the field of property transmission.

This short-lived development, which seems to have left a considerably weaker mark on the Saxons' self-understanding, was in fact a harbinger of a wider reform, which targeted the administrative and ethnical-national division of the province.¹²⁸ As was briefly stated in the preceding section, Transylvania was divided into three major categories of administrative units: the counties (*vármegye*), a form of organisation shared by Hungary, comprising the noble lands, the Szekler seats, and the Saxons' seats and districts, making up the 'royal lands'. To these were added the free royal cities and the so-called 'Taxal-Orte'.¹²⁹ Although it would be misleading to state that administrative divisions followed ethnical-national lines with great precision, it cannot be denied that to a considerable extent, and with the exception of the Romanian population, some 'national' enclavisation had gradually occurred since the middle ages. What is more significant in this context is not necessarily the actual ethnical composition of these administrative units, but rather what it represented for Saxon contemporaries. Following the *Reskript* of July 3rd 1784, the constitutional bases of Transylvania's existence were demolished. The Saxon nation itself, alongside the University, were additionally declared to have 'ceased to exist'.¹³⁰ The royal lands became cameral assets, belonging to the state, and

¹²⁸ As has been argued, this re-division targeted primarily the counties themselves, and not the Saxon's privileged lands. See Gábor Vermes, "Eighteenth-Century Hungary: Traditionalism and the Dawn of Modernity", in *Austrian History Yearbook*, Vol. 37, 2006, p. 130, who argues that the counties were no less than "worlds to themselves".

¹²⁹ For an in-depth view of these divisions, see Kutschera, *Landtag und Gubernium*, p. 20-46.

¹³⁰ Zieglauer, *Reformbewegung*, p. 24: "Das inhaltsschwere kaiserliche Rescript vom 3. Juli 1784 brachte die Zestrümmerugn der uralten Comitats-Verfassung, die gänzliche Zerstörung des dem Lande so theuren Municipalwesens, die Auflösung der drei ständischen Nationen, insbesondere der sächsischen, die ausdrücklich

the Saxons were stripped of the manifold privileges that accompanied their exclusive rights to the ownership of the *Königsboden*.

In Joseph's view, this erasure of differences should have served to alleviate tensions between the province's inhabitants, to end the 'jealousy and prejudice' that had accompanied relations between the province's 'national groups', and to finally enable 'reconciliation'.¹³¹ What it accomplished was an entirely different matter. Despite the almost complete 'rupture' with the past noted by Saxon scholarship, the administrative reorganisation did not start from a blank slate: the province was re-divided into 11 counties, constituted in such a way as to comprise an ethnically and 'nationally' diverse population.¹³²

At least initially, the Saxon nation attempted to salvage what was possible, and to impress its own views on the coming re-division, through the mediation of its political leaders. Michael Conrad von Heidendorf, acting as senator on the Small Council of nearby Mediaș at the time, would again find himself in the midst of these developments. His account of the events of 1784 recalls that the Saxon University was urgently summoned in Hermannstadt, shortly after the publication of the rescript in early August. The soon-to-be former Saxon authorities were aiming to prepare for the coming establishment of the counties of Hermannstadt and Făgăraș, which was to take place in little more than a month's time. The main goal was to ensure that, despite the „dissolving of the community of the national body, to at least care for its parts and individuals as much as possible, so that at the establishment of the counties [and their division] into circles and processes, the Saxon communities will remain together and keep Saxon officials to the greatest possible extent.“¹³³

Still, the atmosphere was exceedingly dismal, and as senators, judges, and Saxon civil servants from all around the province reached Hermannstadt, they resembled nothing more than “wandering sheep”, feeling acutely that they knew not how to rescue the “community” or themselves.¹³⁴ Each county would be led by a Lord Lieutenant (*Obergespan*), accompanied by

für erloschen erklärt wurde, die Durchführung einer neuen Eintheilung des Landes und eines ganz neuen Verwaltungs-Organismus.”

¹³¹ Zieglauer, *Reformbewegung*, p. 26.

¹³² It should however be noted that the city of Sibiu, alongside other urban centers, retained its special status as a royal free city, and was therefore exempted from the jurisdiction of the newly-established county of Sibiu. See Zieglauer, *Reformbewegung*, p. 24, note 2.

¹³³ Rudolf Theil, “Michael Conrad von Heidendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 18. Band, I. Heft, 1883, p. 99: “Aufhebung der Gemeinschaft des National Körpers, wenigstens auf dessen Theile und Individuen so viel möglich zu sorgen, damit bei der Einrichtung der Comitate in Kreise und Prozesse die Sächsischen Communitäten so viel möglich zusammenbleiben und Sächsische Beamte erhalten mögen.”

¹³⁴ Theil, “Michael Conrad von Heidendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 18. Band, I. Heft, 1883, p. 99 – 100: “Wir kamen also in Hermannstadt zusammen: allein wir waren

a Vice-Comes and a Circular-Perceptor, as well as by several other higher civil servants, responsible for each sub-division of the county (*Kreis*). Justice would be administered by a county Table, to which numerous assessors (*Beisitzer*) would be introduced.¹³⁵ All in all, the new administrative framework closely resembled that of the Hungarian counties. Moreover, despite the Saxon civil servants' efforts to translate their previous employments into this new-fashioned structure, the Hungarian nobility generally managed to achieve supremacy in this field.¹³⁶ As Heidendorf noted, this posed several problems, especially from the perspective of the administration of justice: as newly appointed judges were not knowledgeable in the Saxons' laws, and new jurisdictions were established in such a way as to discourage the formation of 'national' courts, the administration of justice suffered, becoming riddled with animosity and personal bias.¹³⁷ What is more, there was the danger that the individuals of Saxon background, who had served in the provincial administration but had not been ennobled, could gradually be excluded from the leadership of the former Saxon territories altogether. According to the Gubernium's orders, all county leadership needed to be elected from the ranks of the so-called "Marcal" congregations or *Marcalis Sedria*, collective county-level gatherings of members of the nobility, as well as supposedly representatives of the free peasantry.¹³⁸ These noble gatherings would expectedly prove reluctant to include the former leaders of Saxon communities within their midst, and, as Heidendorf noted, this could eventually lead to the disappearance of all Saxons from county leadership, and to the loss of all personal and collective freedoms. Freedom was impossible without 'national' leadership: "Because a people seems to no longer have its freedom, when it does not administer itself, and is the servant of those who wield power over its affairs."¹³⁹ Nevertheless, in practice, Saxon officials would

wie die verscheuchten Schafe. Die Hände zu den Geschäften waren uns schon gebunden und wir wußten weder dem Gemein-Wesen, noch uns zu rathen und zu helfen."

¹³⁵ Zieglaue, *Reformbewegung*, p. 27.

¹³⁶ Theil, "Michael Conrad von Heidendorff. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 18. Band, I. Heft, 1883, p. 100-101.

¹³⁷ Theil, "Michael Conrad von Heidendorff. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 18. Band, I. Heft, 1883, p. 103: "Die Ortsgerichte bestehen aus unverständigen Bauern, die nicht einmal eine praktische Kenntniß der Rechtspflege haben und zu denen mithin, als meistens interessierten Menschen und Freunden einer oder der andern Partei die Parteien selbst kein Vertrauen haben."

¹³⁸ Lucas Joseph Marienburg, *Geographie des Grossfürstenthums Siebenbürgen*, Band I, Hermannstadt: Im Verlag der Martin Hochmeister, 1813, p. 181- 182: "In jedem ungarischen Comitate ist der Chef der Obergespan (Supremus Comes). Er hat an der Seite königliche Obrichter, Vicegespan, Steuereinnehmer, Unterrichter u.s.w – Jährlich wenigstens ein Mahl versammelt sich unter seinem Vorsitze der ganze Comitatus zur Verhandlung solcher Gegenstände, die den ganzen Kreis angehen. Ein solcher Kreis heißt Marchal-Congregation (*Marcalis Sedria*), Girás Szék. Jeder in Comitatus ansäßige Adelige und freye Ungarn gehört dazu.", note **: "*Sedria* ist ein zusammen gezogenes Wort aus: *Sedes judiciaria*, Gerichtshof."

¹³⁹ Theil, "Michael Conrad von Heidendorff. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 18. Band, I. Heft, 1883, p. 103-104: "Denn ein Volk scheint dann seine Freiheit nicht mehr zu haben, wenn es nicht sich selbst verwaltet, und ist dessen Diener, der seine Geschäfte in seiner Gewalt hat."

succeed in entering the county administration, and find themselves wielding a considerably greater amount of executive power than the previous collegial system of community leadership had allowed. Heidendorf, who had been appointed as Vice-Lord Lieutenant for the newly-established county of Hermannstadt, described his service in this position at the time as “the finest and most comfortable [office] that I had ever worked in throughout my entire life”, as he had almost free reign to do good and aid the Saxon nation, according to his own designs, unencumbered by others.¹⁴⁰

Though making the best of the newly-established status-quo, the Saxons would soon meet with even harsher reforms: following the confiscation of certain parts of the *fundus regius* and their integration into cameral property¹⁴¹, the *de jure* dissolving of the Saxon nation, and the erasure of privileged ties between individuals and lands, the Empire sought to ensure that the historical traces of this former special position were removed from the argumentative arsenal wielded by its subjects. Thus, another *Reskript* of 1787 commanded that the entire archives of the Saxon nation and the University be ceded immediately to the provincial Government. This was a particularly contentious issue, and the denouement of a process begun some decades earlier with the Habsburg’s challenging of the *Andreanum*, which the Saxons could only produce in a later copy, as the original had been lost. The Saxons’ archives, as repositories of essential documents attesting to privileges, ownership of various territorial assets, and revenues flowing from various sources, were increasingly regarded as the locus and source of national resilience. While the preservation and inventorying of such documents had also been stimulated by the desire to safeguard cultural heritage, the clash with the Habsburgs over the royal lands’ special status had sped up this development. As elsewhere in Europe, the Saxon archives also functioned as a means to protect “a nation’s cultural assets and patrimony”, and could, in the hands of imperial civil servants, be used as “an arsenal of ammunition with which to challenge political privileges”.¹⁴²

¹⁴⁰ Theil, “Michael Conrad von Heidendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 18. Band, I. Heft, 1883, p. 110: “der schönste und mir der angenehmste, den ich bis noch in meinem Leben geführt hatte”.

¹⁴¹ This was the denouement of a lengthy process, started around mid-century, by which imperial authority in the province sought to clarify the status of the *Königsboden*, and consequently, the dues owed by the Saxons inhabiting it. It was argued, among other things, that the so-called Martinszins, or the tax paid on St. Martin’s day, should have been paid yearly and not only once, as the *Andreanum* noted. The so-called Seven-Judges’ Lands (*Siebenrichter-Güter*), which had been under the jurisdiction of Sibiu, as well as the District of Făgăraş were among the lands removed from Saxon administration and incorporated into the *aerarium*, along with any income they had provided.

¹⁴² Alexandra Walsham, “The Social History of the Archive: Record-Keeping in Early Modern Europe”, in *Past and Present*, Vol. 230, Supplement 11, November 2016, p. 15.

It was at this point that the Saxons finally awakened from the “stupor” into which previous developments had apparently flung them, and began to react concertedly in what would be a futile attempt to overturn the imperial ordinances.¹⁴³ Still the living center of a non-existent nation, Hermannstadt gathered former deputies and representatives of the Saxon university, alongside former senators, mayors, and those serving in the current county administration, who sought to put to pen to paper in aid of their cause. What these official petitions sent to the court evidenced was precisely the Saxons’ profound historically-entrenched understanding of their current situation: although their territories had been granted to them collectively, they held for all intents and purposes the same status as noble lands. In turn, like noble lands, they could only be taken away from their owners in grave cases of treason against the royal power that had bestowed them, now represented by the House of Austria. As they had not made themselves guilty of any such act against the Habsburgs, but on the contrary, had served dutifully, the confiscation of any part of the *Königsboden* was deemed entirely unlawful. What is more, the Saxons explicitly saw nothing but continuity and permanence between the settlers invited by the Kings of Hungary, their forefathers, and themselves:

“The current inhabitants of the same cities and communities are the sons, grandsons, and great-grandsons of those Transylvanian Saxons, [who are] not less ready than those, to give proof of unbreakable fidelity, though perhaps only less spiritedly and boldly [than their forefathers], in order to provide that which their forefathers could provide.”¹⁴⁴

They regarded their rights and duties as unchanged, and declared themselves ready to provide the Habsburgs with the same services due in virtue of their status as exclusive owners of the royal lands. Nevertheless, the measures set to be implemented occasioned not only the reconsideration of their place in the Empire, but also of the system of nations itself: a further petition, submitted to the Emperor some six months later, in December of 1787, attempted to show that this milieu understood and agreed with the modern conceptualization of the state. As the petition noted, the Saxons were ready to acknowledge the imperial programmatic principle that

“there are only two nations, a good and a bad one, ... and it should only come down to this single difference between good and bad people, because zeal and diligence in one’s profession, integrity in commerce and exchange, obedience to the superior authorities and fidelity to the land’s rulers are what makes a good citizen [*Bürger*], as historicity, activity and

¹⁴³ Zieglauer, *Reformbewegung*, p. 40- 41: “Die jetzt lebenden Bewohner derselben Städte und Communities sind die Söhne, Enkel und Enkels-Söhne jener alten Siebenbürger Sachsen, nicht minder bereit, wie dieses, werkhätige Proben unverbrüchlicher Treue abzulegen, leider vielleicht nur muth- und kraftloser, um das zu leisten, was die Vorfahren leisten konnten.”

¹⁴⁴ “Vorstellung durch den Hof-agenten an Se. Majestät, die Staatsräthe und Kanzler, sowie Vicekanzler, nomine possessorum VII. Judicum zu übergeben”, Hermannstädter Magistrats-Protocoll vom 10. Juli 1787, quoted in Zieglauer, *Reformbewegung*, p. 42.

eagerness [in service of] the common good make the good civil servant, without consideration, whether the man is called Wallachian, Hungarian, Greek, Saxon or Armenian. The names of things are arbitrary. It can therefore be completely equal to the folk of the Saxons as well, whether the designation ‘Transylvanian Saxons’, which has persisted for so many centuries, will continue to last for equally as many centuries, and whether their latest descendants and their grandsons and great-grandsons also call themselves Saxons, or are referred to by other names. What they however cannot be indifferent to, is their children’s and children’s children future wellbeing, because, even if the names [of things] change with the times, these will not cease to be their descendants.”¹⁴⁵

Having outlined what made a good citizen, the Saxons had seemingly moved the debate to the newly-emergent political stage of the Empire, where arguments of historicity, permanence, and tradition were no longer functioning as well as they had a century before. By employing arguments that should have resonated with the Emperor’s vision of state wellbeing, the petition attempted to persuade the imperial authority that they not only agreed to the “arbitrariness” of national labels, but were ready to renounce them, as long as this did not interfere with their descendants’ wellbeing. Nevertheless, further passages seem to suggest that the Saxons’ readiness to drop arbitrary designations did not in fact entail major changes to the entrenched positions to which they were clinging. On the contrary, they attempted to prove that their own privileged status, which was inextricably bound to their collective being and to its physical manifestations – the Saxon settlements on the royal lands – was not incompatible with this new state conceptualisation. As the petitioners noted,

“We must subserviently admit, we are not capable of comprehending that from the idea of the disintegration could flow equitably and in truth the general abrogation of all [the nation’s] freedoms, real and virtual rights, [as the disintegration] cannot actually entail anything else than the abolishment of the nation’s name and of the ties established between its public fields [*Publicis*]; because, as long as the participating cities, market towns and communities survive, regardless if only as single small bodies without relation to one another, then their right to the anciently collectively possessed goods and real assets also survives...”¹⁴⁶

¹⁴⁵ “Repräsentation” von 8. December 1787, Hermannstädter Magistrats-Protocoll, quoted in Zieglauer, *Reformbewegung*, p. 47: “es nur zwei Nationen gibt, eine gute und eine böße, ... und nur dieser alleinige Unterschied zwischen guten und bösen Menschen ist est, worauf es eigentlich ankommen sollte, denn Emsigkeit und Fleiß in Beruf, Rechtschaffenheit im Handel und Wandel, Gehorsam gegen die vorgesetzte Obrigkeit und Treue gegen den Landesfürsten macht den guten Bürger, sowie Geschichtlichkeit, Thätigkeit und Eifer für das gemeine Beste den guten Beamten, ohne Rücksicht, ob der Mann Wallache, Ungar, Grieche, Sachse oder Armenier heiße. Die Namen der Dinge sind willkürlich. Es kann also auch dem Volk der Sachsen vollkommen gleichgültig sein, ob die Benahmung ‘Siebenbürger Sachsen’, die seit so viel Jahrhunderten besteht, auch vorwärts eben so viele Secula fürdauert, und ob ihre spätesten Nachkommen und deren Enkel und Urenkel sich Sachsen heißen, oder mit anderen Namen genannt werden. Was ihnen aber nicht gleichgültig sein kann, ist: Ihrer Kinder und Kindeskinde zukünftiger Wohl- oder Übelstand, denn wenn sich gleich die Namen mit der Zeit ändern, so hören jene darum doch nicht auf, ihre Nachkommen zu sein.”

¹⁴⁶ Zieglauer, *Reformbewegung*, p. 47-48: “Wir müssen allerunterthänigst gestehen, daß wir nicht vermögend sind, zu begreifen, daß aus der Idee der Erlöschung, die doch im Grunde nichts anderes bedeuten kann, als die Aufhebung des Namens der Nation und der unter ihren Publicis bestandenen Verbindungen, mit Billigkeit und

Dissolving the nation should have only entailed, in the Saxon view, the erasure of its designation and the abolishment of its authorities' exclusive prerogatives to administer the royal lands. It could not have meant that its collective rights to property would also be abrogated, argued the petition. Although they couched their arguments in what were regarded as the most appropriate terms, the Saxons would not be willing to renounce the essential privilege flowing from their original status as colonists: the special ties between their collective entity and the lands on which they had been settled. Fortunately, Joseph's reforms would be overturned in the early 1790s, allowing the Saxon nation to again come into itself. Regardless how brief this interval of upheaval had appeared, its consequences would be far-lasting: Transylvania's system of administrative and legal particularism would only survive for another few decades, until the neo-absolutist reforms of the mid-nineteenth century permanently refashioned the province's foundations. Even so, the particular legal bearings of Transylvanian Saxon autonomy in the administrative and political fields would be starkly modified by a series of imperial decrees passed between 1795 and 1805. This was at least partially due to the consistent grievances voiced by the Romanians inhabiting the Royal Lands, after the 1791 Diet and its immediate aftermath had failed to bring about the complete implementation of the 1781 edict regarding Concivility, or any substantial reform for the administration.¹⁴⁷

Beside the Government, through which the majority of political reforms were implemented, the imperial administrative scaffolding included a wide array of institutions. It is worthwhile to inquire into the structure and purpose of several such loci of power, in order to obtain a clearer image of the extent of the Empire's control over its Transylvanian (Saxon) subjects.

An exceptional situation among the Empire's provinces, Transylvania initially had not one, but two Chancelleries. The first of these was the Transylvanian Chancellery, which predated the introduction of Habsburg dominion and would remain functional throughout the eighteenth century, though its authority would significantly wane after the 1740s. Like the provincial Treasury – another remnant of the Ottoman era – the Transylvanian Chancellery

Wahrheit eine allgemeine Aufhebung aller ihrer Freiheiten, reelen und virtuellen Rechte gefolgert werden könne; denn so lange die theilnehmenden Städte, Markt Flecken und Gemeinden, wengleich nur als einzelne kleine Körper ohne Verbindung unter einander fortbestehen, so lange besteht auch ihr Recht auf die ehemem gemeinschaftlich besessenen Güter und Realitäten..."

¹⁴⁷ See the extensive discussion in Ladislau Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848*, Bucharest: Editura Științifică și Enciclopedică, 1986, p. 123-129, 238-250.

developed in close connection to the Government: all documents coming from Transylvanian imperial institutions would pass through the hands of the Chancellor, who needed to accompany them with his own advisory opinions. The same Chancellor was also tasked with advising various Aulic departments in matters pertaining to the newly-acquired province, particularly when the “complicated legal relationships” specific to Transylvania were under question.¹⁴⁸ The Chancellor needed to offer his informed opinion on several types of issues, ranked according to their urgency: matters pertaining to the political status of the province, fiscal affairs, boundary disputes, and legal actions concerning the rights of widows and orphans.¹⁴⁹ This hierarchy of issues illustrates not only the Habsburg priorities in a region where it was not entirely knowledgeable, but also what the Empire regarded as the thorniest and potentially most contentious matters in the newly-acquired province, where external expertise was paramount.

As part of the general effort to streamline their governance of the province, the Habsburgs would establish a second such office in Vienna, which received the title of Aulic Chancellery of Transylvania and was, at least in titulature, subordinated to its counterpart in Hermannstadt. In fact, the vice-chancellor in Vienna would wield a comparatively greater amount of power, compared to the full chancellor in Transylvania.¹⁵⁰ The establishment of this new office elicited an ardent dispute concerning its subordination, involving the estates as reunited in the Diet, the Gubernium, and the Emperor. It would eventually become an “eigene Dienststelle” for the Emperor, and therefore led to increasingly tense relations between these historical actors.¹⁵¹ Despite imperial cautioning in the late seventeenth century that the two Chanceries were not two, but one, as they meant to serve the same imperial purposes of governance, the tensions would persist and come to characterize the entire institutional development in the province. The matter of titulature would only be resolved during Maria Theresia’s rule, when the vacant seat of the provincial chancellor would be filled again for the first time in almost five decades, and the ascendancy of the Viennese office would be clearly confirmed.¹⁵² During the 1750s and 1760s, the Aulic Chancellery also underwent a wave of

¹⁴⁸ Kutschera, *Landtag und Gubernium*, p. 195.

¹⁴⁹ Dörner, *Reformismul austriac*, p. 126.

¹⁵⁰ The latter office would remain vacant after 1704, owing to the involvement of the last Transylvanian chancellor in the early stages of the anti-Habsburg Hungarian rebellion and his publication of an anti-Habsburg pamphlet. On this period in Transylvanian history, see the recent dissertation by Szirtes Zsófia, *Az erdélyi Szászág érdekérvényesítése az átmeneti Korszakban (1690-1711)*, PhD Thesis, Manuscript, Pázmány Péter Catholic University, Budapest, 2015, doi: 10.15774/PPKE.BTK.2015.012, last accessed on 01.08.2020 at http://real-phd.mtak.hu/311/1/Szirtes%20Zs%20%C3%B3fia_disszert%C3%A1ci%C3%B3.pdf.

¹⁵¹ Kutschera, *Landtag und Gubernium*, p. 196.

¹⁵² Dörner, *Reformismul austriac*, p. 127, 150-151.

reorganisation, in line with the reforms implemented in the central-level imperial institutions in Vienna: after initial subordination to the *Hofdeputation in Banaticis, Transsylvanicis et Illyricis*, vehemently contested by the estates, a separate minister for Transylvanian matters would oversee this office (*minister specialis in rebus et negotiis Transsylvanicis*). Increased preoccupation with the institutional archives of the Chancellery also emerged at the time, as imperial dispositions to the head of the office decreed that a comprehensive repertoire of documents emitted by the Chancellery between 1698 and 1742 be drafted and no meeting protocols be released to any official without prior registration. Additionally, access to official documents was restricted both temporally and to civil servants who could clearly ground their requests for perusal.¹⁵³ A clear paper-trail for all documents submitted to the Chancellery was also devised around this time.¹⁵⁴ After 1765, when the acting Aulic Chancellor Gabriel Bethlen resigned, this office would also be removed from direct Transylvanian influence, and exclusively held by Austrian nobles, at least until 1791.¹⁵⁵ The only exception was of course the Transylvanian Saxon Baron Samuel von Brukenthal, who, owing to his religious non-conformity, could initially only be appointed as president of a *Hofcommission* dealing with Transylvanian matters, but eventually served as de facto Chancellor, and then Governor.¹⁵⁶

In 1775, a new imperial disposition would clearly delimit the attributions of the councillors operating within the Chancellery, similarly to that which their colleagues in the Government had received a few years prior.¹⁵⁷ Finally, Joseph II's extensive reform measures enabled the unification of the Transylvanian and Hungarian Chancelleries in Vienna, a protracted process with short-lived results, as in 1790 the two institutions would again be separated.

One of the most important institutions that stood in direct contact with the Government, the Treasury (*Thesaurariat*) was not a novel point in the provincial administrative scaffolding either, but rather another remnant of the framework of the principality.¹⁵⁸ Initially, it remained similar to its predecessor both structurally and in terms of attributions, though the latter would take on a more intensive character. Its early history, on the eve of the eighteenth century, showcases its essential role in the governing of the newly-acquired province, as well as some

¹⁵³ Dörner, *Reformismul austriac*, p. 152-153, 156.

¹⁵⁴ Dörner, *Reformismul austriac*, p. 164-166.

¹⁵⁵ Dörner, *Reformismul austriac*, p. 161.

¹⁵⁶ Kutschera, *Landtag und Gubernium*, p. 196-197.

¹⁵⁷ Dörner, *Reformismul austriac*, p. 166-172.

¹⁵⁸ For a more detailed view of the Treasury's structure and attributions, see Avram Andea, "Instituțiile centrale ale Principatului Transilvaniei", in Paul Cernovodeanu, Nicolae Edroiu (eds.), *Istoria românilor, Vol. VI: Românii între Europa clasică și Europa luminilor (1711 – 1821)*, Bucharest: Editura Enciclopedică, 2002, p. 363 – 365.

of the Habsburg Court's widely-employed governance strategies in their peripheral provinces. Distrustful of pre-Habsburg financial management of resources, the Court would send a Cameral Commission headed by Ludwig Albert Thavonath to assess the situation first-hand in late 1699.¹⁵⁹ The Court was also very thinly informed regarding the income-generating mining and natural resource enterprises in the province, two matters of great importance for state finances. Thavonath was advised to contact the Transylvanian military physician Samuel Köleseri, who had already written a detailed description of the gold mines in this territory.¹⁶⁰ The Commission was to particularly enquire into the enterprises of gold, silver and quicksilver mining, as the Transylvanian mining industry „was run entirely without order, and therefore [the province's] treasures remain under the earth, to the common detriment”.¹⁶¹ Apparently, when finally arriving at its main point of interest – Zlatna (Zalathna), one of Transylvania's most productive gold mines – the Commission found “nothing but dereliction and ruin”.¹⁶²

As a means of improving the situation, Thavonath recommended that all native Transylvanians be removed from their offices in the Treasury. Despite the consequences this recommendation elicited in the short-term, the Crown would not entirely consent to it, though it is unclear whether the blatant contradiction to the provisions of the Diploma played a role in this decision. Rather, in an effort to balance efficiency and the general agreement of the estates, a more gradual, top-to-bottom reform was implemented: the Treasury was appointed Austrian-stemming Presidents, who, despite lacking the proper titulature, were nevertheless effectively in control of cameral issues in the province. The office of Treasurer proper would remain unfilled until 1742, when Maria Theresia's reforms touched upon this administrative branch and Johann Thoroczkai, designated as “patriae filius”, was appointed. Thoroczkai, like most of the civil servants working under him and his successors, was Catholic. Instructions passed

¹⁵⁹ According to Kutschera, *Landtag und Gubernium*, p. 198, this external commission was sent as a result of the unclear financial situation of the Principality, which was due to the leasing out of virtually all income-generating enterprises focused on the exploitation of natural resources. These very productive leases were held fast by “kapitalkräftige” noble families, who were wary of relinquishing their sources of income. On Thavonath's activity, see Trócsányi Zsolt, *Habsburg politika és Habsburg kormányzat Erdélyben 1690–1740* (Magyar Országos Levéltár kiadványai, III. Hatóság- és hivataltörténet 8. Budapest, 1988), p. 251f.

¹⁶⁰ Dörner, *Reformismul austriac*, p. 142 – 143. Köleseri's *Aurariam Romano-Dacicam* was regarded as a masterpiece in the field well into the late eighteenth century. Towards the late eighteenth century, Johann Ehrenreich von Fichtel, Imperial Cameral Councilor and a member of the Berlin *Gesellschaft Naturforschender Freunde*, noted that “Transylvania still honors this worthy man's memory” and that his entire library, which had been closed off for more than three decades following a protracted legal inheritance dispute, only recently became available to a wider public. See Johann Ehrenreich von Fichtel, *Nachricht von den Versteinerung des Großfürstenthums Siebenbürgen mit einem Anhang und beygefüger Tabelle über die sammtlichen Mineralien und Fossilien dieses Landes*, Nürnberg: Verlag der Raspischen Buchhandlung, 1780.

¹⁶¹ Rudolf, Crown Prince of Austria (ed.), *Die österreichisch-ungarische Monarchie in Wort und Bild, VI. Band – Ungarn*, Wien: Druck und Verlag der kaiserlichen-königlichen Hof- und Staatsdruckerei, 1902, p. 526.

¹⁶² *Die österreichisch-ungarische Monarchie in Wort und Bild, VI. Band – Ungarn*, p. 527.

around this time emphasized that adherents of Catholicism were to be strongly preferred for employment within the framework of the Treasury.

Several waves of reorganization would hit the Treasury in the late 1740s and 1750s. Firstly, it was separated into two major departments, reflecting the changing priorities of the Court in administering and improving its provincial sources of income: the Treasury in charge of cameral issues (*Thesaurarius in Cameralibus*) and that in charge of mining and minting issues (*Thesaurarius in Montanisticis et Monetariis*). The Treasurer, along with the institution he headed, were subordinated to the Imperial Commission in charge of Banat, Transylvanian, and Illyrian issues (*Hofcommission in Banaticis, Transylvanicis et Illiricis*). In 1760, after the two departments had been successively incorporated into other central-level institutions, the Treasury finally re-entered the sphere of authority of the Imperial Chamber.¹⁶³ These successive waves of re-organization, complemented by changes in the institutional staff structure, apparently proved successful, increasing the institution's efficiency in ensuring a steady flow of income.¹⁶⁴ The seat of the Treasury in charge of cameral issues, at least, would remain in Hermannstadt until the mid-nineteenth century.¹⁶⁵ Moreover, as per one of the staff policies implemented towards the end of Maria Theresa's reign, the Treasury was to hire exclusively Catholics – or even Greek-Catholics – who also had a good command of German.¹⁶⁶ This development foreshadowed the shifts in policy during Joseph II's rule, when German was decreed the mandatory language in administration.¹⁶⁷

The Treasury represented perhaps the most foreign institutional locus in Transylvania, and conversely in Hermannstadt. Its staff, from the highest to the lowest levels, was primarily if not exclusively recruited from the Austrian Crownlands, the heart of the Empire, and encompassed only Catholics. However, the Treasury was also an essential cogwheel in the process of specialized knowledge transfer from one part of the monarchy to the other through its hiring of experts, particularly in the field of mining. At the same time, the Imperial effort to develop a network of technical higher education institutions, particularly focused on engineering and mining, would enable quite a few Transylvanian natives to ascend to high-level positions in other corners of the Empire. Perhaps one of the most telling cases was that of Ignaz von Born, a Catholic native of Alba Iulia (Karlsburg), who managed to rise to some

¹⁶³ Dörner, *Reformismul austriac*, p. 193 – 197.

¹⁶⁴ See Mădălina Valeria Vereş, *Constructing Imperial Spaces: Habsburg Cartography in the Age of Enlightenment*, PhD Thesis, Manuscript, University of Pennsylvania, Philadelphia, 2015, p. 116, note 301.

¹⁶⁵ Kutschera, *Landtag und Gubernium*, p. 199.

¹⁶⁶ Dörner, *Reformismul austriac*, p. 199 – 200.

¹⁶⁷ Dörner, *Reformismul austriac*, p. 216.

of the highest levels of the imperial administration of natural resources during the 1770s. Von Born also briefly studied in Hermannstadt, before going on to pursue an education at the Jesuit Gymnasium in Vienna and then at the University of Prague, first in law and then in *Montanistik*. He would later on marry a native of Prague, settle on an estate purchased in nowadays' Czech Republic (Alt-Sedlitz), and finally be appointed to reorganize the Imperial *naturalia* cabinet at the behest of Maria Theresia.¹⁶⁸ The network of imperial institutions focused on the improvement of technical means to map, extract, and increase the benefits gained from the use of mineral resources profoundly changed the intellectual and social-professional landscape of the Empire. It also managed to create a spectrum of transregional employment opportunities on a scale that could not have been anticipated. Individuals like von Born became an increasingly common occurrence towards the late eighteenth century, and it has been argued that „his success as a provincial who made it big in the center was [...] emblematic for the times”. What is more, von Born displayed the wavering self-understanding that many such “provincial imperialists” who had spent considerable parts of their lives in more than one province also shared.¹⁶⁹

Two other institutions that stood in close contact to the Government also emerged during the first decades of the eighteenth century: the Supreme Provincial Commissariat (*Oberlandeskommissariat*) and the Provincial Bookkeeping Department (*Exactoratus Provincialis*). These were meant to supervise those financial issues that did not directly fall under the authority of the Treasury. The Bookkeeping Department, established in 1742, would oversee the successive reforms in the provincial tax system and proceed to the collection of taxes, an onerous and contentious task. The same department also supervised and checked the accuracy of the revenues and expenditures of cities and administrative units, among which the Saxon territories played a significant part. The collected taxes were then to be submitted to a Provincial Exchequer (*Cassa Provincialis*), managed by the Provincial Commissariat. The process of tax collection and subsequent submission was not particularly streamlined, and delays often occurred between these two stages.¹⁷⁰ It did not help the issue that particular high-ranking members of the administration, generally drawn from the nobility, treated the Exchequer as a source for personal loans. The same Michael von Heidendorf who had

¹⁶⁸ On Ignaz von Born, see Christa Riedl-Dorn: “Ignaz von Born (1742-1791) - ein siebenbürgischer Naturforscher”, in *Stapfia*, Vol. 45, 1996, p. 345-355.

¹⁶⁹ See Alex Drace-Francis, “A Provincial Imperialist and a *Curious Account of Wallachia*: Ignaz von Born”, in *European History Quarterly*, Vol. 36, No. 1, 2006, p. 79 – 80.

¹⁷⁰ Vasile Ionaș, “Reformele fiscale din Transilvania în secolul al XVIII-lea”, in *Annales Universitatis Apulensis, Seria Historica*, Vol. 4-5, 2000-2001, p. 85.

recounted the convivial atmosphere at the councilors' dining tables, recalls that during the early 1750s the chain of debts started with the Supreme Provincial Commissioner Graf Kornis himself, who was indebted with no less than 20,000 Florins. As Heidendorf notes, "each Magnate in the land who needed money could seek resources here, and borrow cash from this Exchequer without interest. There was almost no Magnate in the province, who had not used this money".¹⁷¹ The Provincial Commissioner would soon after be appointed a vice-commissioner, tasked with rescuing the finances from the state of disarrangement into which they had been cast by willful mismanagement.¹⁷²

Closely tied to the Bookkeeping Department, the Provincial Commissariat also played an integral part in securing the revenues necessary for the upkeep of the army, one of the most costly institutions in the province. It cooperated closely in the management and collection of taxes with the *Exactorat*, and acted as a bridge between the General Commando and the *Gubernium*, ensuring that troops were appropriately billeted, and helping to resolve any reports of conflict involving the military.¹⁷³ The descriptions supplied by Heidendorf concerning the activity of the Commissariat during the mid-1750s, when he was employed as a clerk, show to what extent single historical actors could drive changes in the functioning of institutions. The newly-appointed vice-commissioner of the Provincial Commissariat, a certain lowly Hungarian nobleman with a reputation for strict management, would manage not only to secure the payment of most of the debts owed to the Exchequer, but also to establish a so-called Exchequer of the Realm (*Cassa Regni*), where each of the clerks in the province who were paid from provincial revenues needed to deposit 3% of their income. These deposits, amounting to 30 000 Gulden yearly, would then be awarded to a highly deserving official, per Maria Theresia's recommendation. The vice-commissioner's expectations to be granted this prize for his meritorious services were disappointed, as the Aulic Councillor Graf Gabriel Bethlen was awarded one third of the sum, the rest going to Catholic churches and monasteries in the province.¹⁷⁴

Two other departments were established by the Court solely in the Transylvania, most likely as a function of its particular landholding system. Their activity had a more immediate

¹⁷¹ Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 345: "Zu dieser Kasse nahm jeder Magnat im Lande, der Geld brauchte, seine Zuflucht und borgte daraus ohne Interessen. Es war beinahe kein Magnat im Lande, der nicht Geld gebraucht hätte."

¹⁷² Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 346.

¹⁷³ Kutschera, *Landtag und Gubernium*, p. 200-201.

¹⁷⁴ Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 350.

bearing on the collective fates of the Saxons, especially from an economic perspective. These were the Economic Commission – later on, the Economic Directory –, and the so-called Productional Forum (*Produktionalforum*). These institutions served as vehicles for the implementation of the newly-designed fiscal policies in the province.

The Forum was a special court, where the head of the Exchequer fulfilled the role of prosecutor, having been tasked to identify the royal assets that had been unlawfully obtained, and to reincorporate them into the state's properties (*aerarium*), along with all the revenues that had flowed from them. On the court sat gubernial councillors, judges of the Royal Table, and various high officials from the jurisdiction of the accused entities. The latter parties needed to produce (*vorzeigen, produzieren*) the necessary charters or documents proving their rightful legal ownership of the assets that fell under the gaze of the Exchequer.¹⁷⁵ The *Königsboden* received particular attention from this department, to the dismay of the Saxons. One such notable instance concerned the so-called *Martinszins*, a yearly tax of 500 Silver Marks to be paid by the Saxons on St. Martin's day. This tax had been stipulated in the *Andreanum*, the founding document of the Saxon nation, in which all privileges and duties had been detailed, but was later on assimilated into the other fiscal duties owed by the Saxons to the Hungarian Kings. After several decades of contention, in which the Productional Forum handled the case, the Habsburgs would finally decide to enforce the payment of the tax, as well as its back-payment for the entirety of the eighteenth century, a sum amounting to around 385 000 Florins. Of particular relevance was the fact that, despite having questioned the validity of the *Andreanum* on all other matters, in this respect the Habsburg authorities ruled that it should have been upheld to the letter.¹⁷⁶ Even more worryingly, the Austrian Royal Exchequer regarded this decision as a precedent for assimilating the entirety of the royal lands into the *aerarium*: if the Saxons had to pay the *Martinszins*, then their status was equal in all respects to that of *Erbzinsbauern*, mere tenants of the *Königsboden*, who could only claim use of these lands in exchange for rents, but not ownership.¹⁷⁷

The second department was firstly established as an Economic Commission, following the wave of administrative reorganization which began shortly after Maria Theresia ascended the throne. Its main task was to oversee and evaluate the financial situation of the Saxon nation, with a particular focus on its bookkeeping, the status of its civil servants, and its allodial

¹⁷⁵ Kutschera, *Landtag und Gubernium*, p. 203.

¹⁷⁶ Kutschera, *Landtag und Gubernium*, p. 203-204, 255-257.

¹⁷⁷ Theil, "Michael Conrad von Heidendorff. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 18. Band, I. Heft, 1883, p. 45-68 outlines the entire controversy in great detail.

revenues. Seen from the perspective of Saxon historiography, the establishment and functioning of the Commission appears as one of the clearest examples of the extent to which well-placed individual historical actors could move the imperial institutional scaffoldings in their favor, especially in fields such as that of finances, where new sources of revenue were always sought after. As the same Michael Conrad von Heidendorf recalls, this department was initially a temporary solution, established as a result of Martin Zacharias Wankel von Seeberg's interventions at the Court.¹⁷⁸ After some initial activity between 1755 and 1756, the Commission's president would travel to Vienna, where he would attempt to obtain the Court's approval to turn this temporary office into a permanent institution.¹⁷⁹ The Commission's tasks included visiting various Saxon administrative units, in order to verify the accuracy of revenues and expenses recorded by the local authorities. These expeditions were also undertaken by the Commission staff during Seeberg's absence, "as they had nothing to do".¹⁸⁰ One such visit to the nearby city of Sighișoara (*Schässburg*) deserves to be examined, as it revealed the tense relations between this somewhat haphazardly put together office and the local national authorities.¹⁸¹ As Heidendorf recounted, the Commission was greeted upon their advent at the mayor's house by a sumptuous reception, as "before the house stood all the city riders and *Trabanten*, its front steps were occupied by the city captain, his adjunct, and countless other lower officials, in the antechamber we found numerous senators, notaries, and secretaries: all had gathered here to show the prestige of the mayor's office."

Having passed this lavish display of national municipal authority, the Commission's staff were led into the mayor's chamber, where they were offered seats. To Samuel von Brukenthal's¹⁸² exposition of the Commission's attributions the mayor would reply that "both he and the Schäsburger public were regretful that the Commission had made futile efforts in these matters; the respectable city public was more than able to care for its *Allodiatur*, and to resolve any situations that might arise, through its own actions;". Furthermore, they would

¹⁷⁸ Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 566-576 describes the Commission's establishment, its initial staffing, and outlines the biography of its initiator, Martin Zacharias Wankel von Seeberg.

¹⁷⁹ Kutschera, *Landtag und Gubernium*, p. 255, notes that Seeberg was essentially fired due to the "administrative imbroglio" elicited by the Commission.

¹⁸⁰ Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 14. Band, I. Heft, 1877, p. 229.

¹⁸¹ Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 14. Band, I. Heft, 1877, p. 230, noted that his own account of this expedition was committed to paper in order to show the "vilification of the Commission and the genius of the Saxon national civil servants, [and to] preserve for posterity the surrounding circumstances."

¹⁸² According to Kutschera, *Landtag und Gubernium*, p. 255, Brukenthal headed the Commission between Seeberg's departure and his return in 1758.

never “submit to having their affairs controlled or conducted by a village judge and a foreigner [...] who was not a citizen of the nation.”¹⁸³ Such narratives abound, serving the image of the Saxon administration both by portraying it as a resilient and traditional structure, a source of Saxon pride, and as a final bastion against unlawful Habsburg ingressions, regardless of the influence wielded by those who would see it fall for their own purposes.

Still, the complaints regarding the situation would continue for decades, well after the Commission was subordinated to the Saxon authorities themselves. According to a report prepared by Joseph Maria von Auersperg, governor of Transylvania between 1771 and 1774, in preparation for Joseph II’s travels through Transylvania in 1773, the Commission had been established not at Seeberg’s behest, but rather as a result of “bitter complaints against the heavily indebted Saxon nation, a state attributed to the self-interested office-holding” practiced by its authorities.¹⁸⁴ This was not a far-fetched notion, as the following chapters will demonstrate. The Commission had discovered many “abuses” perpetrated by Saxon officials, who compelled communities to provide them with lavish meals and other benefits, which were then charged to the community funds. The Commission would propose that the Saxon officials no longer be paid in kind by their communities, through usufructs and various other economic privileges, but rather receive fixed salaries, according a scheme devised by the provincial government. What is more, a consistent urbarial regulation would soon be implemented, in order to ascertain precisely what lands belonged to the Saxon nation collectively, to communities, or to individuals, in order to be able to improve the taxing system that would provide the income for salaries.¹⁸⁵ However, as Auersperg recounts, these measures as well as others would meet with consistent resistance from the Saxon administration. Though perhaps not as emblematic as the displays of power and permanence recalled by Heidendorf, the administrations of various Saxon seats would refuse to submit their financial documentation to the Commission for verification, although being urged to do so repeatedly by the government and even the court itself.¹⁸⁶

It appears that the Commission – by then already a Directory – was dissolved in 1761-1762, following complaints that it produced no visible results, and that on the contrary, it incurred further debts on the nation. The Saxon Bailiff, Samuel von Brukenthal’s elder brother

¹⁸³ Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie“, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 14. Band, I. Heft, 1877, p. 235.

¹⁸⁴ Ileana Bozac, Teodor Pavel (eds.), *Die Reise Kaiser Josephs II. durch Siebenbürgen im Jahre 1773*, Band I. Klausenburg: Zweite Ausgabe, Rumänische Akademie, Zentrum für Siebenbürgische Studien, 2007, p. 160-161.

¹⁸⁵ Bozac, Pavel, *Die Reise Kaiser Josephs II.*, p. 162-163

¹⁸⁶ Bozac, Pavel, *Die Reise Kaiser Josephs II.*, p. 167-168.

Michael, would be tasked with dealing with the attributions of the former department. The latter institution would finally submit a detailed report on its eight years of activity in 1764, from which Auersperg concluded that “das Directorium alle Schuld der nicht erfüllten Pflichten, auf die Renitenz der sächischen Officianten geschoben, und dass es der Nation nützlich, und nicht schädlich ware.” Following renewed reports, Auersperg would emphasize that it was quite unbelievable to what extent the administration the imperial orders to set matters on the proper course had been ignored. Instead of eliminating arbitrariness in their financial dealings, the Saxon officials exhibited only “overbold audaciousness”, and cared nothing for the wellbeing of their communities. What is more, they had unduly discredited and defamed truly sincere and fair persons trying to improve this situation, and would not be censured.¹⁸⁷ Where the truth laid in this case is difficult to ascertain. It is nevertheless clear that the common discursive trope encountered in the reports submitted by Austrian officials in Transylvania, according to which malfeasance and a lack of restraint in exercising authority by provincials were prevailing, cannot have been entirely baseless.

3. The building-blocks of bureaucracy

What did the construction of the imperial institutional framework mean for Transylvania’s inhabitants, and particularly for the Saxons and the population of Hermannstadt? Who constituted this newly-fashioned bureaucracy, and to what degree did this new category entangle or compete with the municipal administration?

As opposed to the more often discussed politically and economically oriented reforms meant to streamline provincial administration, these shifts are more difficult to trace. Though several works dealing with the administration of Transylvania during the eighteenth century tangentially refer to the building of a bureaucratic apparatus in the province, very little attention is awarded to the civil servants populating it.¹⁸⁸ Equally non-descript remain the ways in which

¹⁸⁷ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 169.

¹⁸⁸ In *Reformismul austriac*, Anton Dörner offers perhaps the most synthetic discussion of the social aspects underpinning the establishment of the imperial bureaucracy. Relevant but limited treatments of the topic are also provided by Remus Câmpeanu in *Elitele românești din Transilvania veacului al XVIII-lea*, Cluj-Napoca, Presa Universitară Clujeană, Second Edition, 2008, and by Rolf Kutschera in *Landtag und Gubernium*. Also common are biographies of exemplary characters, such as Samuel von Brukenthal. Nevertheless, the main sources offering insight into the composition of the bureaucracy – the *Schematismae* – have not been broken up into their constitutive elements – individuals and institutions – nor have they been linked systematically to other types of records that could provide a clearer group profile of this emergent professional category. What is more, researchers have been understandably reluctant to operate a standardisation of nominal information, thus further impeding linkage procedures. This is one of the main issues that awaits to be tackled by further research.

these offices and their holders moved to transform the provincial and local social fabrics. Still, these shifts deserve increased attention not only due to their part in the grand narrative of the upheaval of traditional modes of governance, but also because of their far-reaching implications at the grassroots level of day-to-day life and socialization. This section therefore examines precisely these implications, by looking at several inter-related issues: the staffing of imperial institutions, the career pathways embraced by imperial civil servants and their entanglements with municipal administration, as a result of the continuous establishment and adaptation of imperial institutions.¹⁸⁹

In order to assess the impact of the imperial bureaucracy on the townscape of Hermannstadt, it should firstly be sketched in terms of its size and composition. Both of these aspects mattered to the overall mission of the bureaucracy, as well as in determining the extent of its efficiency. However, beyond reproducing the staff lists of various imperial branches in the province, researchers have not generally attempted to draft a collective profile of the civil servants in eighteenth-century Transylvania based on the *Hofkalender*.¹⁹⁰ When such a profile was outlined, it was placed firmly within the boundaries of nationally-focused historiographies, targeting the experiences and pathways of a single ethnical category.¹⁹¹

This task is also hampered by the numerous waves of restructuring taking place from the mid-century onwards, which meant that the personnel schemas of various institutions alternatively expanded or condensed.¹⁹² For the early nineteenth century, the Austrian provinces of the Habsburg Empire could boast with one of the largest bureaucracies in Europe, amounting to somewhere between 130 000 and 140 000 civil servants, a figure that had nearly

¹⁸⁹ I have elected to make use of Alex Drace-Francis' term of "provincial imperialist" to designate those native Transylvanians who made their living in the framework of the imperial administration, especially outside their home province. While imperial employment did not necessarily signal a disavowal of one's background and nation or a profound shift in allegiances, it nevertheless made officials question their origins, their allegiances, and their sense of belonging to a particular province. See Drace-Francis, "A Provincial Imperialist", p. 79: "Numerous scholars have noted that he sometimes referred to Bohemia as his Fatherland: Bohemia was the province into which he married and was ennobled, and whose culture he did much to promote. His activity has also been considered potentially constitutive of a unified Austrian state consciousness (*Gesamtstaatsbewußtsein*), an interpretation which has nevertheless been criticized as motivated by a retrospective desire to provide an early and enlightened genealogy for the modern Austrian state. But in his *Travels*, Born in fact put more stress on his Transylvanian origins than on any other loyalty."

¹⁹⁰ For instance, Dörner's *Reformismul austriac*, p. 253-285 includes an exhaustive listing of the staff of the Aulic Transylvanian Chancellery and the Gubernium between 1692 and 1802.

¹⁹¹ Câmpeanu, *Elitele românești*, p. 109-139.

¹⁹² Iryna Vusko also notes in *The Politics of Cultural Retreat*, p. 57, that it is difficult to provide precise answers on the exact composition of the imperial apparatus in Galicia during the eighteenth century, as "contemporaries were, and historians remain, unclear as to just how fast that number in fact grew, and how many people were employed in the reorganized Austrian civil service. Imprecise definitions of bureaucracy complicated attempts to produce reliable statistics." This was the case for Transylvania as well.

doubled from 1828 to 1840.¹⁹³ Vienna itself was home to some 4500 civil servants in 1834.¹⁹⁴ This was not a negligible number, as for instance the Russian Empire's bureaucratic system employed three times fewer individuals around the eve of the twentieth century, while British civil servants only amounted to roughly 150 000 in 1880.¹⁹⁵ As is the case with the prosopographic analyses based on the various official yearbooks of the Empire, the inquiries into the size of the *Beamtentum* generally halt firmly at the borders of the Austrian Crownlands, rarely venturing into the provincial administrative maze.¹⁹⁶

It may however be assumed that, though not as numerous as in the Crownlands, the bureaucratic system attained a sizeable dimension in Transylvania as well. The majority of the institutions discussed in the preceding section had what could be called a core-staff, the hard nucleus that withstood most of the administrative reforms, and remained mostly unchanged. The Gubernium's twelve councilor seats, the Treasury's subordinate positions, the offices of chancellor and vice-chancellor of Transylvania in Vienna were among these stable positions. However, they did not make up the bulk of the system. The most numerous positions were occupied by mid and lower-level officials that aided these high-level civil servants in exerting their attributions. Working for the provincial government were a considerable number of privy and titular councilors, regular and supernumerary secretaries, registrars and vice-registrars, *Konzipienten*, expeditors, taxators, lawyers, and, the most plentiful of all, the plain office clerks who dealt with correspondence and took on the bulk of writing (*cancellistae*). The Aulic Chancellery also expanded its personnel schema in the early 1770s, by introducing such positions as that of intern (*practicans*), day-laborer (*diurnista*), Romanian-language translator (*Lingvae Vallachicae Translator*), housing inspector (*Domus Inspector*), or by consolidating the ranks of registrars with new hires.¹⁹⁷

In order to provide at least some approximate insight into the numbers of these institutions' staff, it is perhaps easier to start with the end of the period under focus, namely with a list of positions and salaries of imperial civil servants employed by the Government dating from 1786, kept in Samuel von Brukenthal's private archives. According to this list, the bulk of the Government's staff was constituted by the mid- and lower-level civil servants

¹⁹³ Waltraud Heindl, *Gehorsame Rebellen, Bürokratie und Beamte in Österreich, Band I: 1780 bis 1848*, Wien, Köln, Graz: Böhlau Verlag, 2., durchgesehene Auflage, 2013, p. 149-150.

¹⁹⁴ Heindl, *Gehorsame Rebellen*, p. 149.

¹⁹⁵ Alan Sked, "Power and Professionalism", in *Austrian History Yearbook*, Vol. 37, January 2006, p. 63.

¹⁹⁶ The majority of works dealing with the eighteenth century expectedly focus on the Court staff. For an outline of one such recent project, see Irene Kubiska und Michael Pölzl, "Aus allerhöchster Gnade – Das Wiener Hofpersonal in den Hofkalendern und den Hofparteiprotokollen des 18. Jahrhunderts", in *Mitteilungen des Instituts für Österreichische Geschichtsforschung*, Issue 120, 2012, p. 405-418.

¹⁹⁷ Dörner, *Reformismul austriac*, p. 173 – 174.

(*Unterbearbeiter*), with 66 positions, and the so-called service personnel (*Dienstpersonal*), with 40 positions. Its higher staff included the 19 councilors, 10 secretaries – who were generally appointed as councilors themselves after a tenure in this position – and 17 higher civil servants, who dealt with drafting, recording, and dispatching the various ordinances emanating from the Government. All in all, this largest section of the institutional scaffolding present in Hermannstadt comprised around 153 individuals, not a trivial figure. However, by the time this staff list had been drawn up, Joseph II's reforms had subordinated the Treasury, Provincial *Exactorat*, and other such branches to the leadership of the Gubernium, creating what has been termed a “mammoth-department”.¹⁹⁸ Nevertheless, it has been argued that this final wave of reform and restructuring had aided the government in improving its efficiency, including through streamlining and “simplifying” its personnel schema.¹⁹⁹

Beyond the central institution of the Government, historical literature has not dealt with other administrative branches or their staff lists in an in-depth manner. This leaves only disparate glimpses into the size of other institutions. The Aulic Chancellery, located in the Imperial capital rather than in Hermannstadt, appeared to be a sizeable department as well: in 1765, a staff list included 21 individuals, less than half of whom stemmed from Transylvania. The share of non-Transylvanian natives was higher in the lower echelons than in the leadership positions, though two members of the Austrian nobility were active as councilors at the time.²⁰⁰ In 1780, as Joseph ascended the throne, the Chancellery comprised at least 18 positions, which would be augmented by new hires in the following decade. Compared to the Government, the Chancellery appeared to be understaffed, especially if the sheer number of documents that passed through the hands of the various registrars and expeditors is taken into consideration: in 1784, around 15,000 documents were recorded in its input-output registers.²⁰¹

A clearer image of the size of the imperial administrative scaffolding emerged in the early nineteenth century. Though referring to the status-quo of 1830, it can be argued that the figures supplied were at least partly illustrative for the period from the mid-century to the 1790s, when the tendency towards increase in staff numbers became more pronounced. Thus, in 1830, the provincial government counted 128 higher-level and 111 mid- and lower-level positions. To these were added the 65 higher civil servants working in the Treasury (a section of which was still operating in Hermannstadt), and their massive group of 716 subordinates

¹⁹⁸ Kutschera, *Landtag und Gubernium*, p. 161-162; see also Dörner, *Reformismul austriac*, p. 214.

¹⁹⁹ Dörner, *Reformismul austriac*, p. 214.

²⁰⁰ Dörner, *Reformismul austriac*, p. 174.

²⁰¹ Dörner, *Reformismul austriac*, p. 204-205.

(*untergeordneten Dicasterien und Aemtern*). Also located in Hermannstadt were the 84 individuals employed in the military administration, excepting officers. The Aulic Chancellery had also reached a more sizeable proportion of 55 employees.²⁰² Even discounting the more than 700 employees of the Treasury, a significant share of whom would have been active throughout the province, and the Chancellery employees in Vienna, the imperial administrative framework in Hermannstadt would have amounted to over 380 individuals. According to the conscription of 1785, the city of Hermannstadt counted 196 “Beamten und Honoratiores”, alongside 231 members of the nobility. Only one individual from the first category was living in the suburbs, rather than the city proper.²⁰³

Another early aggregate statistic for the same year (1830) provides the figure of 643 civil servants and *honoratiores*²⁰⁴ for the entire seat of Hermannstadt. The greater part of these would also have been active in the Transylvanian Saxons’ administrative capital, which, according to the 1830 conscription, had reached a figure of 18,337 inhabitants.²⁰⁵ Another later aggregate for 1839 provides the figure of 723 civil servants and *honoratiores* present in the entire county of Hermannstadt, a category making up some 0.89% of the county’s population. Still, 685 of these were living in the city itself, as in the surrounding villages only Szeliste, Boitza, and Heltau had more than 2 such individuals active within their midst.²⁰⁶

What this meant was that Hermannstadt’s inhabitants who saw themselves in need of crafting a final disposition, or who required trustworthy witnesses to their last wishes, were in theory able to appeal to individuals who were well trained in drafting official documents. Given that one such potential writer existed for every 30 of the city’s inhabitants, we may argue that one of the principal means of designing a specialized form of property transfer was highly accessible for the time. Nevertheless, not all clerks were equally familiar with the business of writing and with the intricacies of Saxon inheritance law, particularly if they hailed from other areas in the Empire, or from other ‘national’ milieus. A second corollary of this high density

²⁰² Johann Heinrich Benigni von Mildenberg, *Handbuch der Statistik und Geographie des Großfürstenthums Siebenbürgen*, I. Heft. Statistik. I. Abschnitt: Grundmacht, Hermannstadt: M.H. Thierry’s Buchhandlung, 1837, p. 32.

²⁰³ Teutsch, “Conscription von 1785. Hermannstadt”, short list of aggregate figures for various categories, split by city and suburbs, reported by F. T. (Friedrich Teutsch?) from the private archive of Georg Daniel Teutsch, and included under *Kleine Mitteilungen in Korrespondenzblatt des Vereins für siebenbürgische Landeskunde*, I. Folge, XVII. Jahrgang, Juli-August 1894, No. 7-8, p. 140-141.

²⁰⁴ The *honoratiores* were the non-noble “educated county officials and other professionals” according to László Péter, *Hungary’s Long Nineteenth Century. Constitutional and Democratic Traditions in a European Perspective*, Leiden, Boston: Brill, 2012, p. 187.

²⁰⁵ Benigni von Mildenberg, *Handbuch der Statistik und Geographie*, I. Heft, p. 19, 21.

²⁰⁶ Johann Hintz, “Die Bevölkerungsverhältnisse im Hermanstädter Stuhl nach der Zahlung im Jahre 1839”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, II. Band, 1846, p. 415.

of trained writers and administrators present in the city was that they would begin to make their presence increasingly felt in the web of trusted relationships tying various individuals, families, and groups together. The case of the quarrel over the estate of the deceased Countess Szekely was not the only instance in which lower-level office clerks from imperial structures found themselves unwittingly embroiled.

Who then was populating this increasingly widespread bureaucratic apparatus in Hermannstadt? Was imperial employment especially sought after, and if so, what advantages could be derived from it, compared to similar positions in the municipal administration? While acknowledging that there is yet no clear overview of the educational and social background of individuals who took up positions in the institutions established in Hermannstadt, it is apparent that this professional avenue potentially held great prestige for the sons of the upper classes in Transylvania, regardless of their national background.²⁰⁷

The case of Michael Conrad von Heidendorf is emblematic in this sense, from several perspectives. Born to the family of the city mayor in nearby Mediaș in 1730, Heidendorf followed what could be called the regular professional *cursus honorum* of the time, which exhibited the characteristic entanglements between the imperial and local administrative milieus. He had started on his educational pathway at the Gymnasium in his hometown, then attended the courses of the Reformed College in Vásárhelyi – one of the most popular Protestant educational institutions in the province – ²⁰⁸, and finally graduated from the Evangelical Gymnasium in Hermannstadt in 1750. As the network of secondary schools in Transylvania was quite well developed at the time, it is highly likely that the entirety of individuals employed in clerical capacities within the framework of the administration had also graduated at least from one such institution.²⁰⁹ The young Heidendorf was then immediately admitted into the administrative milieu, being sworn in as a trainee (*Praktikant*) to the Gubernial secretary Stefan Boer, a position he had managed to secure with the aid of his uncle, the Hermannstadt senator Bartholomaeus von Baußnern.²¹⁰

²⁰⁷ Such an overview could only be achieved through a prosopographic analysis of the *Hofkalender*, an enterprise which transcends the boundaries of the current enquiry.

²⁰⁸ Remus Câmpeanu, *Intelectualitatea română din Transilvania în veacul al XVIII-lea*, Cluj-Napoca: Presa Universitară Clujeană, 1999, p. 182-184.

²⁰⁹ According to Câmpeanu, *Elitele*, p. 113, for the Romanians seeking employment in the provincial administration, regardless of level, “education was a sine qua non condition of advancement”. More than likely, this was the case for the members of other nations as well.

²¹⁰ Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 340-341. Interestingly, Stefan Boer was one of the few Romanians who managed to accede to this level in the administrative hierarchy.

The young clerk's account then goes on to note that "it was usual at the time, in the course of the education of young Saxon individuals, who were dedicated to [entering] the political estate, to go abroad to German universities and to undertake several trips in the German Empire, after having completed several years in a chancellery."²¹¹ Both Heidendorf's father and his uncles had pursued the same kind of pathway, prior to their establishment in the national administration. Nevertheless, the young Michael Conrad did not manage to obtain the necessary travel pass from the Gubernium, and saw himself following a different road: he would go on to live in Hermannstadt, work in the Gubernial Chancellery, and take private lessons in law, philosophy, and the history of the Transylvania. While defending this alternative pathway, Heidendorf admitted that pursuing an education abroad was not necessarily as customary as he had previously noted. Moreover, this pathway could have adverse consequences from several perspectives, as some Saxon contemporaries in Hermannstadt regarded those who had returned from lengthy stays abroad as "almost entirely unfit", compared to those who had remained in the country "without vitiating their morals, who had become used to working, and would become the most capable subjects in nation." What is more, the majority of those "useful" individuals employed in public offices or *Dicasterien* "had not educated themselves at Germany's universities, but rather through local services and in local schools, and had elevated themselves well above those university-attendants through knowledge and diligence."²¹²

While Heidendorf's account might suggest that the author was simply trying to defend his own situation, having been compelled to remain in the Saxon capital and to renounce his previous lofty aims of travels abroad and university education, it is likely that around the middle of the century, involvement in administration did not necessarily require either of these two accomplishments. The very few eighteenth-century scholarships functioning on confessional bases that targeted Lutheran students could have only supported a select few individuals, and therefore one's own social and economic background remained the decisive factor in this respect.²¹³ This would have been a costly endeavor, to which only the most well-to-do families would have had access. For instance, around the mid-century, one's yearly living expenses in a German university milieu such as Göttingen could amount to over 300 Reichsthaler or 100 Ducats, thus well exceeding the yearly income of most individuals, even

²¹¹ Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 342.

²¹² Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 342.

²¹³ Benigni von Mildenberg, *Handbuch der Statistik und Geographie*, p. 93.

in the upper classes.²¹⁴ Moreover, even though advancements were gradually being made overall in Europe in terms of increasing accessibility to secondary and higher education for the sons of the future middle classes, the situation was quite far from equitable, and would remain so well into modernity. From the Habsburg perspective, and especially under Joseph II's rule, new and clearer educational prerequisites for would-be imperial civil servants were formulated. Thus, one had to have both experience in a wide variety of offices, starting from the grassroots level of provincial administration, and adequate studies, particularly in law. To contribute precisely to the building of a bureaucracy that prioritized its allegiance to the state rather than its estate background, and which could not be compelled by material pressures to give in to the requests of native provincial administrators, scholarships for studies of "Cameral sciences" were also awarded to deserving individuals.²¹⁵ These policies would in time allow for the building of a middle class that transcended "national" boundaries, functioning as a counterforce to the entrenched privileges that supported the ascension of particular groups to the detriment of others.²¹⁶

While the Habsburg reforms in the field of education and the consistent policies geared to promote the employment of able individuals in administration would begin to make themselves felt in Transylvania as well, their effects on the Saxons would be less visible, at least in the eighteenth century. Rather, the impact of policies aiming to provide members of the 'good nation' of Transylvania with equal possibilities to accede to public offices in the service of the Empire, regardless of their national background, would foremost be visible in the case of the most disadvantaged groups, such as the Romanians. As has been shown, following the reforms begun by Maria Theresia, a slight increase in the percentage of Romanians employed within the imperial provincial framework (including within county administration) could be distinguished. Nevertheless, even in this case, it is difficult to speak of a clear effect in quantitative terms. Instead, those exceptional career ascensions, which led individuals of modest means or hailing from particularly disadvantaged milieus to the highest offices, featured more regularly towards the end of the century.²¹⁷ For the Saxons, who were already very well-placed in terms of educational opportunities and would remain so

²¹⁴ This figure is offered by the Saxon philosopher Michael Hissmann in a letter to Johann Filtsch, in Michael Hißmann, *Briefwechsel*, De Gruyter, 2016, p. 33.

²¹⁵ Judson, *The Habsburg Empire*, p. 58-59; See also Olga Khavanova, "Joseph von Sonnenfels's Courses and the Making of the Habsburg Bureaucracy", in *Austrian History Yearbook*, Vol. 48, 2017, pp. 54-73.

²¹⁶ Waltraud Heindl, "Bureaucracy, Officials, and the State in the Austrian Monarchy: Stages of Change since the Eighteenth Century", in *Austrian History Yearbook*, Vol. 37, 2006, p. 41.

²¹⁷ Câmpeanu, *Elitele*, p. 126-127.

well into the twentieth century, it is difficult to say whether such policies had a significant in-group effect, at least in the short-term.²¹⁸

Nevertheless, until the end of the eighteenth century, one's social and economic background would remain the decisive factors, influencing not only the possibility of entering the imperial administration, but also one's survival as a part of the bureaucracy. Despite the reduction of barriers that prevented individuals from obtaining an education and the gradual emergence of a meritocratic system of advancement, civil servants' retributions were often not sufficient to support their day-to-day living. The same staff listing compiled in 1786 also provides some insight into the payroll of the imperial institutions.²¹⁹ Disparities were visible not only between the uppermost, mid-level and low-level positions, but also within each category: while the governor received an extraordinarily high yearly salary of 18000 Rhenish Florin (Gulden), the other individuals occupying cardinal offices (the head of the Treasury, the provincial Chancellor, etc.) only earned on average around 5 000 Gulden; the 10 simple councillors on the Gubernium made less than half of this sum, 9 times less than the governor's income. Still, the largest gap came between the councillors and the so-called *Oberbeamte*, a category which included the secretaries to the councillors, the concipients, registrars, and expeditors: the latter group's salaries ranged between 600 and 1200 Gulden a year, with some 100-150 Gulden provided for housing expenses. Certainly, these were not low figures, especially if one regards the issue on a broader scale: they would most likely have exceeded the income obtained from most positions in the municipal administration, and allowed one to live comfortably in the provincial capital or its surrounding areas. However, it should be noted that, on the one hand, those occupying the highest offices were essentially recruited exclusively from the high nobility, or from families with a remarkably good economic position who were then ennobled for their services. Their salaries reflected their prestige as much as the weight of their attributions, but were most likely negligible compared to their other main source of revenue: land. These officials could no doubt afford to maintain an adequate presence in Hermannstadt or in Vienna when their position required it, even without the added income derived from it. For the *Oberbeamte*, an income between 600 and 1200 a year was certainly

²¹⁸ Certainly, this avenue of inquiry deserves attention, as it represents one of the best ways to clarify whether it is possible to speak of 'path dependence' in the case of the nation-estate construct in Transylvania, and if so, how this might be quantified. Similar in-group effects have already been shown to have existed in the case of opportunities and constraints influencing age at first marriage in nineteenth-century Transylvania, see Elena Crinela Holom, Oana Sorescu-Iudean & Mihaela Hărăguș, "Beyond the Visible Pattern: Historical Particularities, Development, and Age at First Marriage in Transylvania, 1850–1914", in *The History of the Family*, Vol. 23, No. 2, 2018, p. 332-333, 348-349.

²¹⁹ All figures are taken from the 1786 payroll of the Gubernium published in Kutschera, *Landtag und Gubernium*, p. 162.

not a negligible figure. This category was somewhat more open to those who were not members of the high nobility, for whom such an income would have represented a considerable economic advance compared to what could have been earned at home, in various liberal professions. What is more, the opportunities opened by such a position were not restricted to one's salary: though perhaps not as extensively as in other provinces, individuals who reached higher offices in the imperial administration of Transylvania could use their position as a means to secure other sources of revenue, such as leaseholds, monopolies on certain categories of goods, etc. This type of activity was not entirely hidden from the Court, but rather tacitly accepted, as long as the civil servant did not exceed the proper boundaries, and did not incur his colleagues' negative opinion. One such example was Andrei (Andreas) Boer, a Romanian high official at the Aulic Transylvanian Chancellery, whose income allowed him to undertake the considerable endeavour of financing the expansion and painting of the Greek Catholic church in Carlsburg/Weissenburg/Alba Iulia.²²⁰

However, those individuals employed in lower-level positions, who formed the bulk of this extensive apparatus, received much lower wages: the salaries of the *Unterbeamte*, comprising the *Protokollanten*, the *Registraten* (as opposed to the *Registratoren*), and the plain office clerks (*Kanzellisten*) ranged from only 150 to 600 Gulden, with an added 12 to 70 Gulden for living expenses. The lowest positions – the so-called *Hilfsdiurnisten*, or daily workers – earned only some 2 Florins per week, the equivalent of 20 Kreuzer.²²¹ Such wages would have proved direly insufficient in Vienna, but were likely enough to eke out a living in Hermannstadt. As one contemporary observer of Viennese realities noted, in the 1780s, such lowly civil servants would have had to locate accommodations in the city's suburbs, where housing could be rented for around 120 Gulden, as opposed to the city itself, where rents started around 200 Gulden per year.²²² The yearly income necessary for a member of an ideal-typical middle class was estimated at about 464 Florins around the same time, a sum that most likely exceeded the majority of the lower civil servants' possibilities.²²³ What is more, among the numerous petitions regularly submitted by various civil servants to the Emperor during both Maria Theresia and Joseph II's time, a great number focused on the necessity to improve retributions, attesting to the dire situation in which many lowly officials with humble backgrounds found themselves.²²⁴

²²⁰ Câmpeanu, *Elitele*, p. 113.

²²¹ Kutschera, *Landtag und Gubernium*, p. 162.

²²² [Johann Pezzl], *Skizze von Wien*, Wien [u.a.]: Krauss, 1787, p. 34-35.

²²³ Pezzl, *Skizze von Wien*, p. 100.

²²⁴ Dörner, *Reformismul austriac*, p. 187, 205-207.

Regardless of the “rather miserable existence” led by those in the lower categories of civil service, a position in the imperial administrative system brought with itself a kind of security that was unusual at the time.²²⁵ Even for the Hungarian high nobility, the prospect of secure employment was not a negligible aspect, often weighing heavier than the accompanying dangers of estrangement from one’s ‘national’ background.²²⁶ Having entered the imperial civil service, in theory, one would not generally be removed from office unless egregious errors in activity were found and carefully proven. However, at least until the beginning of the nineteenth century, arbitrariness reigned in this field as well, with officials being dismissed for various disciplinary affronts.²²⁷

The sons of the nobility and of the Saxon patriciate could expect several pathways of advancement, once they stepped onto the ladder of service to the Empire: they could rise within the hierarchy of the central institutions located in the province (the Gubernium, Treasury, Bookkeeping Department, etc.), arguably the most prestigious professional course; if unsuccessful, they could make use of their local connections and gain entrance to the local administration. Even when such institutions underwent restructuring, such as the Economic Commission did in the later 1760s, individuals who had held positions would generally be re-accommodated into other offices.²²⁸ Periodical reports were sent by various high officials in Transylvania to Vienna regarding the behavior and activity of civil servants, and often offered recommendations regarding those whom they regarded as the ‘meritorious’ of bureaucrats. Several factors were taken into account, even beyond confessional adherence, as many reports were driven by the need to secure more positions for Catholics in Protestant-dominated institutional frameworks: for instance, upon the dissolving of the Economic Commission/Directory, General Commander Hadik listed not only the duration of service for each individual previously employed in this department, but also noted that among these, several lived “in great need” and had several offspring they needed to care for.²²⁹

²²⁵ Heindl, “Bureaucracy, Officials, and the State”, p. 40: “Without doubt, regular payment signified progress, as it meant a measure—if only a small one—of social insurance for officials. Under Joseph II, who had meant to turn the bureaucracy into a highly regarded instrument of his reforms, officials eked out a rather miserable existence, unless they belonged to the highest ranks of the service. Nevertheless, these measures—as well as ranks, titles, decorations, and official residences—were privileges in social and employment law that were rare at the time. Officials were also exempt from service as bound peasants or in the military, further privileges that endowed officials with respect and authority in society.”

²²⁶ Vermes, “Eighteenth-Century Hungary”, p. 128.

²²⁷ Heindl, “Bureaucracy, Officials, and the State”, p. 40.

²²⁸ Georg Adolf Schuller, “Ein aktenmäßiger Beitrag zur Geschichte der Gegenreformation in Siebenbürgen im 18. Jahrhundert”, in *Festschrift Seiner Hochwürden D. Dr. Friedrich Teutsch gewidmet zu seiner 25jährigen Bischof-Jubiläum*, Hermannstadt: Honterus-Buchdruckerei und Verlagsanstalt der evang. Landeskirche A. B. In Rumänien, 1931, p. 7, note 3.

²²⁹ Schuller, „Ein aktenmäßiger Beitrag“, p. 17-18.

What is more, employment in the service of the Empire would eventually guarantee some measure of security even after one retired, especially after the watershed moment of 1781, when a clearer pension system was implemented. Following the new regulations, civil servants could claim a pension after having served at least 10 years in the administration, though this would not be granted automatically when one reached a certain age, but rather when one became ‘unfit to work’.²³⁰ What is more, a clearer hierarchy of pensions was designed, that took into account the duration of one’s service beside the importance of one’s position: thus, those who had served between 10 and 25 years would receive a third of their prior salary, those who had worked for more than 25 years but less than 40 were granted half of their wages, while those who had served for more than two decades were allowed two-thirds of their prior wages. This newly-established system, taking into consideration both the length of service and one’s place in the hierarchy, was meant to stimulate civil servants’ adherence to the bureaucracy, and thus to encourage their professionalization.²³¹

Imperial civil service also provided a supplementary degree of security for the widows and orphans of *Beamten*, at least since 1749. This legal framework, which would be amended in 1762, 1765, and 1771, initially allowed widows to receive a monetary aid no higher than one third of a deceased husband’s salary. Similarly to the criteria advanced for granting pensions, the Viennese authorities took into account the following: “the years of service performed by the deceased, [the type] of this service, whether this was solicitous and fruitful, whether the widow had many or no children, and whether she had some or absolutely no other means.”²³² However, as opposed to the pension system devised for those retiring, a gendered approach obtained in the case of widows’ and children’s pensions: it appeared to be impossible, at least for a woman of noble status, to prove her state of “neediness” with verifiable documentation. Acknowledging that this was an “unreasonable” requirement for a noblewoman, the system took as granted that she found herself in a state requiring financial aid when her estate did not produce an income equal to the pension she would have received. The reason for this rested in the fact that while noblewomen could not produce such documents attesting to their poverty, they could also not be expected to perform manual labour or various private services, as

²³⁰ On this situation, see the more recent study by Irene Kubiska, “‘Zwischen Anspruch und Gnade’ - Die Altersversorgung Wiener Hofbediensteter und ihrer Witwen und Waisen im 18. Jahrhundert”, in István Fazekas, Martin Scheutz, Csaba Szábo, Thomas Winkelbauer (eds.), *Frühneuzeitforschung in der Habsburgermonarchie. Adel und Wiener Hof – Konfessionalisierung – Siebenbürgen*, Wien, 2013, p. 33-50; an overview of social care measures in the Empire is also offered by Bernd Wunder, “Die Institutionalisierung der Invaliden-, Alters- und Hinterbliebenenversorgung der Staatsbediensteten in Österreich (1748-1790)”, in *Mitteilungen des Instituts für Österreichische Geschichtsforschung*, Vol. 92, Issue 3-4, December 1984, p. 341–406.

²³¹ Wunder, “Die Institutionalisierung der Invaliden-, Alters- und Hinterbliebenenversorgung”, p. 373-374.

²³² Wunder, “Die Institutionalisierung der Invaliden-, Alters- und Hinterbliebenenversorgung”, p. 380-382.

opposed to their lower-class counterparts. The same kind of reasoning was applied to the decisions concerning the length of orphans' pensions: full orphans would receive half of the motherly pension, respectively one sixth of the father's wages, until they reached majority – 20 years for girls, and 22 years for boys. However, the age limits for majority depended on the orphans' social status: for the offspring of 'lower civil servants, such as miners or others equal to them', this limit was set at 14 years for girls and 15 years for boys, as it was assumed that from this age forward they could support themselves by working. In the case of children sired by the nobility, these age limits were extended considerably, as, similarly to their mothers, they could not be expected to perform 'manual labour' to support themselves. In many cases, the pensions would be provided for boys until they entered employment into a paid position, while girls stemming from the nobility often entered monastic foundations.²³³ Like the pensions provided to former civil servants, these financial aids offered to their orphans were backed by more than social-care considerations. The system was gradually implemented in various provinces, including Hungary and Galicia, in the late 1770s. In the latter case, the Court hoped not only to avoid the "excessive paperwork and the frequent enquiries" generated by the need to petition formally for the granting of an orphan's pension, but also to encourage "more nationalists to learn the German language and to become fit for service" through this "highest clemency".²³⁴ These incentives were not negligible in the context of the mid and late eighteenth century, as financial security, even for the widows of the nobility, was not easily attainable. Alongside other benefits, this would have presumably weighed heavily in the minds of young Transylvanians possessed of a good education but hailing from a less privileged background, when they were considering their future professional prospects.

While the size and composition of the officialdom can be more clearly assessed, the question of Transylvanian civil servants' allegiances and the extent of cooperation between individuals from different social backgrounds or 'nations' within the imperial context remains somewhat hazier. On the one hand, all members of the imperial *Beamten*, regardless of province and background, were pledging their devotion to the imperial cause and to the state, as embodied by the monarch. On the other hand, the fact that they were often sworn in by and deeply entangled with the local administration, having often switched from one side of the administrative scene to the other, meant that their oaths of loyalty encompassed fidelity to the

²³³ Wunder, "Die Institutionalisierung der Invaliden-, Alters- und Hinterbliebenenversorgung", p. 383-384.

²³⁴ Wunder, "Die Institutionalisierung der Invaliden-, Alters- und Hinterbliebenenversorgung", p. 387.

‘nation’. However, as shall be seen, these spheres of loyalty were not as irreconcilable in practice as they seemed in theory.

The imperial viewpoint on the matter of civil servants’ allegiance became increasingly clear after mid-century: their loyalty was meant for the Habsburg state, which they were supposed to serve with ‘patriotic devotion and in complete independence’.²³⁵ In practice, allegiances still lay with the sovereign’s figure rather than with the notion of the state, which was much more difficult to grasp. In this respect, members of the Hungarian nation and the Saxons held a similar view: the Hungarians employed as imperial officials during the eighteenth century saw themselves as loyal to their ‘own’ monarch, at least after 1723. Despite acting on behalf of the court in Vienna, most maintained a staunch position in favor of their own nation’s interests, emphasizing their background through the adoption of various cultural forms of resistance.²³⁶ The select few who rejected the society of native Hungarians for ‘German gentlemen’ in the Habsburg capital would invariably suffer the opprobrium of their peers at home.²³⁷ Accusations of de-nationalization abounded in Hungarian-language literature, as contemporaries would not perceive the benefits of playing one’s part in bringing the Enlightenment closer to this corner of the Empire, in the absence of a well-functioning and extensive educational infrastructure.²³⁸ This was a relatively thorny issue for the Romanians employed in the administration as well: given the fact that they acceded to their offices firstly as members of a noble nation, albeit hailing from the small ‘competence’ nobility, and only secondly as adherents to a particular confessional, linguistic, or ethnical milieu, they would foremost prove themselves as staunchly loyal to the Habsburg interests or to their estate, rather than to their emergent nationality.²³⁹

The Transylvanian Saxons employed in the imperial administration were also sometimes precariously perched between duty towards their own national background and allegiance to the Habsburgs, though it seems that the former generally prevailed upon the latter. In purely quantitative terms, those who remained loyal to their *Stand* and committed to serving the interests of their native communities seemed to have been more numerous than those who openly betrayed these causes. For the Saxons, as for the Germans living in Hungary’s cities, the matter was further complicated by confessional adherence: Catholicism was increasingly

²³⁵ Heindl, “Bureaucracy, Officials, and the State in the Austrian Monarchy”, p. 37.

²³⁶ Vermes, “Eighteenth-Century Hungary”, p. 128 – 129.

²³⁷ Vermes, “Eighteenth-Century Hungary”, p. 127.

²³⁸ George Barany, “From Fidelity to the Habsburgs to Loyalty to the Nation: The Changing Role of the Hungarian Aristocracy before 1848”, in *Austrian History Yearbook*, Vol. 23, 1992, p. 45 – 46.

²³⁹ Câmpeanu, *Elitele*, p. 118.

regarded as “a pillar of political loyalty and civil obedience” for those who wanted to serve the Empire.²⁴⁰ Despite counter-examples such as that offered by Samuel von Brukenthal, who managed to ascend to the highest level of imperial administration in the province despite remaining in the Evangelical Church, the great mass of Saxon civil servants met with the unsurmountable barrier of conversion when attempting to rise in the imperial administrative hierarchy. Additionally, Transylvanian Saxons’ social background posed a problem in an environment that was mostly populated with members of the nobility. Though they were not necessarily a ‘socially-unattached class’, as the ennobled German burghers from cities in Hungary have been referred to, the members of the urban patriciate of Transylvanian Saxon towns who had received noble titles beginning with the late seventeenth century often saw themselves straddling a line between their burgher background and their newly-acquired places in the noble estate.²⁴¹ Imperial officials stemming from the Austrian Crownlands would generally held their humble origins against them, as was the case even with Samuel von Brukenthal, whom the acting Governor Maria-Joseph Auersperg described in a letter as “a subject ... of such a lowly background, extraordinarily partisan, and incapable of mastering himself in his fervor’. Even granted the great enmity between Auersperg and Brukenthal, the fact that the former chose to emphasize the latter’s ‘lowly background’ as a means of explaining his deficiency is telling for the impassable symbolic border between the true aristocracy and the recently-ennobled burghers.²⁴² Noble status was not such a divisive issue within Saxon society itself, unless it was also accompanied by an individual’s transition to Catholicism. Saxon nobles residing in Transylvanian cities were not exempt from taxation, and were therefore still perceived as part of the citizenry. However, ennoblement often did come with the price of Catholicization, similarly to advancement in the imperial hierarchy. Renouncing one’s religion in favor of that of the state seemed to strip away one’s allegiance to the nation, as Michael von Heidendorff recalled in his autobiographical account. One of the most visible cases of the consequences of Catholicization was that of Martin Zacharias Wanckel von Seeberg, a native of Hermannstadt, who would lead the Commission in charge of evaluating the allodial revenues of the Saxon nation and then rise to the position of governmental councilor

²⁴⁰ Grete Klingenstein, “Modes of Religious Tolerance and Intolerance in Eighteenth-Century Habsburg Politics”, in *Austrian History Yearbook*, Vol. 24, 1993, p. 13.

²⁴¹ Balász A. Szelényi, “Enlightenment from Below: German-Hungarian Patriots in Eighteenth-Century Hungary”, in *Austrian History Yearbook*, Vol. 34, 2003, p. 124 – 125; Szelényi has offered fuller account of the specificities of this double status – German burgher and member of the noble *natio* – more recently in *The Failure of the Central European Bourgeoisie, New Perspectives on Hungarian History*, Basingstoke: Palgrave Macmillan, 2006, p. 93 -103.

²⁴² Kutschera, *Landtag und Gubernium*, p. 247, quoting G.A. Schuller, *Samuel von Brukenthal*, vol. I, p. 266.

and *praeses* of the Exactorat.²⁴³ Working under Seeberg as a clerk around mid-century, Heidendorff had the occasion to remark that he was ‘the first Saxon to receive a cardinal office in Transylvania’. His appointment as councilor also spelled his break with the nation, and, perhaps more tellingly, the dissolution of the social and kinship ties that bound him with his brethren: upon his return to Hermannstadt, having been invited to celebrate the name day of Samuel von Brukenthal’s wife, he would send his congratulations through his personal servant, excusing himself from attendance. The gathering pretended to not even have noticed his absence.²⁴⁴ Seeberg’s case also stood as a warning to young Saxons of good background who wished to pursue a career in the imperial administration: he would fall as easily as he had risen, being retired from his positions due to his conflictual relations with the General Commander Buccow and Brukenthal. He would then withdraw to an estate outside the royal lands, where he would live out the rest of his days, alone and on a meagre income. The first sight to greet Heidendorff when he passed through to visit his old superior was emblematic of this pathway that could lead one dangerously high, and vulnerable to complete estrangement from the community:

“Immediately after entering his yard, I gazed upon the evidence of the fickleness of fate. His beautiful, golden carriage, in which he would ride around in Hermannstadt resplendently when he was still a great gentleman, [now] stood, in lack of another building, under a miserable shanty, built on four pegs, and covered with old corn straw.”²⁴⁵

While Heidendorff’s account should be read with a certain dose of skepticism, the fact that Seeberg’s tale was written as a cautionary narrative, meant first of all for the author’s sons, suggests that this fall from grace could serve as a deterrent for youthful aspirations.²⁴⁶ Heidendorff’s autobiography abounds in references to the dangerously attractive pathway opened by close contact to the imperial administration and particularly with its higher Catholic ranks. His own replacement in the Commission would convert to Catholicism after spending

²⁴³ There is some controversy regarding Seeberg’s background. Dörner notes that he was not a Transylvanian (p. 260), but Heidendorff clearly refers to him as a Saxon. The Lutheran parish register of Hermannstadt for the baptisms records that he was baptized in the city as a Lutheran in 1707. Even if his family had not been settled in the area for long, one may argue that he had for all intents and purposes become “Saxonized”.

²⁴⁴ Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 14. Band, I. Heft, 1877, p. 237.

²⁴⁵ Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 571.

²⁴⁶ Theil, “Michael Conrad von Heidendorf. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 339, notes that the manuscript was prefaced by the following words: “N.B. Dieses ganzes Manuscript soll sehr geheim warden, und sonst niemand, als einem meiner lieben Söhne, der es nach seinem Umständen am Besten besorgen kann, bleiben.”

time in Vienna with Seeberg.²⁴⁷ Even when leaving the ranks of imperial civil service temporarily, in the time it took for central authorities in Vienna to review the Commission's reports and decide to establish it as a permanent organisation, one was not free of temptation. Heidendorff recounts that during his time spent in Mediaș, in his father's household, he befriended the elderly Baron Szilágyi, who had served as an agent of the court (*Hof-Agent*) at the Aulic Chancellery of Transylvania, and whose extensive library presented the author with the opportunity to peruse the works of Rousseau and Voltaire in original French. Following Szilágyi's death, his appointed heir Graf Adam Székely would often advise Heidendorff to marry into the Hungarian nation, particularly into those 'impoverished' households of the lower nobility. This kind of alliance was also supported by his father, who recognized the opportunity for social and professional mobility by marrying into the noble estate. Heidendorff would refuse to enter such a connection. His reasoning, committed to paper some four decades after the events had taken place, offers a glimpse into what this would have entailed:

“I could not however decide [...] to commit myself to the raging waves of unknown fate and intermingle with a nation that contrasted with that of the Saxons, and to enter into a bond in which I would always have to suffer the reproaches of lowly birth and lack of a fortune.”

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Even when one did not adhere to Catholicism, extended imperial service was a double-edged sword from the point of view of the municipal and national administration. On the one hand, one could serve the interests of one's nation with greater efficiency when in direct contact to decision-making individuals in Vienna. On the other hand, prolonged estrangement from one's home region could engender suspicions regarding one's true allegiances.

Still, conversion to Catholicism did not always entail effects of the same magnitude for all ranks of civil servants. Individuals who had already attained a high social or economic status or managed to become a key player in imperial politics at provincial level, benefitting from the support of Austrian-born aristocrats, could to some extent afford to alienate the Saxon nation and their own web of kin and friends. Municipal authorities would have to accept them, as representatives of imperial rule, and deal with them in official matters with a modicum of deference. From the perspective of Transylvanian Saxon historiography and contemporary

²⁴⁷ Theil, “Michael Conrad von Heidendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 14. Band, I. Heft, 1877, p. 231, 234.

²⁴⁸ Theil, “Michael Conrad von Heidendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 14. Band, I. Heft, 1877, p. 232.

accounts, conversion brought social exclusion for those who had been in the employ of the municipal administration, even if it enabled one to rise to a Senator's position.²⁴⁹

What Heidendorf's biography reveals is the fact that the narrative of stark opposition between the imperial and municipal administrations is not entirely tenable, especially when one excludes the matter of conversion. Rather, these institutional relations as expressed in the political discourse of the time and the extent to which they spilled in day-to-day life in Hermannstadt, should be examined on a case-by-case basis. One confounding factor that further muddles the narrative is the pervasive entanglement of kinship ties on both 'sides' of the field. As Wayda's biography shows, one could transition from working for the Empire to working for the municipality without generally eliciting negative reactions. Heidendorf himself was bound tightly to both spheres through his father, who had for a long time been a Senator on the Small Council of the Saxon city of Mediaș, where he then served as mayor. There were also kinship ties between the Brukenthal family and Heidendorffs: when attempting to persuade his father that employment in the Commission established by Seeberg would be beneficial for his career, the young Heidendorf brought along Samuel von Brukenthal, whom his father would refer to 'cousin' (*Vetter*).²⁵⁰ Examples of this type of entanglement between imperial and national Saxon administrative spheres abounded at the time.²⁵¹

What is more, working in the imperial administration opened up opportunities to acquaint oneself with individuals stemming from a much broader palette of ethnic and linguistic backgrounds. While this is not to say that Saxon society, and especially its upper levels in Hermannstadt, had before the 1700s been confined to socializing solely amongst themselves, the advent of imperial institutions certainly increased the degree to which one could have direct and collegial rapports with 'foreign' persons of similar status. As Heidendorf noted, during his employment under the vice-commissioner Bogati his usual 'society' were primarily Hungarians. He would spend countless days and nights drafting and copying reports seated beside his colleagues, becoming acquainted not only with the tasks involved by this employment, but also with 'the direct, free and unfeigned mentality of the Hungarian nation',

²⁴⁹ See for instance Sever Cristian Oancea, "Die 'Wahl' des Sachsegrafen Stefan Waldhütter von Adlershausen", in *Zeitschrift für Siebenbürgische Landeskunde*, Vol. 38, 2015, p. 81 – 103.

²⁵⁰ Theil, "Michael Conrad von Heidendorf. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 574.

²⁵¹ Heinrich Herbert, "Der innere und äussere Rath Hermannstadts zur Zeit Karl VI. Mittheilungen aus den Hermannstädter Magistratsprotocollen", in *Archiv des Vereins für Siebenbürgische Landeskunde*, XVII. Band, Heft 2, 1883, offers countless examples of the close kinship ties between the national and provincial administration.

which he would subsequently grow into himself.²⁵² Still, as the clerk would also note, collegial ties did not always engender trust between individuals of different backgrounds. He would recollect that his employment under Seeberg had differed completely from his prior activity as a chancellery clerk:

„Now I came to be involved in affairs that stood on slippery foundations, were wavering, and were to the like of neither the Court nor the Nation, in which we office clerks wrote reports to the court and ordinances to the Nation, sometimes for many days and entire nights, [reports] that were changed, crossed out, and became useless in the following days. I came between men, foreign Germans and National Saxons, who, because they despised their status, did not trust each other, dissembled to one another, seeking to obtain advantage... where as a result the National Saxons were always put under pressure by the German Catholic foreigners.“²⁵³

Leaving aside the difficult functioning of Seeberg's Directorium, the lack of trust and collegiality had certainly left a negative impression on Heidendorff. This suggests that such a situation was not necessarily the usual state of affairs and that generally friendly cooperation would have been the norm in provincial imperial institutions.

The growth of the imperial administration in the province and the Habsburg capital also elicited changes in work patterns. Whereas at the beginning of the century, complaints regarding the working of the government abounded because councilors often resided on their own estates and had to be petitioned to take part in the official dealings of the province, by late 1700s they were generally present in either Hermannstadt or Vienna, along with their numerous subordinate clerks, throughout the year. In Vienna new buildings to house the ever-growing institution of the Aulic Chancellery would be required. Official business was no longer conducted in one's home at one's convenience, requiring instead that civil servants travel to their offices and observe imposed schedules. Especially in Vienna, the growth of the imperial bureaucracy was made strikingly visible by observing set schedules. Towards the late 1780s, every morning around 8:30, the capital's inhabitants could witness

“an army of ca. four and a half thousand men marching: it is the army of the bureaucrats (*Dikasterianten*). Its battalions are that of the secretaries, the registrars, the concipients, protocolists, *Ingrossisten*, *Kanzellisten*, *Akzessisten*, etc. After these follow three hundred carriages burdened with chancellors, vice-chancellors, presidents, vice-presidents, referents,

²⁵² Theil, “Michael Conrad von Heidendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 575.

²⁵³ Theil, “Michael Conrad von Heidendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 575: “Nun kam ich in Geschäfte, die auf schlüpfrigem Grunde standen, wankend waren, weder dem Hof noch der Nation gefielen, in welchen wir Kanzellisten Berichte an den Hof und Verordnungen in die Nation, manchmal viele Tage und ganze Nächte schrieben, die in den folgenden Tagen abgeändert, vernichtet und unnütz wurden. Ich kam zwischen Menschen, fremde Deutsche und National Sachsen, die weil ihr Stand schlüpfrig war, sich nicht trauten und ein jeder dem andern heuchelte und den andern zu vervortheilten suchte...wo immer Verfolgung der deutschen Katholischen Ausländer die National Sachsen zu drücken suchte.”

archivists, councilors, etc. All of these are headed for the Department of State, the Imperial Chancellery, the Department of War, the Austrian-Bohemian Chancellery, the Hungarian-Transylvanian Chancellery, etc.”²⁵⁴

One’s employment in the civil service was also visible in the itinerary one followed throughout the day: after several hours of work, officials often went on a leisurely half-hour stroll in order to awaken their appetites in time for their lunch around 1 pm. They could take some two hours to satisfy their appetite and would then be tasked to return to their offices around 3 pm.²⁵⁵ As contemporary accounts from Hermannstadt recall, most civil servants in the provincial capital would also follow a very similar schedule.

However, this rather fixed timetable did not affect all ranks of the *Beamtentum* to the same degree: members of the aristocracy would often find loopholes, managing to circumvent these provisions. Meanwhile, mid- and low-level clerks would generally conform to this aspect of policy. Contributing to the entrenchment of this new rhythm of daily activity were punitive measures: absence or delayed attendance to scheduled meetings and non-adherence to working times began to be penalized since at least 1770, even at the highest levels of civil service. Government councilors who did not attend meetings were levied a fine of 1 gold Florin per week, while office clerks who disregarded their obligations of attendance were fined 1 Florin and 30 Kreuzer.²⁵⁶

Nevertheless, living quarters were not however always strictly separated from working environments, as Heidendorff’s recollections from his employment at the Supreme Provincial Commissariat under Paul Bogati suggest. The Commissioner in question inhabited a house situated between the Reisepergasse and Sporergergasse, in the upper city. The same building also housed on its ground floor the Provincial Exchequer, while its upper section was occupied by Commissariat, its chancery, and its archive. The Commissioner, albeit an eccentric figure who did not fit particularly well in the imperial administrative milieu, had made his temporary home in one of the building’s upper floor dependences. Here he only inhabited a small *Nebenzimmer*, which he furnished in a most sparse manner: aside from a bed, a table, and two chairs, the room was quite empty. At the table, seated on one of the white wooden chairs, Heidendorff would attend to the business of taking dictation, drafting and copying various dispositions pertaining to the business of Commissariat, and, sometimes, Bogati’s own personal affairs. The young clerk was required to be at the Commissioner’s disposal daily, from 7 to 12, and then from 3

²⁵⁴ Pezzl, *Skizze von Wien*, p. 138; Also quoted in Judson, *The Habsburg Empire*, p. 59 – 60.

²⁵⁵ Pezzl, *Skizze von Wien*, p. 140-141.

²⁵⁶ Dörner, *Reformismul austriac*, p. 188, note 185.

to 8 in the evening. More interestingly, Bogati found various means of discouraging official visits and inquiries into his work from other imperial civil servants: while one of his chairs was occupied by Heidendorff, the other served as a makeshift institutional archive, collecting all documents emitted or received by the Commissariat. His visitors would have no place to sit, and therefore be obliged to conclude their business quickly. The blurred, or even inexistent boundary between personal living space and official, institutional quarters also aided Bogati in curtailing official visits: upon hearing the clang of swords worn by high civil servants' retinues during their ascent on the narrow staircase leading to his room, the Commissioner would jump into bed, cover himself with the *Decke*, and feign illness until the unwanted visitors left, no doubt ill at ease after their reception.²⁵⁷

Heidendorff was living at the time with his wife in a separate building nearby, which he was poised to inherit from his maternal grandfather's line.²⁵⁸ At the time, his wife was not permanently accompanying him in his stay in the Saxon capital and would later relocate to Mediaș permanently. Following his employment at the Oeconomie Commission under Seeberg, and during the intermezzo before the Commission was turned into a regular institution, the young clerk would move to the house owned by Seeberg near the Leichenthürl, where he was tasked with preparing and ordering all documents pertaining to the Commission's activity, and then submitting them to the Gubernium, from where they would be conveyed to Vienna.

The establishment of the Chancellery in Vienna also invariably affected the families of Transylvanian officials and clerks. Apart from shifting the rhythms of family life by instituting a clearer work schedule, civil servants stemming from Transylvania often had to leave their families behind in the province, owing either to their unsatisfactory levels of retribution, or to other types of constraints. The emergence of such trans-regional families, even temporarily, could also complicate property transmission within the city. However, many upper level civil servants could afford to be accompanied by their spouses during their tenures in the Austrian capital. Perhaps the most telling, though untypical example, was that of the household of Samuel von Brukenthal and his wife, Sophia. The Baroness von Brukenthal would travel often between Vienna and Hermannstadt during the 1750s and 1760s, all the while maintaining an

²⁵⁷ Theil, "Michael Conrad von Heidendorff. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 13. Band, I. Heft, 1876, p. 348.

²⁵⁸ Theil, "Michael Conrad von Heidendorff. Eine Selbstbiographie", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 14. Band, I. Heft, 1877, p. 234, "Ich wohnte mit meiner Gattin, wenn sie bei mir in Hermannstadt war, in den zwei untern Gelegenheiten des Mediascher Hauses, lebte sparsam, wie es unsere Jugend nur immer ertragen konnte..."

account of expenses and necessities of both households, administered by trusted individuals in her absence. During Brukenthal's permanent appointment in Vienna, Sophia led the household in such a manner, that it could be considered appropriate for extensive receptions of members of the court, while also attracting praise for her economical management, true to Saxon manner.²⁵⁹ She also served as de facto intermediary between her husband and the Saxon milieu in their hometown, corresponding on her husband's behalf with her brother-in-law in order to prevent unwanted tampering with the Baron's mail.²⁶⁰ Sophia would often accompany her husband to receptions held at the court, and was warmly received by Maria Theresia. The court endeavours to maintain positive relations with provincial leadership in the capital was not limited to the Brukenthals but extended to the entire staff of the Transylvanian Aulic Chancellery. Invitations to receptions and masked balls were extended to the majority of the staff, excluding only those of very low level, who nevertheless appealed to the Empress in various matters, seeking employment for their sons or financial support.²⁶¹ While in Vienna, the Brukenthals attended the services of the only Lutheran church in the capital, namely that of the Swedish embassy, remaining staunch supporters and adherents of their confession, despite pressures to the contrary.²⁶² Despite the resolute pro-Catholic policies adopted in the provinces, and especially in the Crownlands, Vienna constituted a privileged space for members of Protestant denominations, and particularly for those individuals who were employed in the service of the Empire, or fulfilling diplomatic missions.²⁶³

Nevertheless, not all members of the imperial administration, and especially those working in Transylvania, were as favoured as the Brukenthals. The constant relocations of various imperial institutions invariably also affected civil servants' families and financial situations. Towards the end of the eighteenth century, the seat of the Gubernium was moved to the city of Cluj (Klausenburg). In a letter to his nephew Karl in 1791, Samuel von Brukenthal noted that "Should the Gubernium remain in Klausenburg, then you and others will be at a loss in the beginning, and have fewer gains and earnings". Despite this, Brukenthal was confident that in time, the city would manage to recover from these losses, as industry would improve and other opportunities would present themselves in the stead of imperial employment. Adopting an encouraging tone, the former governor underlined Hermannstadt's resilience in

²⁵⁹ G. A. Schüller, *Samuel von Brukenthal*, II. Band, p. 275: "Sie erinnert in ihrer energischen Wirtschaftlichkeit an die sächsische Frau von *Dobosi*, die daß große Bankgeschäft ihres Gatten nach dessen frühem Tod noch lange Jahre hindurch mit Energie und Geschick leitete."

²⁶⁰ G. A. Schüller, *Samuel von Brukenthal*, p. 278.

²⁶¹ Dörner, *Reformismul austriac*, p. 177 – 178.

²⁶² G. A. Schüller, *Samuel von Brukenthal*, p. 282.

²⁶³ Klingenstein, "Modes of Religious Tolerance and Intolerance", p. 8.

the face of these changes, while noting that permanent relocation to Cluj would also imply various hardships:

“The city has survived, and the inhabitants have also lived without the Gubernium; it will persist and their will live, perhaps even better, more merrily, without it. Apart from this however, the seat of the Government is to this day settled for no less than Klausenburg, and it may be that the living quarters will be so assiduously sought in a hustle, as they now were renounced;”²⁶⁴

While it is doubtless that the city would indeed survive this change, the costs incurred by civil servants’ relocation would not be negligible, at least in the early 1790s. In the will drafted in April of 1794, the governmental office clerk Georg Markler, formerly of Hermannstadt, blamed his financial hardships at least partially on this relocation:

“Everyone knows, that I have been completely kept and hindered from all economy and by-employment through many losses during the last war with the Turks, and the current French war, and partially due to the great rise in expenses and the relocation to Klausenburg, as well as owing to the enduring and grave illness; what is more, I had such expenses, which far exceeded the income from my yearly wages, and thus was compelled not only to incur a loss on a significant part of my wife’s estate, but also to thin the effective estate belonging to my ward...”²⁶⁵

Markler’s situation showed that the optimistic view espoused by Brukenthal was not necessarily the case for those under the employ of the imperial administration who did not benefit from substantial private estates. Even when this was the case, other issues such as illness might compound an already insufficient yearly wage, and throw what should have been a profitable household into debt. The relocation of the Government to Klausenburg, at least in the early stages, worked to the detriment of those on the lesser rungs of the civil service ladder, whose household economies were not always in the best state to begin with.

What is more, Markler’s will, witnessed by the governmental secretary Johann Beddeus von Scharberg and one of his colleagues of the same rank, also attested to the fact that this

²⁶⁴ Letter from Samuel von Brukenthal to Karl, Freiherrn von Brukenthal, *Korrespondenzblatt des Vereins für siebenbürgische Landeskunde*, XXVI. Jahrg., August-September 1903, No. 8-9, p. 119 – 120: “Die Stadt ist gestanden, und die Einwohner haben gelebt auch ohne das Gubernium; sie wird bestehen und diese werden leben und vielleicht besser, vergnügter leben ohne selbes. Dieses aber ohngeachtet ist Sitz deselben bis heute nichts weniger als für Clausenburg ausgemacht, und es kann sein, dass die Quartiere so emsig und eilend wieder gesucht werden können, wie sie jetzo aufgesagt worden sind.”

²⁶⁵ SJANS, *Magistratul oraşului și scaunului Sibiu - Testamente [Magistrate of the city and the seat of Sibiu - Testaments]*, Folder M, Unnumbered document, will of Georg Markler, 1794, fol. 80r – 80v: “Weiß jedermann, daß ich durch die viele Kriges-Abzüge unter dem letzten Türken, und dermahligem Französischen Krieg, theils durch die große Theuerung, theils aber auch die erfolgte Uebersiedlung nach Clausenburg, und endlich duch die daselbst ausgestandene langwierig harte Krankheit nicht nur von aller Wirtschaft und Nebens-Werk gantz und gar gehindert worden bin; s ondern dabey solches Ausgaben gehabt habe, welche die Einnahme meines jährlichen Gehalts weit überstiegen, wodurch ich gezwungen worden bin, nicht nur einen nahmhaften Theil von dem Vermögen meiner Gattin zuzusetzen, sondern auch dem effectiven Vermögens Stand des Pupillen zu verschmälern...”

relocation did not necessarily entail the breaking of ties with trusted friends in Hermannstadt. Markler appointed an inhabitant of the city as executor, namely the printer Martin Hochmeister, one of the few individuals who benefitted from imperial privileges allowing them print and distribute books in Hermannstadt, and a Catholic.

Conclusions

The present chapter has aimed to show that what may initially appear as a “purely” social-legal issue, namely the transmission of property, cannot be understood in the absence of at least a cursory overview of the political-administrative framework.

On the one hand, the establishment of the provincial administration strove to lend a greater coherence to many administrative procedures, and, though it would not entirely succeed in accomplishing its goals of streamlining decision-making and implementation of reforms, it would nevertheless create structures to support these developments in the nineteenth century. What is more, many of the reforms enacted by the provincial administration were meant to contribute to the larger goal of crafting a monarchy where social and legal differences did not flow along historically-entrenched divisions, where ingrained particularisms did not pose obstacles to modernising tendencies. Given the peculiar political and legal situation of medieval and early modern Transylvania, which had engendered particularly these types of overlaps, the foundations of the Saxon nation would come out profoundly shaken out of this effervescent period.

On the other hand, as the trial for the estate of the Countess Szekely showed, the Saxons were quick to restore things to rights, although not for long. The former estate affiliations to “national” groups were quick to return to the fore after the edicts of restitution in the early 1790s, a sign that they had only temporarily been sublimated as a means of ensuring personal and collective survival.

Moreover, the crystallization of the imperial administrative structures centered in Hermannstadt meant an entire host of changes for the members of the Transylvanian Saxon upper middle and elite classes. Individuals like Michael Conrad von Heidendorf many individuals saw themselves presented with new choices, not only career-wise: the establishment of imperial institutions in the province opened up attractive but potentially contentious pathways for many Transylvanians, especially after mid-century. Many individuals would consciously assume the burden of several mantles, juggling at least

two allegiances, of which loyalty to the Habsburg state often fell to the background when circumstances required it. Governmental ordinances could go ignored, and the interests of one's estate would often prevail, while one's advantages as a member of the "good nation" increased. At the same time, the duty to the state often came to the fore when it was itself regarded as advantageous, not only individually, but also to one's estate.

The bureaucracy was both a vehicle and a subject of change. Its establishment affected the lives of those who strove to serve the state, in various ways, and to different degrees, depending on one's social and economic background, and on one's location. Middling and lower civil servants would see themselves often separated from families for extensive periods, separating their lives between the increasingly cosmopolitan Transylvanian capital and their native communities, or even settling in Vienna, where they joined their brethren in the daily march of the army of bureaucrats. Nevertheless, they would benefit from a predictable income and pensions, while knowing that those they would leave behind would also be cared for by the state. Especially seeing as educational reforms increasingly opened up the administration to capable young men of little means, these provisions would have constituted important arguments in favor of imperial employment.

The brief canvassing of the inner workings of the provincial administration and of the extent to which this institutional framework shaped and was in turn shaped by life in the province has also shown that individual agency remained a forceful factor in influencing broader developments. Those Saxon civil servants who converted to Catholicism are apt examples of this tendency, as they polarized the social fabric of the city, requiring deference in their capacity as representatives of imperial power, and inspiring wrath as traitors to the confessional pillar of Saxon identity, the Lutheran faith. Social networks, including those made visible when dealing with property transmission, would dissolve and alternately reassemble themselves, as trust and kinship ties would be weakened, if not openly broken as a result of such transgressions. However, the bureaucracy, with its predictable and strictly enforced schedule, and its gradual emphasis on competence and merit, would bring together men of varied backgrounds, and thus engender friendship in places where it could barely have flourished one century earlier.

Part II. The “Haupt- und Hermannstadt” and a “small Bohemian town”

Introduction

Unlike many eighteenth-century travellers journeying to distant lands, Joseph II was well and reliably informed about Transylvania prior to commencing his expedition.²⁶⁶ Extensive reports, correspondence, and proposals for the amelioration of the evils that plagued the province had already been forwarded to Vienna by various imperial officials in 1772, almost one year before he began his journey. While other early modern travellers had perhaps drawn their knowledge from one of several accounts about the area which circulated in Europe at the time,²⁶⁷ Joseph could avail himself of a coherent and increasingly well-trained military and administrative system which provided him with salient information. However, like travel accounts, which mirrored their authors’ beliefs and backgrounds, the intelligence briefings received by Joseph also included subjective assessments alongside highly structured and targeted narratives. Many of the authors of these reports had spent some considerable lengths of time in the province, and especially in its capital. Even if they had wished to, they could not always put aside personal prejudices entirely.²⁶⁸

While Joseph was better informed than most, he nevertheless shared in the prime mover behind his fellow travellers’ journeys: like them, he wished to gain unmediated and empirical knowledge of the province.²⁶⁹ In his correspondence from Transylvania, he cast himself firstly as a student of provincial realities, and only secondly as a power-wielding agent of the state:

²⁶⁶ Joseph II undertook three journeys through Transylvania, in 1773, 1783, and 1786. During this first journey he was still Maria Theresa’s co-regent. See Kutschera, “Zur historischen Verwaltungsgliederung Siebenbürgens”, p. 13.

²⁶⁷ Eighteenth-century travel literature focusing on Transylvania has yet to be surveyed in a comprehensive manner. Most of the current literature examines primarily how the Wallachians in the area were constructed as the ‘Other’ as part of the broader Eastern-European narrative. See for instance Alex Drace-Francis, “A Provincial Imperialist and a *Curious Account of Wallachia*: Ignaz von Born”, in *European History Quarterly*, Vol. 36, Issue 1, p. 63-63. Some useful information on the most widely circulated travellers’ accounts to Transylvania during this period is also provided by Dorin-Ioan Rus, “Berichte europäischer Reisender über Wald und Bevölkerung in Siebenbürgen im 18. Jahrhundert”, in *Zeitschrift für Balkanologie*, Vol. 51, Issue 1, p. 66-91.

²⁶⁸ Derek Beales, *Joseph II: Vol. 1, In the Shadow of Maria Theresa, 1741-1780*, Cambridge: Cambridge University Press, 1987, p. 360, deftly characterises the situation: “Matters were complicated by running battles within the administration: the military commander fought the civil governor; those on the spot denounced the Vienna *Hofkanzlei*; almost everyone intrigued and informed against Maria Theresa’s favourite official of Transylvanian origin, baron Samuel von Brukenthal, ... detested by the Roman Catholic bishop, the generals, the Hungarians and the civil governors alike.”

²⁶⁹ Beales, *Joseph II*: Vol. 1, p. 242-243, underlines Joseph’s “enthusiasm for travel”, noting the sovereign’s own considerations on its usefulness, p. 251: “If travel is useful to any thinking person, it is much more so to a sovereign and to a man who, rejecting all pleasure, concentrates solely on utility.”

“My occupations don’t in reality resemble those of Hercules, neither in crushing monsters nor in spinning for Omphale. I go about, I learn, I see, I inform myself and I make notes. That’s more like being a student than a conqueror.”²⁷⁰ Despite this rhetorical flourish, the future Emperor would be faced with quite a few of the “monsters” plaguing the province and its capital. This first journey would also announce some of the Herculean tasks which Joseph would find himself burdened with after assuming the reign some seven years later.

Joseph’s information on Transylvania came by way of two main channels: the detailed accounts drafted by the Provincial Governor Count Auersperg in 1772 and 1773 and those submitted by Leopold von Clary during his short tenure as Treasurer of Transylvania; these, together with the writings of the Privy Councillor Samuel von Brukenthal formed the bulk of the narrative supplied to the future Emperor by the imperial provincial authorities at their own initiative. At the same time, Joseph II undertook his own intelligence-gathering, in the form of structured questionnaires concerning the most ardent matters in Transylvania, dispatched to various administrative parties in the province.²⁷¹ The questionnaires’ emphasis ranged from broad issues like fiscality or the administration of the military border, to the state of particular social-legal groups in Transylvania, an emphasis that shifted according to the training and institutional belonging of those tasked to answer them. Within these attempts to increase the legibility of the territory, of foremost concern were the relation between economic growth, an improved fiscal system, and the administration of the province by-and-large; on the other hand, the questionnaires evidenced the fact that estate-based political privileges which translated into an entire host of exemptions, immunities, and autonomies were increasingly targeted, as their effects on the running of the province were under continuous assessment.²⁷²

These closely entwined matters were made evident at each step of the journey, as thousands upon thousands of petitioners, Wallachians, Transylvanian Saxons, and Hungarians alike, assembled to meet the future Emperor and present their memorials in the hopes of individual or sometimes collective improvement. Though a precise account of the number of petitions received by Joseph during his first Transylvanian expedition has not yet been

²⁷⁰ Joseph II in a letter to Count Lacy, quoted by Beales, *Joseph II*, Vol. 1, p. 361.

²⁷¹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 427-493; also briefly mentioned by Beales, *Joseph II*, p. 362.

²⁷² This does not mean that Joseph wanted to overturn the local social-legal order entirely, but rather only that the plurality of local-level collective actors and the interests they pursued and ardently defended was seen as hindering the running of the province. This point of view is evident throughout the reports Joseph received prior to his journey, as well as in his journals. On the gradual formulation of a *Landespatriotismus* that did not exclude “national” allegiances in the weak rather than the stark sense (as estate allegiances), see for instance R. J. W. Evans, “Joseph II and Nationality in the Habsburg Lands”, in H. M. Scott (ed.), *Enlightened Absolutism. Reform and Reformers in Later Eighteenth-Century Europe*, Basingstoke: Palgrave MacMillan, 1900, p. 213-215.

published, estimates range up to 19.000.²⁷³ Joseph II graciously accepted most, if not all these documents, regardless of their content or the identity of their conceivers.²⁷⁴ Arguably, the future emperor was one of the most well informed travellers coming to Hermannstadt during the eighteenth century, having amassed knowledge both directly and indirectly. He had read through a large variety of official sources, which conveyed the often contradictory if not outright conflictual opinions of their writers. At the same time, his extensive public activity and unprecedented availability to the common folk had shown him the darker face of administrative and fiscal practices, the results of which would be forcefully revealed some ten years later.²⁷⁵

As a corollary, Joseph's account about the Transylvanian capital should therefore stand as one of the most apt descriptions of Hermannstadt from a vantage point unclouded by competing provincial notions of community and identity. Despite having received often highly critical reports drafted by the likes of Auersperg and Clary, Joseph appeared to have endeavoured to balance others' accounts with his own experiences in the field, and to seek out native Transylvanian officials who could provide different perspectives.²⁷⁶ What did the future Emperor encounter in his foray for information into the administrative heart of the province?

Joseph II visited Hermannstadt twice during his 1773 travels through the South-Eastern provinces of the Empire: briefly in late May, and for almost two weeks, from the 28th of June

²⁷³ The figure stem from Michael Conrad von Heydendorff's account, but has also been endorsed as plausible by Derek Beales, "Joseph II, petitions and the public sphere", in Hamish Scott and Brendan Simms (eds.), *Cultures of Power in Europe during the Long Eighteenth Century*, Cambridge: Cambridge University Press, 2007, p. 254. See Rudolf Theil, "Michael Conrad von Heydendorff. Eine Selbstbiographie (Fortsetzung)", in *Archiv des Vereins für Siebenbürgische Landeskunde*, XVI. Band, II. Heft, 1881, p. 490. Heydendorff felt himself compelled to note, before providing this figure, that "Ihro Majestaet den Ungarischen Magnaten und Adel nirgends Achtung bezeigten, dagegen aber von der Sächsischen Nation gnädige Begriffe zu haben schienen, und daß durch das gnädigste Bezeigen des Monarchen gegen der Pöbel derselbe sehr stutzig wurde." Another figure was provided by Joseph himself, who noted in another letter to Lacy noted that he had already gathered 15 000 prior to entering Galicia. See Beales, *Joseph II*, vol. I, p. 361.

²⁷⁴ Theil, "Michael Conrad von Heydendorff", XVI. Band, II. Heft, 1881, p. 450: "Das jetzt gesagte thaten Ihro Majestaet überhaupt mit allen Supplicanten, dergleichen über 100 von Ebesfalva bis Mediasch waren, daher will ich es auch nicht bei jedem besonders mehr wiederholen. War aber die Klage des Supplicanten von Erheblichkeit, so ließen sich Ihro Majestät mit dem Supplicanten in Reden ein und fragten ihn um alle Umstände seines Anliegens genau aus...". The entire diary entry for the year 1773 is peppered with brief accounts of Joseph's encounters with various petitioners.

²⁷⁵ The importance of fiscal pressures and various types of malpractice in fomenting the 1784 peasant revolt should also be taken into consideration, alongside the rumours concerning the organisation of a new military conscription. For a synthetic view of the rebellion, which shows how Joseph's reforms backfired in this respect, see Derek Beales, *Joseph II, Vol. II: Against the World, 1780-1790*, Cambridge: Cambridge University Press, 2009, p. 259-270.

²⁷⁶ The best example was Michael Conrad von Heydendorff himself, at the time Seat Notary of Mediasch. Heydendorff had been the one to seek out Joseph, riding out to meet the future Emperor at the boundary of the Seat in 1773, and managing to accompany him for several days of travel.

to the 10th of July. On his first sojourn, the final leg of the journey to the capital started in the early morning hours from the nearby Transylvanian Saxon market town of Mühlbach, and passed through several quaint villages.²⁷⁷ The travelling party made a detour to briefly inspect the settlements incorporated into the still recently established military border, alongside the natural defence line created by the mountains near Orlath: the performance of the 1st Wallachian Infantry Regiment, whose central command showed “not much ability”, did not earn them much praise. Onwards to Hermannstadt, Joseph’s gaze wandered to more pleasant landscapes: he expressed approval for the quality of the roads, as well as the countryside surrounding the provincial capital, which he described as ‘beautifully even and well cultivated’. Having already spent almost five hours on horseback by the time he finally faced the city walls, it is no wonder that his encounter with its sprawling suburb dampened his previously positive impressions. As he would later commit to paper in his travel journal, right before reaching the city gates, one had to make an ‘abhorrent arrival’ through ‘a small Gypsy village’. Summarily dismissed at the end of this brief journal entry, the city was ‘reminiscent of a common Bohemian small town.’²⁷⁸

On the following day, in the early morning hours, Joseph attended mass at the Jesuit church, “a very solemn affair, but with horrendous music.” While returning home to his inn on Heltauer Street – previously called the “Ottoman Sultan”, and renamed “zum Römischen Kaiser” in his honor - ²⁷⁹, he spared a few moments to see the military parade organized by Carl Clemens, Graf of Pellegrini, at the time commander of the 49th infantry regiment. It appears that the most striking thing about the regiment was the fact that it was composed of such “young people, though of moderate height.” He would later also learn that among the regiment’s officers there were also quite a few younger individuals, 27 of whom had never even seen battle. On the same evening he visited the Hungarian Count and provincial Treasurer Miklós Bethlen²⁸⁰, where a select society of “ladies, gentlemen, and officers” had gathered to converse and play cards at the eight tables put at their disposal. He would not remain long, retiring to his abode around nine thirty in the evening. On the final day of May, having heard

²⁷⁷ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 603, on Grosspold, where the first wave of Austrian Protestant exiles in the 1730s had been settled - a “sehr schön gebauten Dorf denen Häuser alle von gutem Material ordnungsmässig ja sogar mit Zügeln gedeckt gebauet”, and Grossau, “so ein hübsches Dorf”.

²⁷⁸ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 603-604.

²⁷⁹ This piece of information stems from Michael Conrad von Heydendorff’s autobiography, in Theil, “Michael Conrad von Heydendorff”, XVI. Band, II. Heft, 1881, p. 445.

²⁸⁰ According to the *Status personalis et Salariorum* for the provincial institutions in Transylvania of May 5th 1773, Graf Nicholas Bethlen served as Treasurer, receiving a yearly wage of some 5000 fl. For the entire document, see Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 399 – 402.

mass again at the Jesuit church around 4 am²⁸¹, Joseph would leave the capital, eager to travel to the military border areas near Kronstadt and to more closely inspect the conditions of the *cordon sanitaire*.

One month later, Joseph began to make his way back to Hermannstadt, by way of the post road from Thorda. Due to the waterlogged terrain, travel in the area would become ‘completely unpracticable during rainy weather’, a matter worsened by the frequent salt shipments from the local mine. At the same time, the state of the surrounding arable lands around Nagy Enyed, some halfway to the capital, was “disgraceful”, and, given the recent droughts, would lead to a severe shortage of hay. Asked what could be done to prevent such developments, one of Joseph’s travel companions, advanced that “there was no cheaper [...] nor any more reliable way than to pray to God for a miracle, for, if God had managed to turn water into wine, then how could he not convert the local Lord Lieutenant [*Obergespan*] from a dunce into a competent official as well?”²⁸²

The following day began with an early service at the Jesuits in Hermannstadt. As opposed to the previous visit, the future Emperor made use of his time in the city to delve into both the province’s problems, and some of the capital’s shortcomings. While his discussions with various officials increased in intensity, frequency, and duration, as did his writing, dictation, and correspondence, Joseph also seemed to turn his gaze towards the realities of the city, which he strove to experience directly.²⁸³ He went walking almost daily, eschewing the urban spaces proper for the areas outside of the city gates, the suburbs bordering its walls, or the so-called Jung Wald (nowadays Dumbrava Sibiului), which stretched out to the neighbouring villages.

While circling the city on foot, Joseph encountered both agreeable vistas of well-tended gardens, and plenty of “morasses and ponds, most of which were foul, edged with reeds, and stunk.” As many other travellers before him, and like many of non-native imperial officials living in the capital, Joseph could not ignore that these and other similar bodies of water crossing the city must “significantly contribute a lot to the sickliness of the city, by means of malodorous vapours.” The future Emperor also inspected several institutions of interest, both outside and inside the city walls: the still recently established Catholic orphanage, housed in a

²⁸¹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 607-608

²⁸² Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 678.

²⁸³ According to Beales, *Joseph II*, Vol. 1, p. 257, Joseph had made it an explicit objective to visit various institutions and sights of interest on other journeys as well. Prior to his Italian journey, he had “compiled a list of things to see, which included modern and ancient buildings, paintings, statues, gardens, battlefields, public works and charitable institutions in all parts of Italy.”

‘wretched old building’, the military hospital, located in the Lower City, and the Protestant orphanage, which sheltered about 20 children, but was “very badly furnished.”²⁸⁴ Still, not all ecclesiastical foundations were found to be in a deplorable state: the Ursuline monastery located on the edge of the Upper City, by the walls, was “sumptuous and beautifully built”, the nuns’ rooms were “quite large and very comfortably situated”, while the location promised a “pleasing view.” Were this impression not clouded by the “overindulgence” of the convent’s priest, which had greatly distressed the nuns, Joseph might have been entirely pleased with the situation, something rarely encountered. Adequately meeting the co-regent’s standards or fulfilling his expectations was a difficult, if not impossible task.²⁸⁵ Having left the convent, he would again inspect the state of the infantry regiment during training: though it marched and attacked “quite well”, was “agile” and careful when charging its weapons, a closer look revealed that its officers suffered from a certain “embarrass in manoeuvres” and appeared not entirely firm in handling their equipment. Despite the sharpness of his military gaze, Joseph would have no qualms to march home to his hotel alongside the regiment.²⁸⁶

Not all of the co-regent’s visits were driven by explicit state purposes, nor did all take place during daytime. While not the most ardent seeker of society for its own sake outside of his close circle,²⁸⁷ Joseph could not entirely avoid interaction with Hermannstadt’s elites outside the confines of professional discussions. During his second stay in the provincial capital, his preferred place of socialisation remained Count Miklós Bethlen’s residence. Joseph’s brief accounts of his own activities, compared to the extensive recollections of discussions with various officials, only allow a brief glimpse into the amusements of Hermannstadt’s high-class circles. Still, it cannot be denied that Joseph was a keen observer and purposeful chronicler of quotidian issues, focusing on those aspects which appeared as salient or revelatory for situations which often defied concise reports. His depiction of the Austrian-reminiscent architecture of the homes in some of the villages near the capital, the offhand mention that there were eight card-playing tables in Bethlen’s residence, or the carefully-chosen qualifiers employed in sketching the strengths and weaknesses of the 49th infantry regiment were likely not included simply to fill space, but rather to capture a more

²⁸⁴ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 679, 682, 698.

²⁸⁵ Beales, *Joseph II*, Vol. 1, p. 243, notes the thoroughly “unromantic and hypercritical” character of Joseph’s travel accounts.

²⁸⁶ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 690-691.

²⁸⁷ Beales, *Joseph II*, Vol. 1, p. 306-308, distinguishes between Joseph the Emperor/co-regent and Joseph “the man”, a distinction which Joseph himself made. His interactions with those around him are therefore to be read in this key. While he was by no means a recluse, he manifested “a hatred of Court ceremony” and enjoyed “easy, familiar conversation, as much as he hates to talk in a circle.” In Hermannstadt, the former would be found with great difficulty, while the latter would be abundant.

subjective, immersive dimension of his journey. Hermannstadt's high society appeared to have left an unpleasant impression on Joseph, who seemed almost dismissive in recounting his encounters in this milieu. On the 29th of June he saw himself compelled to 'got into society' at Count Bethlen's residence, where he was met with 'an atrocious heat' and less than civilized manners: "When you were engaged in a [private] conversation with someone, another twenty persons surrounded you and listened in an unconcerned fashion." The co-regent could only "endure this agony" for little more than half an hour, after which he managed to retire to his abode. Another visit to a highly placed nobleman's widow two days later was summarized only by an impression of crowdedness and the same "atrocious heat."²⁸⁸

Joseph's priority were his conversations with civil and military officials, focused on the management of the province and its most dire issues. These often stretched on for hours, sometimes delaying the co-regent's arrival at other events, or even impeding his attendance altogether: on the 7th of July, Joseph held audiences until 8 pm, and then continued a conversation with General Gyulai until 10 pm, after which he gave dictation and retired. Meanwhile, all the local nobility was being hosted at a ball given by the same Count Bethlen in the building of the theatre, a narrow construction on the edge of the city walls, repurposed to serve as a place of amusement. Joseph seemed not only unperturbed by the fact that he had missed this lavish event, but quite content that he had found reason "not to attend at all".²⁸⁹ Still, not every social occasion could be avoided: on the following day, he would concede to attend an opera performance held at the same theatre. The building housing the performance, clearly a makeshift, earned little praise. Its narrowness and length were naturally "not at all good for the voices." On his way home, likely before the performance had even ended, he would receive news that a peasant who had tried to submit a memorial for his consideration had been tied up and taken to the pillory by a nobleman. Upon arriving at his hotel, Joseph freed the peasant, to whom he thought it "advisable" to gift something for his troubles. In the meantime, a Hussar had been sent to retrieve the petition, while the nobleman, who could only provide "poor reasons" for his actions, was dismissed. "And so ended my *sejour* in Hermannstadt", Joseph added dryly.²⁹⁰

What can be learned from what Joseph recounted or from what he failed to mention? For instance, Joseph's diary makes no note of his walking through the city proper without a clear purpose in mind, as opposed to his strolls outside its gates and in the neighboring woods,

²⁸⁸ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 679.

²⁸⁹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 695.

²⁹⁰ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 701-702.

which appeared to have been undertaken out of curiosity and for personal enjoyment. His visits to the orphanages, the military hospital, the government, the treasury and some of the institutional chancelleries were state tasks and had little to do with personal preferences. Even his closer observation of the infantry regiment and his attendance at Catholic mass in the Jesuit church were not indicative of any particular inclination, but likely the result of engrained habits. His conversations with local officials likewise did not generally stray far from a succinct account of state matters, although they sometimes included Joseph's personal evaluations concerning his interlocutors, which the modern reader might find diverting.²⁹¹ In most cases, when the co-regent expressed an entirely negative judgment of someone's character or concerning a certain situation, it seemed to have come as a result of thorough consideration. Joseph's first impression of Hermannstadt, dismissed as a "common, small Bohemian town", seems to have grown increasingly dismal with each day spent in the capital. At the same time, apart from other small details concerning the urban administration, certain Transylvanian Saxon officials, or the deplorable state of urban infrastructures – all mentioned during discussions or in reports pre-dating his visit – the city's likeness remained indistinct. Joseph could just as well have been describing any "common, small" urban centre in Bohemia.²⁹²

What the narrative of Joseph's first impressions of Transylvania and Hermannstadt shows is the imperial expectation concerning the urban milieu, and the many ways in which the provincial capital fell short of these expectations. Joseph's gaze manages to focus on the major points of interest from an imperial-Catholic perspective – Roman Catholic places of worship, the military hospital, the Catholic orphanage established in the suburbs – while wholly obscuring or eliding the Transylvanian Saxon "national" and Protestant legacy. Local habits, practices, and people, which in other contexts had aroused Joseph's willingness to understand, were opaque, reminiscent of earlier eras and places. It was through this imperial lens that a good part of Hermannstadt's history and that of the nation-estate construct were viewed and retold. On the other hand, the imperial gaze was almost wholly absent from other narratives stemming from the *Landeskunde* movement, in which the Transylvanian (Saxon) national

²⁹¹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 595, on the Treasury Councillor Eder, "Il parait un bonne home mais pas autre chose.", p. 623 on the Mayor of Kronstadt, Schobel, "C'est un homme capable mais tres boutonné", p. 655 on Baron Daniell, the Royal Judge in Udvarhely County, "Il ne sait pas grande chose mails il ne manque pas de bon sens."

²⁹² According to Beales, *Joseph II: Vol. 1*, p. 361, the future Emperor regarded Hermannstadt as "pathetically mean for a capital".

narrative prevailed. This chapter uses Joseph's gaze as a balance to Transylvanian Saxon historiography surrounding the capital and political and administrative practices.

Thus, the present chapter aims to sharpen the image of the city conveyed by the future Emperor's writings by examining Hermannstadt from three vantage points: firstly, I will discuss its position in the urban network of East Central Europe and Transylvania and how this had paved its pathway to political precedence; secondly, I will cursorily examine the shape, contents, and patterns of the urban and national administration, with a focus toward the eighteenth century; finally, I will tease out the two major opposing narratives according to which historiographical efforts guide themselves in portraying the developments of the first century of Habsburg rule in Transylvania and their effects on the Saxon urban milieu.

While the previous chapter examined the establishment and impact of imperial institutional scaffoldings on the social fabrics of the province and the city, the present chapter will now also try to shed light on those segments of urban society who wielded comparatively much less power and influence. Although the elite individuals likely had the highest incentives and easiest means of prescribing certain patterns of wealth devolution, to focus the enquiry solely on this stratum would mean to effectively write out of the narrative the great majority of individuals inhabiting Hermannstadt during the eighteenth century.

For the purposes of the present work, the thesis will emphasize several issues with a direct bearing on the intersection between ideal social orders, property ownership and transmission, and the actual gradients of political and social-economic power in the city. By providing an overview of the urban administration and those who occupied offices within this structure, this section will shed light on the priorities of the city's political elites concerning the national and urban social fabric, as well the extent to which these meshed with imperial goals. What is more, it will reveal the processes by which the structure and composition of the urban administration served to reinforce existing orders. Finally, it will show how the opportunities allotted to those working in the urban administration reverberated at a broader level, namely that of the entire Transylvanian Saxon estate.

4. The royal free city, the capital of the nation, and the urban republic

Hermannstadt's existence owed much to the settlement policies implemented by Hungarian kings in the twelfth and thirteenth centuries, which had generated a long-lasting urban

landscape, the contours of which were still visible well into modernity.²⁹³ The shape and resilience of this urban network were heavily influenced by several economic factors, foremost of which were a settlement's location to either trade routes, mining areas, or the borders of the kingdom. Whether these communities would later on flourish into full-fledged cities was foremost a question of placement: cities whose location fulfilled these criteria could exert control over the burgeoning flow of foreign goods or precious metals and establish themselves as sites of flourishing consumption, or amass residential-administrative functions; settlements placed in an unfavourable geographical context or too close to more powerful urban centres would 'drop out of the network'.²⁹⁴ While Hermannstadt was not particularly central from the royal Hungarian perspective, it happened to be well-placed within the newly-colonized landscape, which allowed it to profit from the commerce with foreign wares from the South and develop quite early on.²⁹⁵

Resilience as an urban centre also required autonomy, or, in medieval terms, a set of privileges ensuring that the city was not subjected to the whims of the nobility, the other major stakeholder in the kingdom, and could dispose of the taxes it levied, as well as by and large administer its own affairs. This 'social-contract avant la lettre' was paramount for the survival of cities, very few communities throughout medieval Hungary receiving such a charter.²⁹⁶ It would ultimately also come with the power of representation at the central level, namely seats on the provincial Diet.

Reflective of their importance and promise, several of the settlements founded by Saxon guests in the Kingdom of Hungary would be granted the legal status of free royal city, and therefore maintained their role as nodes in the urban web of the Kingdom, and later on the Principality of Transylvania.²⁹⁷ However, only two proved to be exceptionally successful in profiting from their location along international, large-scale trade routes. Hermannstadt and its

²⁹³ Paul Niedermeier, *Städte, Dörfer, Baudenkmäler. Studien zur Siedlungs- und Baugeschichte Siebenbürgens*. Köln, Weimar, Wien: Böhlau Verlag, 2008, p. 122-142.

²⁹⁴ István Petrovics, "The Cities and Towns of Medieval Hungary as Economic and Cultural Centres and Places of Coexistence. The Case of Pécs", in *Colloquia*, Vol. XVIII, 2011, p. 5 – 8; Konrad Gündisch, *Das Patriziat siebenbürgischer Städte im Mittelalter (Studia Transylvanica)*, Köln, Weimar, Wien: Böhlau, 1993, p. 67.

²⁹⁵ See Gündisch, *Das Patriziat*, p. 50-51.

²⁹⁶ On the urban charter as social contract avant la lettre, see for instance Katalin Szende, "Power and Identity. Royal privileges to towns of medieval Hungary in the thirteenth century", in M. Pauly, A. Lee (eds.), *Urban Liberties and Citizenship from the Middle Ages up to Now*, Beiträge zur Landes- und Kulturgeschichte, 9, Trier: Porta Alba, 2015, p. 47-56. As Szende has also pointed out, charters of urban privileges were not, by themselves, sufficient to ensure the prosperity of towns, and did not "produce a bourgeoisie" out of nothing. See Katalin Szende, "Was there a Bourgeoisie in medieval Hungary?", in Balász Nagy, Marcell Sebök, *The Man of Many Devices, Who Wandered Full Many Ways. Festschrift in Honor of János M. Bak*, Budapest: Central European University Press, 1999, p. 446-447;

²⁹⁷ Gündisch, *Das Patriziat*, p.66-67.

Southern neighbour, the city of Kronstadt, shared one particular advantage: they were not only located near the borders of the Hungarian Kingdom but were also situated in close proximity to natural mountain passes.²⁹⁸ This setting enabled the two cities to profit from the flow of foreign merchandise on its way westwards, with the added benefit of functioning as internal royal customs stations. The customs' revenues were leased out by the Kingdom to the cities following stealthy negotiations, alongside other sources of income such as the minting of coin: those city-dwellers who managed to place themselves at the top of this enterprise in the urban environments of fifteenth and sixteenth-century Transylvania would make a lasting seat for themselves at the table of political decision-making in the area.²⁹⁹ In some cases, fortunes which began to accumulate at this time were still decisive in the eighteenth century.³⁰⁰

Economic and commercial rights were an essential part of the charters of privileges granted by Hungarian kings to the newly-arrived settlers, charters which came in time to acknowledge the settlement's right to essentially govern itself.³⁰¹ A city could therefore also avail itself of the economic rights that came with being a landlord: it could regulate itself as a 'venue' of commerce and exchange, accrue revenues and invest them, and function as an 'enterprise'.³⁰² Moreover, such rights were directed both inward and outward, meaning that townspeople or certain privileged groups could trade freely within the boundaries of the Kingdom, while significant limitations were imposed on foreign merchants or specific types of merchandise. Despite needing to periodically obtain re-confirmations of their freedom to conduct long distance trade against infringements from other urban centres, by the 1350s merchants from Hermannstadt were travelling as far as Vienna without barriers.³⁰³

Nevertheless, the same charters were not only geared towards fostering urban economic prosperity, but, like the process of the *Ostsiedlung* itself, were part of a much broader foreign policy. For fourteenth and fifteenth-century Hungary, this generally meant encouraging

²⁹⁸ Niedermeier, *Städte, Dörfer, Baudenkmäler*, p. 42.

²⁹⁹ Maria Pákucs-Willcoks, *Sibiu-Hermannstadt. Oriental Trade in Sixteenth Century Transylvania*, Köln, Weimar, Wien: Böhlau, 2007, p. 20-21.

³⁰⁰ One of the best examples was Peter Haller, a merchant from Buda who had entered the municipal leadership of Hermannstadt at the latest around the mid-sixteenth century, and whose later descendants remained one of the leading noble families in the province, ascending to the governorship around mid-eighteenth century. On rise of the Haller family, see the most recent account by Ágnes Flóra, *The Matter of Honour: The Leading Urban Elite in Sixteenth Century Cluj and Sibiu*, PhD Thesis in Medieval Studies, Manuscript, Central European University, Budapest, 2014, p. 191-193.

³⁰¹ On the transition between privileges conceded to settlers and rights belonging to entire political communities, see Katalin Szende, "Iure Theutonico? German settlers and legal frameworks for immigration to Hungary in an East-Central European perspective", in *Journal of Medieval History*, Vol. 45, Issue 3, p. 360-379.

³⁰² Katalin Szende, "The Urban Economy in Medieval Hungary", in József Laszlovszky, Balázs Nagy, Péter Szabó, András Vadas (eds.), *The Economy of Medieval Hungary*, Leiden, Boston: Brill, 2018, p. 339.

³⁰³ Pákucs-Willcoks, *Sibiu-Hermannstadt. Oriental Trade*, p. 10.

Oriental trade to bypass previously employed channels and to flow through urban gatekeeping communities, such as Kronstadt or Hermannstadt, which would deprive rival states of revenue.³⁰⁴ Part of the privileges and freedoms bestowed upon the German settlers were staple rights, which would place them in a highly advantageous position, enabling them to control the extent and rhythm of long-distance international trade for certain routes. Staple rights would play an essential part in the long-term development of the Transylvanian Saxon urban centres during early modernity. Cities possessed of these rights could, in theory, compel foreign merchants travelling through their gates to halt their journeys for a set number of days and oblige them to sell their wares – at much lower prices – to German traders in bulk. Despite the differences in the strength of the privilege, and the competing interests of Transylvanian Saxon cities in the early stages of its definition and implementation, it undoubtedly encouraged economic growth. At the same time, the configuration of staple rights, burgeoning of commerce, and fortunate strategic position turned Hermannstadt and Kronstadt into highly appealing destinations for foreign merchants, from both the South and the North-West. Various groups of foreigners would find the Transylvanian Saxon cities appealing commercial hubs, where fortunes could be amassed quickly with the right connections and enough capital.³⁰⁵

It has been argued that this economic growth engendered by trade was not distributed evenly, with Kronstadt outpacing Hermannstadt by the beginning of the sixteenth century. According to earlier research, around the turn of the sixteenth century, Kronstadt was hailed as the largest commercial centre in Transylvania, second only to Ofen in the entire Kingdom. It was reputedly also the most populated and prosperous city in the area, while Hermannstadt and Klausenburg lagged behind on both counts.³⁰⁶ Still, despite these impressive achievements,

³⁰⁴ On this, as well as oriental trade in sixteenth-century Hermannstadt in general, see Pákucs-Willcoks, *Sibiu-Hermannstadt. Oriental Trade*, p. 7-9.

³⁰⁵ Another good example was one of Hermannstadt's mayors, Thomas Altemberger, who was instrumental in the codification of Saxon customary law. See Konrad Gündisch, *Siebenbürgen und die Siebenbürger Sachsen*, unter Mitarbeit von Mathias Beer, 2. Auflage, München: Langen Müller, 2005, p. 69; By far the most comprehensive account of foreigners establishing themselves in fourteenth and fifteenth-century Sibiu can be found in Flóra, *The Matter of Honour*, PhD Thesis, p. 56-60.

³⁰⁶ Maja Philippi, *Die Bürger von Kronstadt im 14. und 15. Jahrhundert. Untersuchungen zur Geschichte und Sozialstruktur einer siebenbürgischen Stadt im Mittelalter*, Köln, Wien: Böhlau, 1986, p. 92-93. Philippi argues that Kronstadt had reached a population figure of 9500 to 10.000 individuals, based on tax registers wherein almost 2000 taxpaying household heads were recorded. Prior to the 1784 census, the first to record the whole population, total population numbers were computed by multiplying the number of taxpaying households with an average of 5 persons/household. By the same logic, Philippi argues that Hermannstadt had reached a population figure of 8500 at the end of the sixteenth century (p. 93). Needless to say, these figures could both understate the actual urban population to a considerable extent: on the one hand, taxpayer households very often included servants, who were not included in this figure; on the other hand, taxpayer households were sometimes artificially merged or separated for fiscal purposes. The only quantitative insight they provide with some degree of certainty pertains to the size of an urban community's political core. This issue will be discussed in more detail in the following chapter.

Kronstadt would remain on a lower step on the symbolical ranking of Transylvanian Saxon urban settlements: at the head of the Transylvanian Saxon body politic stood the Saxon University, and its meeting place was Hermannstadt.

Just as the pre-Habsburg era was hailed as the golden age of the *Königsboden* by Transylvanian Saxon historiography, Hermannstadt was placed on the pedestal of political leadership by nineteenth and twentieth-century historical discourse.³⁰⁷ This position was not however purely symbolic, as the actual competencies of the city's municipal leadership evidenced. First, though the local municipal authorities in other Transylvanian Saxon cities dispensed justice and administered law within their walls, as per the charters they had been granted by the royal authority, the highest judicial forum for any Transylvanian Saxon remained the University, where any decision could be appealed.³⁰⁸ The University not only gathered periodically in the city, but also shared its leadership: it was headed by the city's Mayor (*Bürgermeister*), who, owing to his extended jurisdiction and attributions, earned the title of "Provincial Mayor" (*Provinzialbürgermeister*), given his handling of the nation's internal affairs between the meetings of the University. The city's Small Council (*Stadtrath*) was recognised as a "delegated University" and functioned as the Saxon nation's "administration committee".³⁰⁹

Further attesting to the city's political precedence was the overlap between the other highest municipal office and the estate leadership: the Royal Judge of Hermannstadt (*Königsrichter*) appointed by the Hungarian King, and the Saxon Count/Bailiff (*Sachsengraf*), who mediated between the nation and its liege, served on the princely council, and therefore occupied the highest office at the nation-estate level.³¹⁰ Hermannstadt's municipal leadership was also the decision-maker in the other stringent matter of the time, namely that of fiscality. During most of the early modern period, the Transylvanian Diet only agreed upon the total sum to be paid to the royal authority and divided the burden between the three major tax-paying entities – the Saxons, Szeklers, and the counties. The tax loads allocated to the Transylvanian Saxon nation

³⁰⁷ On Hermannstadt's role as capital of the Royal Lands, see Konrad Gündisch, "Nagyszeben mint erdélyi 'főváros'", in *Korunk*, Vol. 1, 2007, p. 21-28. A more cautious stance on this matter was provided by Joachim Wittstock, "Die Rede von der 'Haupt- und Hermannstadt'. Kommentare zum Anspruch, der Mittelpunkt zu sein", in *Historia Urbana*, Tome X, Issue 1-2, 2002, p. 171-185.

³⁰⁸ Philippi, *Die Bürger von Kronstadt*, p. 100.

³⁰⁹ Wolfgang Kessler, "Universitas Saxonum: Personenverband-Gruppenautonomie-Volksgruppe", in Wolfgang Kessler (hrsg.), *Gruppenautonomie in Siebenbürgen. 500 Jahre siebenbürgisch-sächsisch Nationsuniversität*, Köln, Wien: Böhlau, 1990, p. 4.

³¹⁰ See Kutschera, *Landtag und Gubernium*, p. 41-46, on the institution of the Saxon Count/Bailiff. Both English translations of the term 'Sachsengraf' are employed in secondary literature.

were then further divided by the city's leadership between the communities located on the Royal Lands.³¹¹ As eighteenth-century debates in the diet would show, the increasing fiscal pressures would turn this prerogative into a highly onerous and contentious task.³¹²

The city's political significance within the framework of Royal Lands grew most evident during times of crisis: when its autonomy was put to question, so was that of the entire Saxon nation. At the end of the first decade of the seventeenth century, Hermannstadt came under the attention of Gabriel Báthory, the Prince of Transylvania. Revelling in plundering the resources of the province's cities with costly and lavish events, and recognizing their economic and political potential – though not the means to exploit it to its fullest – Báthory had grown convinced that a policy of forceful appropriation was the best way to deal with the urban milieu.³¹³ According to a contemporary chronicler from the Transylvanian Saxon city of Schäßburg, Báthory had reportedly asked his audience during a celebratory gathering why an earlier King of Hungary had decided to besiege Hermannstadt. “It was said”, noted the chronicler, “that he had answered his question himself with the following words: Because the Saxons have an abundance of money!” and, addressing his lords, noted that “who should want to hold Transylvania in his grasp, must pocket the keys to the city of Hermannstadt, and so he shall have the Saxons under his power, to do with as he wishes.”³¹⁴ Following a series of unfortunate decisions in foreign policy, in December of 1610 Báthory proceeded to travel to Hermannstadt, where the Transylvanian Diet was about to be held. There he was received with a solemn ceremony by the citizenry, who had been instructed by their leadership to show the utmost of care for the “Generous Prince of the Land”, lest the city be passed over for the honour as meeting place for the Diet for another location such as Klausenburg.

The chronicler then recalled that the “poor blinded people” of Hermannstadt could do little to stop the unfolding of the events, constrained to simply watch as “their beautiful city, along

³¹¹ Katalin Péter, “The Golden Age of the Principality” in László Mákkai and Zoltán Szász, *History of Transylvania, Vol. II, From 1606 to 1830*, Social Science Monographs, Boulder, Colorado, Distributed by Columbia University Press, New York, joint publication with the Hungarian Research Institute of Canada, Social Science Monographs, Boulder, Colorado, Atlantic Research and Publications, Highland Lakes, New Jersey, 2002, p. 172.

³¹² On the contentions elicited by the division of tax burdens between the estates, see for instance Andreas Gräser, “Beitrag zur Geschichte des Siebenbürger Steuerwesens, umfassend die Jahre von 1720-1727“, in *Archiv des Vereins für Siebenbürgische Landeskunde*, IV. Band, 1850, p. 55-56.

³¹³ Péter, “The Golden Age of the Principality”, p. 17 – 19.

³¹⁴ Georg Kraus, “Siebenbürgische Chronik des Schäßburger Stadtschreibers Georg Kraus, 1608 – 1665“, *Herausgegeben vom Ausschuss des Vereines für Siebenbürgische Landeskunde*, I. Theil, Wien: Aus der Kaiserlich-Königlichen Hof- und Staatsdruckerei, 1862, p. 6; Prophetically, one of the attending lords, who would later on conspire to dethrone Báthory was said to have muttered in a low voice to his brethren, “Forsooth, lords, this knave will devour Transylvania!”.

with their wives, children, and all goods were surrendered wantonly to the enemies”.³¹⁵ Báthory, unwilling to use force if diversion could be employed, reportedly positioned himself on the city’s drawbridge, where he remained until the entire force of his 20.000-strong army passed through the gates³¹⁶ “following one another like a bound chain, nowhere separated.”³¹⁷ Unwillingly, the city became a princely residence for the first and last time in its history, and would shortly suffer the consequences of prolonged sieges by two different armies, caught in the “seesaw” politics characteristic to early modern Transylvania.³¹⁸ Even after it was freed with Ottoman aid, and Báthory succeeded by Gabriel Bethlen, its autonomy was not immediately reinstated. Though Bethlen had adopted a significantly different policy in regard to the estates and the Saxon cities, he was met with the concerted opposition of the latter: until Hermannstadt was entirely returned to the fold of the Saxon nation and its autonomy restored, the nation’s representatives withheld their oath of fidelity to the new prince.³¹⁹ What is more, any attempts by Bethlen to settle, even for a brief time, in Hermannstadt or any other major urban centre on the Royal Lands were summarily curtailed.³²⁰ Finally, the keys to the city were restored to the members of the town council in February 1614.³²¹

This brief but distressing episode of captivity and the ominous reluctance to restore its autonomy underpinned the Transylvanian Saxons’ general distrust towards the fickleness of royal power. The perpetual resistance to any ingression within their cities’ walls was fostered by the belief that a similar situation might arise at any moment. This stance was repeatedly upheld throughout the coming centuries, despite attempts to open up this category of urban space towards the non-Saxon nobility or other groups.³²² Nevertheless, this status-quo would

³¹⁵ Kraus, “Siebenbürgische Chronik”, p. 6-7.

³¹⁶ Péter, “The Golden Age of the Principality”, p. 22.

³¹⁷ Kraus, “Siebenbürgische Chronik”, p. 7.

³¹⁸ Péter, “The Golden Age of the Principality”, p. 30; On the place of Hermannstadt and the other Saxon cities in the broader political dealings of the time, see also Gerald Volkmer, *Siebenbürgen zwischen Habsburgermonarchie und Osmanischem Reich. Völkerrechtliche Stellung und Völkerrechtspraxis eines ostmitteleuropäischen Fürstentums 1541- 1699*, München: De Gruyter Oldenburg, 2015, p. 320 – 328.

³¹⁹ The complete answer of the Saxon estate to Gabriel Bethlen, submitted on the 23rd of October 1613, is provided by Gustav Seivert, *Akten und Daten über die gesetzliche Stellung und den Wirkungskreis der sächsischen Nations-Universität*, Hermannstadt: S. Filtsch’s Buchdruckerei, 1870, p. 75ff. It is worth noting the article concerning the return of Hermannstadt to the Saxon fold, p. 75: “Cibinium sive metropolis Universitatis Saxonicae Nationis in Transsilvania a Bathoreo contra omnia jura, vi et fraudulenter occupa cum omnibus munimentis et bellicis tormentis instrumentis eo tempore illic existentibus restituitur.” Another contemporary document, drafted by the municipal leadership of Kronstadt, engaged the city “from today onwards, to the defense and preservation of all our privileges and freedoms, of the entire Esteemed University, to the liberation of Hermannstadt, and all cities and seats...”. See Seivert, *Akten und Daten*, p. 78.

³²⁰ Péter, “The Golden Age of the Principality”, p. 41-43.

³²¹ Gustav Seivert, *Die Stadt Hermannstadt. Eine historische Skizze*, Hermannstadt: Theodor Steinhausen, 1859, p. 81.

³²² Péter, “The Golden Age of the Principality”, p. 43, 176.

only last until 1687, when an agreement against the Ottomans reached between the Habsburgs and the ruler of Transylvania provided that Habsburg troops would receive winter housing in twelve localities, four of which were located on the Royal Lands.³²³

In the same agreement, the Habsburgs engaged themselves to prevent any damages from coming to those places where the Habsburg army was billeted, as well as to limit billeting to those homes in Hermannstadt which were not owned by Transylvanian Saxon nobility or its municipal leadership.³²⁴ In February 1688, the General Commander Count Antonius Caraffa, one of the artisans of the Leopoldine Diploma and early Habsburg policy in Transylvania, officially entered Hermannstadt, bringing with him the imperial troops who would from thereon constitute a constant presence in the urban landscape.³²⁵ Reviled as “the special patron of the [Transylvanian] Saxons” by the other estates in the province, in the spring of 1688 Caraffa invited the representatives from all three provincial estates to the city, where they swore allegiance to the Habsburgs and formally extricated themselves from the “Ottoman yoke”.³²⁶ The Ottoman “wooden yoke” had been replaced by the Habsburg “iron yoke” through Caraffa’s intercession, as one Hungarian nobleman described the shift in allegiance.³²⁷ Hermannstadt had paved the way to new beginnings, and the rest of the Saxon nation would have to follow, willingly or not.³²⁸

In understanding the internal functioning of the city and how it influenced individuals’ behaviours, one of the first questions to be addressed concerns precisely what kind of legal entity it constituted. A city’s legal standing influenced not only its external prerogatives and

³²³ According to Roth, “Das Diploma Leopoldinum”, p. 4, the agreement made in Blasendorf/Blaj concerned ten settlements in which the army would be stationed, as opposed to two, as had been originally discussed.

³²⁴ Volkmer, *Siebenbürgen zwischen Habsburgermonarchie und Osmanischem Reich*, p. 472-473.

³²⁵ Volkmer, *Siebenbürgen zwischen Habsburgermonarchie und Osmanischem Reich*, p. 474.

³²⁶ Roth, “Das Diploma Leopoldinum”, p. 5.

³²⁷ Transylvanian Saxon historiography was quick to emphasize all negative aspects engendered by this new ‘yoke’. It is possible that works written during the 1970s and 1980s by Transylvanian Saxon historians who wished to see their writing published in communist Romania deliberately highlighted the evils of imperial rule, perhaps in order to make Saxon history more palatable for a nationalistic regime that vilified national minorities. The existence of contradictory opinions regarding the Habsburg takeover among the Saxons is however undeniable. The burdens imposed on the Royal Lands owing to the presence of the military were likewise consistent and ever-increasing.

³²⁸ Not all cities had been as eager as Hermannstadt to receive the Habsburg freedom. As has been amply discussed in Transylvanian Saxon historiography, Kronstadt vehemently opposed the shift in allegiances, rebelling against the Habsburg forces. In Bistritz, the army was reported to have dealt ‘severely’ and ‘objectionably’ with the city’s inhabitants. On the ‘civil rebellion’ in Kronstadt and the ensuing fire which lent the Black Church its current appearance, see Maja Philippi, “Die Zeit des Übergangs von der Türkischen zur Österreichischen Herrschaft”, in Carl Göllner, *Geschichte der Deutschen auf dem Gebiete Rumäniens, Erster Band. 12. Jahrhundert bis 1848*, Bukarest: Kriterion Verlag, 1979, p. 224-227. The ‘yoke’ metaphor is attributed by Philippi (p. 230) to the Hungarian nobleman Michael Cserey.

duties, but also the shape and characteristics of its administration, the opportunities it afforded to its inhabitants, and the roles it imposed upon them. It is therefore necessary to return to both the foundations of the Transylvanian Saxon autonomy as well as to Leopold's Diploma, to see how it managed the complex situation it had inherited. The following section therefore examines the tenets of Hermannstadt's internal autonomy – as a direct reflection of Transylvanian Saxon fundamental privileges –, the resulting shape and content of the urban government, and how these evolved during the eighteenth century.

Hermannstadt's set of prerogatives and the ensuing shape of its administration shared much with both the free royal cities in the Kingdom of Hungary, as well as the Reichstädte, the imperial cities whose allegiance was owed directly to the Holy Roman Emperor. At the same time, given its location on the Royal Lands, it was also committed to preserving the integrity of the Transylvanian Saxon territorial estate. Its accountability was twofold, mirroring the duumvirate created by its mayor and its royal judge³²⁹: it was tethered between the higher authority ruling the province and the Saxon nation, a subject of two masters. At the same time, it was also the *Haupt- und Hermannstadt*, the nearest proxy for the embodiment of the Saxon estate, apart from the University in conflux. After Caraffa's entry into the city, this delicate balance would be difficult to maintain.

As the previous chapter already noted, the Diploma preserved the existing status-quo at provincial level, ensuring that the estates' rights and privileges would be upheld, that only native-born individuals would be appointed to positions of leadership, and that the confessional landscape remained intact. Prior to describing the shape of the future provincial administration in broad strokes, the diploma noted that, as per the previous agreements, the imperial and royal power confirmed that “the native laws and legal customs, as well as the privileges, honours and offices” would be kept unchanged.³³⁰ The administrative and political order of the province (*politia*) was likewise maintained, the provincial parliament would be summoned yearly, and the estates would go on dividing the fiscal burden among themselves as before.³³¹

However, the Diploma's second article was likely of more interest to the Transylvanian Saxons, and of direct relevance to their conceptualization of the Royal Lands: Leopold had also confirmed “all the donations, grants, privileges, letters of nobility, titles, offices, honours, and

³²⁹ The term of “duumvirate” had been used for instance in late seventeenth and early eighteenth-century municipal statutes, as noted by the Transylvanian Saxon legal historian and jurist Friedrich Schuller von Libloy, *Siebenbürgische Rechtsgeschichte, Compendarisch dargestellt, I. Band: Äußere Rechtsgeschichte und öffentliches Recht*, Hermannstadt: Georg v. Closius, 1855, p. 442-443.

³³⁰ I use the edition of the Diploma published and translated in Kutschera, *Landtag und Gubernium*, p. 334.

³³¹ Roth, “Das Diploma Leopoldinum”, p. 7. The amount to be paid yearly in taxes was settled in the same document but would be exceeded regularly in the years to come.

[...] finally all kinds of benefices and estates (*Güter*), which had been made or gifted to either private persons or cities, communities and groups”. The rights to these gifts would be maintained in perpetuity, without ingression by others.³³² Although this provision was geared more toward maintaining the allegiance of the Hungarian nobility and aristocracy, as the Habsburgs proceeded more cautiously in the relationship with the nobility – and the estates – than they had in the Bohemian lands, it would be repurposed to suit the Transylvanian Saxons’ strategic needs in the coming century, and frequently employed as an argument for the maintenance of exclusive property rights on the Royal Lands. Historiography acknowledges that the *Königsboden* could be said to have been constituted as a benefice, granted to a collective vassal.³³³ The confirmation of the privileges received by the Saxons in the “province” of Hermannstadt in 1224 had defined the settlers’ rights as exerted within their own borders (*Hattert*), and indelibly tied the existence of a privileged group of individuals - or communities - to the very lands on which they resided, regardless of the shape their settlements took.³³⁴ For this reason, the *Andreanum* has been described as “Stadt und Landrecht in einem”.³³⁵ In virtue of this line of reasoning, the autonomy of the Transylvanian Saxon nation also resided in its exclusive property rights on the Royal Lands, and, more importantly, within its cities.³³⁶

The territorial contours of this autonomy were therefore clear: a royal free city Hermannstadt might have been, but it was also part and parcel of the Transylvanian Saxon nation-estate. As such, the urban leadership did not shoulder responsibility solely for the city’s inhabitants, but also had to strive for a higher kind of common good, that of its nation-estate. These were not always identical during the eighteenth century. This positioning distinguished Hermannstadt from other royal free cities in the former Kingdom of Hungary, and from its counterparts on the Royal Lands. The same positioning would mean that Habsburg manoeuvres to re-interpret the Diploma to serve new purposes or curtail its provisions altogether would be felt more acutely in Hermannstadt than in other Transylvanian Saxon cities. Although it is undeniable that other cities such as Kronstadt were significantly affected by the Habsburg

³³² Kutschera, *Landtag und Gubernium*, p. 336 – 337.

³³³ Kessler, “Universitas Saxonum”, p. 12-13.

³³⁴ Compare for instance the formulation employed by Wolfgang Kessler, “Gruppenautonomie”, p. 10: “Die Siedlergemeinschaft war ein Personalverband, dem innerhalb des im Andreanum umschriebenen Gebiets politische und Besitzrechte verliehen wurden.“ [my emphasis]

³³⁵ Dirk Moldt, *Deutsche Stadtrechte im mittelalterlichen Siebenbürgen. Korporationsrechte – Sachsenspiegelrecht – Bergrecht*, Köln: Böhlau, 2009, p. 51-52.

³³⁶ See Schuler von Libloy, *Siebenbürgische Rechtsgeschichte. Compendarisch dargestellt*, p. 424-425.

takeover, it was Hermannstadt which experienced the greatest transformations owing to its unmediated engagement with the Empire.³³⁷

The Diploma also ensured that “honours and offices” would not be removed from their bearers, certifying that each estate could count on the continued guidance of its leadership. This meant that the Saxon University and the municipal leadership at the core of the Transylvanian Saxon nation would retain their attributions and autonomy. The administration that the Habsburgs had engaged themselves to observe has been the object of a consistent and constant strand of historiographic enquiries since the late nineteenth century.³³⁸ The Transylvanian Saxon capital and those running its affairs during early modernity likely rate as two of the best researched topics in the history of the province. Over time, light has been shed from multiple vantage points on a myriad of issues: the exemplary character of urban governance in the sixteenth century has been emphasized in a recent monograph³³⁹, while the political leadership of Hermannstadt has earned itself a place as a term in a broader comparison of urban government in fifteenth and sixteenth-century Transylvania.³⁴⁰ The evolution of the city’s infrastructures of authority in the formative period of the thirteenth and fourteenth centuries has been discussed in conjunction with the evolution of Transylvanian Saxon social structure,³⁴¹ while a more recent endeavour has traced the substantial impact of kinship ties in perpetuating dynasties of political power-holders in the urban administration during the first half of the eighteenth century.³⁴² However, historians have also shown that this did not entirely prevent successful attempts by foreign individuals to gain access to the upper echelons of the body

³³⁷ This point is also made by Harald Roth, *Hermannstadt: kleine Geschichte einer Stadt in Siebenbürgen*, Köln, Weimar, Wien: Böhlau Verlag, 2006, p. 150; Angelica Schaser, in *Reformele iosefine*, p. 109, argues that “Sibiu was the barometer for Vienna’s degree of influence in the province”, a statement that requires some nuancing.

³³⁸ This is not to say that the history of Hermannstadt, like that of other Transylvanian Saxon settlements, did not draw the attention of various chroniclers and scholars prior to the nineteenth century. While the first modern history of the city was published in 1858 by Gustav Seivert, historical descriptions of the city had begun to be published in various local outlets since the latter half of the eighteenth century: an extensive ‘topographic description’ of the city appeared over several issues 1784 of the *Siebenbürger Zeitung*, the first periodical published in the province.

³³⁹ Mária Pakucs-Willcoks, *Sibiul secolului al XVI-lea. Rânduirea unui oraş transilvănean*, Bucureşti: Humanitas, 2018.

³⁴⁰ The most cogent and recent contribution to the history of the urban administration of Hermannstadt and Klausenburg during the early modern period was made by Florá in *The Matter of Honour*, available online at <http://www.etd.ceu.edu/2014/mpfla01.pdf> [accessed 06.01.2020]. An extended version was recently published under the title *The Matter of Honour. The Leading Urban Elite in Sixteenth Century Transylvania*, Turnhout: Brepols, 2019, to which I did not unfortunately have access.

³⁴¹ Gündisch, *Das Patriziat*. Several of the contributions included in Kessler (ed.), *Gruppenautonomie* also touch upon this issue.

³⁴² Sever Oancea, “The ‘manger’ of the elites? The town council of Sibiu (ca. 1700-1750)”, in *Annales Universitatis Apulensis Series Historica*, Vol. 20, Issue 1, 2016, p. 97-111.

politic throughout the early modern period.³⁴³ Urban administration entangled not only with social orders, but also with the legal history of medieval and early modern Transylvania: the legal frameworks underpinning the prerogatives and duties of those who wielded power received heavy emphasis in historiography during the second half of the nineteenth century.³⁴⁴ Various functionalist approaches to Hermannstadt's municipal leadership also figure in monographs dealing with the city's history over long stretches of time, in broader works focusing on the entirety of Transylvanian Saxon administration on the Royal Lands, or in literature devoted to the Saxon University.³⁴⁵

Some of the most valuable and extensive contributions to the entangled history of eighteenth-century Transylvanian politics as they played out on the scene of nation's capital were made during the second half of the nineteenth century. These were the result of assiduous work by members of the local-level Transylvanian Saxon intelligentsia, and integral parts of the broader *Landeskunde* movement. A teacher at the Hermannstadt Gymnasium, Heinrich Herbert was one of the city's most prolific local historians, publishing several seminal studies on public life in the city³⁴⁶, its guild system³⁴⁷, the upper echelons of the urban administration³⁴⁸, as well as the income and expenses of the municipal administration during the rule of Charles VI.³⁴⁹ These infrastructures of authority were equalled in interest by those populating them: early prosopographic endeavours focusing on certain layers of the urban *cum* national leadership, such as the provincial mayors, began to appear in print as early as the 1780s.³⁵⁰ Angelica Sachser tackled the issue of Concivility and its short-term effects until the

³⁴³ Sever Oancea, "Integration through Confession? Lutheran Migration from Upper Hungary to Sibiu after 1671-Isaak Zabanius", in *Hungarian Historical Review*, Vol. 6, Issue 3, 2017, p. 502-519.

³⁴⁴ Schuler von Libloy, *Siebenbürgische Rechtsgeschichte. Compendarisch dargestellt*. This topic has been revived somewhat in the past two decades, though the history of administration and law in the eighteenth and nineteenth centuries remain less attractive than the era of the Principality.

³⁴⁵ Roth, *Hermannstadt*; Konrad Gündisch, "Zur Entstehung der Sächsischen Nationsuniversität", in Kessler (ed.), *Gruppenautonomie*, p. 63-90; Walter Dausch, "Die Nationsuniversität der siebenbürger Sachsen im 16. und 17. Jahrhundert", in Kessler (ed.), *Gruppenautonomie*, p. 179-215.

³⁴⁶ Heinrich Herbert, "Öffentliches Leben in Hermannstadt zur Zeit Karls VI. Mittheilungen aus den Hermannstädter Magistratsprotocollen", in *Archiv des Vereins für Siebenbürgische Landeskunde*, XXVIII. Band, p. 109-136.

³⁴⁷ Heinrich Herbert, "Das Zunftwesen in Hermannstadt zur Zeit Karls VI. Mittheilungen aus den Hermannstädter Magistratsprotocollen", in *Archiv des Vereins für Siebenbürgische Landeskunde*, XXVII. Band, 1897, p. 451-527, 531-586.

³⁴⁸ Herbert, "Der innere und äussere Rath Hermannstadts", p. 347-485.

³⁴⁹ Heinrich Herbert, "Der Haushalt Hermannstadts zur Zeit Karls VI. Mittheilungen aus den Hermannstädter Magistratsprotocollen. A. Die Bürgermeister-Rechnungen; B. Die Wirtschaftsrechnungen", in *Archiv des Vereins für Siebenbürgische Landeskunde*, XIV. Band, Heft I, p. 82-229, Heft III. 438-518.

³⁵⁰ Martin Hochmeister, *Kurze Geschichte der Provinzial Bürgermeister von Hermannstadt in Siebenbürgen*. Hermannstadt: bei Martin Hochmeister, K.k. priv. Dikasterial Buchdrucker, 1792; According to Florá, *The Matter of Honour*, PhD Thesis, p. 28, the first explicitly prosopographic work, written by Johann Seivert, focused on the parish preachers of Hermannstadt rather than its secular elite, and was published by one of the local printing presses in Hermannstadt in 1777. Several similar works would follow in the 1780s and 1790s.

end of the eighteenth century in a masterful study, which also encompassed an overview of the Habsburg administrative reforms implemented in Transylvania and their echo in Hermannstadt.³⁵¹

Given the existence of this very consistent strand of descriptions and narratives, this section will briefly sketch out the contour of the administration as it appeared in the eighteenth century, with a look toward the benefits it brought to its members, at different levels. It will then discuss the Habsburg accounts which emphasized the extractive and arbitrary character of the national and urban administration, placing them side-by-side with the reports of the university and the Small Council. Finally, it will cursorily examine some of the policy changes implemented at Habsburg initiative concerning the urban and national government.

The gradual definition of the urban administration was closely tied to the specific social and economic layering processes which occurred within the Saxon lands, while also mirroring various tendencies of specialisation visible in other Central or Western European cities.³⁵² The main tenets of this infrastructure were rooted in the successive privileges obtained by the German settlers from the Hungarian Kings, which were buttressed by the notion of so-called “communal autonomy”. This involved a complex of personal freedoms granted to the politically-endowed members of the community, local self-administration, direct imperial or in this case, royal rule, as well as legal jurisdiction extended over both people and land.³⁵³ Transylvanian Saxon scholarship has argued strongly that the privileges granted to the German settlers concerned not only the right to elect their own judges and to wield judicial power over their own kind, but rather extended to the entire system of self-government.³⁵⁴ The extended *Beamtenwahlrecht* was regarded as the cornerstone underpinning the Transylvanian Saxon nation’s survival, as expressed by Michael Conrad von Heydendorff in 1784: if a nation was not ruled by its own kind, then it would disappear into servitude.³⁵⁵

³⁵¹ Angelica Schaser, *Josephinische Reformen und sozialer Wandel in Siebenbürgen*, Stuttgart: Franz Steiner Verlag, 1989, translated in 2000 as *Reformele iozefine în Transilvania și urmările lor în viața socială. Importanța edictului de concivilitate pentru orașul Sibiu*, Sibiu: Hora Publishing House. Despite the wealth of information provided by Schaser, and the use of wide-ranging archival material from Vienna, Budapest, and Sibiu, the perspective employed was in many ways influenced by early and mid-twentieth-century Transylvanian Saxon and Hungarian scholarship, casting the events of the eighteenth century in the light of the stark nationalist “struggle” of the late nineteenth century.

³⁵² Gündisch, *Das Patriziat*, p. 59.

³⁵³ Gündisch, *Das Patriziat*, p. 62.

³⁵⁴ Florá, *The Matter of Honour*, PhD Thesis, p. 50, brings this into question; Moldt, *Deutsche Stadtrechte*, p. 43 also notes that the *Andreanum* referred explicitly only to the election of judges.

³⁵⁵ Theil, “Michael Conrad von Heydendorff. Eine Selbstbiographie”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, XVIII. Band, I. Heft, 1883, p. 103-104: “Denn ein Volk scheint dann seine Freiheit nicht mehr zu haben, wenn es nicht sich selbst verwaltet, und ist dessen Diener, der seine Geschäfte in seiner Gewalt hat.”

The contours of the urban government of Hermannstadt during the early eighteenth century overlapped to a great extent with those of its late medieval predecessor. Although very similar in structural terms to other free royal cities in Transylvania and the Kingdom of Hungary, Hermannstadt's leadership nevertheless exhibited various particularities, many of which derived from its function as proxy for the University or from its quality as landlord as a result of land grants. Given that it was the first settlement to obtain far-reaching charters in the area, Hermannstadt was elevated above the other seats on the Royal Lands, which were only granted such privileges later on, modelling their relationship to the Hungarian Crown on the exemplary situation of future capital of the nation. Thus, the surrounding seven seats in the area neighbouring Hermannstadt – the *provincia Cibiniensis* - had been placed in a semi-subordinate relationship to the city, even prior to the establishment of the coalition which united all Saxon-inhabited units into a single *universitas*. Given that each seat had been furnished with the same judicial accoutrements as Hermannstadt, each had a Seat Judge (*Stuhlrichter*): over time, instead of referring to this sub-section of the Royal Lands as the Seven Seats, the title of *Siebenrichter* began to be employed to designate their relationship to the head of all judicial procedure, the nation's judicial representative in Hermannstadt.³⁵⁶ Hermannstadt's precedence in political terms was thus reflected in a markedly more complex administration, compared to other free royal cities on the Saxon lands, as well as compared to the other Saxon seats and districts. Further complicating this issue, the Seven Judges had been granted donations of villages and lands in the area surrounding Hermannstadt, which they administered jointly under the leadership of the University – in fact the Small Council of Hermannstadt.³⁵⁷ Integrated within these possessions were two so-called 'filial' seats of Talmetsch and Selische, smaller-scale units, subordinated to an even greater degree to Hermannstadt via their ownership by the Seven Judges.³⁵⁸ Over the course of the eighteenth century, some of these administrative sub-units would begin to question the salience of their relationship of subservience to Hermannstadt – though not necessarily questioning their part in the *natio* as such. Finally, another office which had developed owing to Hermannstadt's extended jurisdiction was the so-

³⁵⁶ The Seven Seats were Broos, Leschkirch, Mühlbach, Reps, Reußmarkt, Schäsburg and Schenk (later referred to as Gross Schenk). According to Müller, *Stuhle und Distrikte*, p. 186, the seats had emerged during the fourteenth century as "appendages" (Anhängsel) to Hermannstadt.

³⁵⁷ Anton Friedrich Büschings' famous *Neue Erdbeschreibung, Des ersten Theils Zweyter Band, welcher Preußen, Polen, Hungarn, Siebenbürgen, Gallicien und Lodomerien, die europäische Türkei mit den dazu gehörigen und einverleibten Ländern enthält*, Bey Carl Ernst Bohn, 1777, p. 1638, notes that the possessions of the Seven Judges consisted in 9 villages, and also included the Rothen-Thurm mountain pass, some two miles' distance from the capital.

³⁵⁸ Müller, *Stuhle und Distrikte*, p. 308-309. It happened that many of the villages that were under the direct ownership of the city via these land grants were inhabited primarily by Wallachian peasants.

called Judge of the Seven Villages (*judex septem pagorum*): unsurprisingly, the titulature stemmed from the seven villages it had under its administration which had belonged to the nearby abbey of Kertz (Cârța).³⁵⁹

Viewed broadly, the city was possessed of three major categories of officials: the highest level of leadership was provided by the mayor (*Bürgermeister, consul*), joined by the two judicial positions of Royal Judge and Seat Judge³⁶⁰; on a second level of authority were the city's steward (*Stadthann, villicus*), and the city notary, who was also referred to as a provincial notary, in reference to Hermannstadt's provincial-level precedence³⁶¹; the third circle of authority was that of the small or inner town council, comprising a dozen or more members, referred to as senators (*Rathsverwandten*), who shared between them the burdens of various "small senatorial offices" (*officiola senatorialia*) which covered a wide extent of the urban administration³⁶²; finally, the broadest level of leadership in terms of the size of its membership was the great or outer council (*äußere Rat*), also referred to as the Community of One Hundred Men (*Centumvirat, Hundertmannschaft*), which supplied the recruitment pool for the higher structures of authority. The great council served as a balance to the executive and legislative power of the small council, although it had the ability to pass its own statutes, albeit in a very limited fashion. Its members also fulfilled a wide variety of tasks (*Nebenämter, officiola*), which, as in other East-Central European urban milieus, gave the impression of a bustling and proto-democratic urban governance.³⁶³ During the eighteenth century, even more positions would be created, with an increasing number of individuals filling their ranks: by the mid-century, the city administration ranked among the greatest urban employers, continuing to fuel Hermannstadt's position as a residential and capital city. As the follow section shows, the growth of urban administration also had its drawbacks, which began to manifest around the same time.

Two issues should be noted at this point: firstly, Hermannstadt had been seeking to fashion itself as a republic throughout the medieval and early modern periods, a tendency that

³⁵⁹ Müller, *Stuhle und Distrikte*, p. 271; A complete overview of all villages subordinated to the Seat and City of Hermannstadt is provided by Herbert, "Der Haushalt Hermannstadts", p. 174-175.

³⁶⁰ The office of Seat Judge or Stuhlsrichter had evolved from the position of the city judge, paralleling the extension of the city's jurisdiction and control over the territory surrounding it. It had been a separate office in Hermannstadt since at least the early fourteenth century. See Müller, "Die Entstehung der Stühle, des Königs- und des Stuhlsrichteramtes in der Hermannstädter Provinz oder den sogenannten sieben Stühlen", in *Korrespondenzblatt des Vereins für Siebenbürgische Landeskunde*, XXIX. Band, 1906, p. 49-63.

³⁶¹ On the office of the *Stadthann*, see Müller, *Stuhle und Distrikte*, p. 39-52; on the office of notary, p. 52-58.

³⁶² On the *Stadtrat* – the Small or Inner Council – see Müller, *Stuhle und Distrikte*, p. 58-73.

³⁶³ As Miller, *Urban Societies*, p. 134 has aptly characterised the situation, the fact that so many individuals were involved at this level of administration "psychologically and optically democratized the political system."

did not come to a halt in the eighteenth century.³⁶⁴ On the contrary, it may be argued that civic republicanism witnessed an increased effervescence during the eighteenth century, as the stakes of the game were raised with the entry of the Habsburg rule onto the political scene and the beginning of a far-reaching process designed to level legal distinctions, particularism, and autonomies.³⁶⁵ Hermannstadt's republicanism had been directed both outward and inward: it worked not only to strengthen the contours of autonomy in relation to the exterior – vis-a-vis the Hungarian Kings and the other estates – but was also translated into a set of civic values that preserved the integrity of the urban fabric and concord within the community.³⁶⁶ Secondly, although the two main layers in the hierarchy of urban governance have been assimilated over time to different – or even opposing – social classes, with the lower and more populous council constituting the 'democratic' element which held in check the 'urban gentry' of the small council, the distinction is not an entirely productive one for the eighteenth century.³⁶⁷ While conflicts at institutional level or between various cities within the national fabric can sometimes be read as social conflicts between different groups whose grasp on power stemmed from either the political or the economic domains, this constitutes a simplifying interpretation even for the sixteenth and seventeenth centuries.³⁶⁸ Eighteenth-century sources do not break with the earlier terminological tradition, the city continuing to fashion itself as a republic and employing classicizing language.³⁶⁹ From the highest to the lowest public official, Roman cognates were used to designate those serving the public, even after the language of local administration had shifted towards German within most official contexts.

³⁶⁴ On Hermannstadt's self-fashioning as an urban republic in the sixteenth century, see for instance the valuable and balanced discussion in Pakucs-Willcoks, *Sibiul secolului al XVI-lea*, p. 53-55, 61-63;

³⁶⁵ The relationship between civic republicanism, urban autonomy, and state-driven policies of centralization in eighteenth-century Poland has recently been discussed of by Curtis G. Murphy, *From Citizens to Subjects: City, State, and the Enlightenment in Poland, Ukraine, and Belarus*, Pittsburgh, PA: University of Pittsburgh Press, 2018; Not unsurprisingly, the general direction of the grand narrative was similar to that which has been formulated about Hungary: the failure to thrive was due to the failure of liberalism, which in turn owed much to particularism, autonomy, and oligarchic urban elites.

³⁶⁶ On urban republicanism, see the classical study by Heinz Schilling, "Gab es im späten Mittelalter und zu Beginn der Neuzeit in Deutschland einen städtischen 'Republikanismus'? Zur politischen Kultur des alteuropäischen Stadtbürgertums," in Helmut G. Koenigsberger (ed.), *Republiken und Republikanismus im Europa der Frühen Neuzeit*, München: Oldenbourg, 1988, p. 101-143.

³⁶⁷ See for instance Kutschera, *Landtag und Gubernium*, p. 47, which refers to the Great Council as the 'democratic element'. The clearest reading of the two urban institutions as representatives of antagonistic classes is provided by Gustav Gündisch, "Soziale Konflikte in Hermannstadt um die Mitte des 17. Jahrhunderts", in *Forschungen zur Volks- und Landeskunde, Vol. 1*, 1959, p. 75-110; A more recent discussion of the political elites in eighteenth century Hermannstadt – Oancea, "The 'manger' of the elites?" – continues within the same general framework.

³⁶⁸ See Dausch, "Die Nationsuniversität der siebenbürger Sachsen", p. 191-192, on the conflict between the mayor of Hermannstadt and the city steward of Kronstadt.

³⁶⁹ On the role of terminology in the fashioning of classicizing urban political identities, see for instance Carrie Benes, *Civic Identity and the Classical Past in Northern Italy, 1250-1350*, Pennsylvania: Pennsylvania State University Press, 2011, p. 13-36.

The city's Great Council was replenished with new members periodically, according to the needs of the city and the opening of new positions, generally through the passing of councilmen. Despite their label, the *Centumviri* had only initially begun as a gathering of one hundred individuals, reaching over 130 persons in the early eighteenth century.³⁷⁰ In other smaller towns of lesser political importance, such as neighbouring Mediasch, the Great Council only comprised some forty members.³⁷¹ To be elected to the Great Council, one had to fulfil several conditions: to be a full-rights burger of the city, which involved ownership of real property within the city; to be married; finally, to either be member of a guild, part of the established urban elite, or employed in a liberal field (physician, law graduate, etc.).³⁷² The *Hundertmänner* not only provided the recruitment pool for senators, but also voted to elect the highest officials, therefore in theory exerting control over the representation of the nation at its highest executive level. The members of the Council of One Hundred Men were in turn elected from a few select candidates generally proposed by the senators or other councilmen, and therefore did not represent the city – nor the nation – at large. However, entry into the Great Council meant the first step on the road to political power.

Besides gathering periodically to discuss various matters of importance to the city, the members of the Great Council were also engaged in an entire host of so-called *Nebenämter*, or by-offices. A lengthy list of offices, often supported by adjunct positions, contributed both to the image of bustling administration and to the actual involvement of a great deal of individuals directly in the running of the city's affairs. What seemed like an army of inspectors, commissioners, and scribes were enlisted to provide oversight in matters of public administration. Some were charged, for instance, with periodically reviewing and controlling the affairs of the city's main sources of *naturalia* (*Holzkommisar*, *Heukommisar*, *Bräuhauskontrollor*, *Hopner*, *Mühlherr*, etc.), which were essential to the urban economy as they helped the Seat to cover the ever-increasing contributions in kind required by the Habsburg military.³⁷³ As Saxon historians have pointed out, it is possible that this extensive

³⁷⁰ Herbert, "Die innere und äußere Rath", p. 380.

³⁷¹ Müller, *Stuhle und Distrikte*, p. 76.

³⁷² For an extensive discussion of the historical origins of the institution of the Great Council, its election procedures, the scope of its attributions, and the basic preconditions one had to fulfil prior to becoming a Centumvir, see Müller, *Stuhle und Distrikte*, p. 75-84.

³⁷³ According to Herbert, "Der Haushalt Hermannstadt", p. 84-85, it was sometimes easier to purchase the necessary *naturalia* directly where they were supposed to be delivered to the army, as was for instance the case in November 1739-1740, when the Seat was required to speedily dispatch 1800 bales of hay to Broos (Orăştie), but only 400 could be collected. The commissioner in charge of delivering the goods, the city captain (*Stadthauptmann*) Michael Engyeter had deftly dealt with the Gubernium's local representative, and managed to have a somewhat reduced quantity accepted after "surrendering" some of the hay to the intermediary.

administrative apparatus had also been developed with the intent to maintain the greatest part of the council members occupied, in order to deflect attention from the inner council's administration of political affairs with a significantly higher potential for contention.³⁷⁴

While it might seem like the list of those who administered the city's affairs ended with the *Centumviri*, this was not in fact the case: a considerable part of the tasks involved by the day-to-day handling of urban affairs were accomplished by city employees who were not necessarily possessed of political rights, unlike their counterparts in the Great Council. Towards the mid-eighteenth century, the category of the so-called *salaristae* or salaried employees stretched in several directions, including offices which dealt with the defence of the city (18 *vigiles ad portas*, 6 *portarum custodes*, 8 *equites civitatibus*, 32 *darabantones*, 15 *szabadasones*³⁷⁵), provided service in various milieus (*famulus nosocomii*, *villicats Diener*, *Judicats Diener*³⁷⁶), or ensured the proper management of the city's surroundings and infrastructure (2 *nemoris civitatis custodes*, 2 *hortorum civitatis custodes*, 3 *camporum custodes*, 2 *fontium curatores*³⁷⁷). Forest custodians were also employed to watch over the woods in some of the city's neighbouring villages (*custodes sylvae Bongardensis*), mirroring the extended jurisdiction of the city over its surrounding territories. Hermannstadt's attributions in service of the Transylvanian Saxon nation also required the service of specially designated employees, such as the four *equites in servitiis nationalibus*, or the more important "Agent" in Vienna, who mediated on behalf of the nation in urgent matters when institutional channels proved insufficient or too slow for the task.³⁷⁸ The office of "agency" in the service of a particular group or individual's goals had been institutionalized at the latest towards the end of the seventeenth century, when agents for the various churches in Transylvania had begun to

³⁷⁴ Müller, *Stuhle und Distrikte*, p. 84, who seems to agree with G.A. Schuller's assessment that the flurry of by-offices was designed to prevent "scharfer Opposition gegen die Magistratsverwaltung."

³⁷⁵ *Vigiles ad portas* – gate watchmen, Thorhütter; *portam custodes* – captains of the gate guard, Thorhauptmänner; *equites civitatibus* – city riders, likely serving as messengers, Stadtritter/Stadtreuter; *darabantones* – Darabanten, infantrymen; *szabadasones* – from Hungarian "Szabados" – freemen, who likely also served in a defensive capacity, also referred to as Szabadascher in German-language sources.

³⁷⁶ SJANS, *Magistratul oraşului și scaunului Sibiu - Acte fasciculare [Magistrate of the city and seat of Sibiu - Fascicular documents]*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în oraşul și scaunul Sibiu*, "Salarien Gebühr pro anno 1756 welche auß dem der Stadt zufälligen 1/3 zu entrichten ist", fol. 35r, listed one servant to the steward's office (*Villicats Diener*) and four servants to the judicial administration (*Judicats Diener*). The "*famulus nosocomii*" was a servant to the hospital.

³⁷⁷ The *custodes nemoris civitatis* were guardians of public pasture lands, the *hortorum civitatis custodes* guarded the city's gardens, the *camporum custodes* attended to the fields, while the *fontium curatores* were responsible for the upkeep of fountains. Most of the individuals in these positions reported to the city steward's office.

³⁷⁸ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în oraşul și scaunul Sibiu*, "Interimale Lista jener Titl. Hll. Ober Officianten, Magistratualium Subalternen p.p. bey dem Hermannstädter Publico, wie viel an jährlichen Salarien, ein jedes Individuum, und aus welchem Cassen zu bekommen hat." fol. 38v, listed one individual as agent in Vienna.

emerge alongside “personal procurators of a particular magnate”.³⁷⁹ When Samuel von Brukenthal was named agent of the nation in Vienna in May of 1759, the Saxon University motivated its appointment by arguing that the young secretary in service of the Gubernium was “knowledgeable in the nation’s constitutions, and convinced of his attachment to it.”³⁸⁰ Other earlier agents included the future Saxon Bailiff Simon Baußner, who had been dispatched to the capital with a petition on behalf of the nation in the early 1700s, or Johann Sachs von Harteneck, who had fulfilled a similar task in 1697.³⁸¹ A “procurator Hungarorum” employed by the city had appeared on a list of taxpayers as early as 1657³⁸²; by the early eighteenth century, the “procurator inclytæ nationis Saxonicae” in Hungarian matters had been joined by a Hungarian expeditor and a Hungarian city lawyer.³⁸³

The need to manage the affairs of those who inhabited the city’s suburbs and provided most of the unskilled labour – the Roma and the Romanians – also led to the emergence of paid offices such as those of the *zingarorum vajda cum suis porgarionibus*³⁸⁴ or the *scriba vallachicus* (*walachischen Schreiber*).³⁸⁵ What is more, the city regulated the practice of various small-scale trade activities, thus accounting for the appearance of several rag women (*Umträgerinnen, Trödelfrauen*), all of whom were either of Romanian or Romani descent, on the back of a 1766 list of minor offices.³⁸⁶ While in this case, the women in question were likely not listed as employees, but rather as taxpayers to the municipality in exchange for the right to trade in rags, the broader category which the entire document dealt with comprised individuals on the lowest rungs of the urban payroll, who did receive salaries for their work (*Waldhütter, Kuh-Hirten, Feldschützen*, etc.). While they did not wield political power or

³⁷⁹ Bálint Keserü, “Shaping Protestant Networks in Habsburg Transylvania”, in Gábor Almási et al. (eds.), *A Divided Hungary in Europe: Exchanges, Networks and Representations, 1541-1699*, Newcastle upon Tyne: Cambridge Scholars Publishing, 2014, p. 186.

³⁸⁰ Johann Georg Schaser, *Denkwürdigkeiten aus dem Leben des Freiherrn Samuel von Brukenthal, Gubernators von Siebenbürgen, Aus archivalischen Quellen gesammelt*, Hermannstadt: Gedruckt bei Georg v. Closius, 1848, p. 9-10.

³⁸¹ On Simon von Baußner’s travel in service of the nation to Vienna, see the excellent study by Zsófia Szirtes, “Der Hermannstädter Gesandte Simon Baußner in Wien (1707)”, in *Historia Urbana*, Vol. 22, 2014, p. 319-340.

³⁸² Karl Albrich, “Die Bewohner Hermannstadts im Jahre 1657. Verzeichnis der damaligen Bewohner Hermannstadt’s nach Beschäftigung und Gewerbe”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, XVII. Band, 1883, p. 272-273.

³⁸³ Herbert, “Die innere und äußere Rat“, p. 413-414.

³⁸⁴ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, “Interimul Lista...”, f. 38v-39r.

³⁸⁵ Herbert, “Der innere und äussere Rath Hermannstadts”, p. 414.

³⁸⁶ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, fol. 47r-49v. The document is titled “Lista der Waldhütter, Kuh-Hirten, Kälber-Hirten, Gestittene, Garten-Hütter etc. welche alter Gewohnheit nach alle Jahr vor dem Heyl. Christ-Tag pfligten von neuen gedungen zu warden, dermahlen aber dieses Bestellung später erfolget ist”, and includes names such as “Merentza al Stephan Gutzu, Illiana alui Nikulle Koßak, Sztane alui Mihaly, Szaphta alui Dumbrava, Czacza alui Mathee Koßak” (fol. 49r).

belong to an administrative elite as such, these groups of salaried individuals provided the majority of the manpower required to run the city and, in turn, derived various benefits from their positions, similarly to those above them in the hierarchy.³⁸⁷

While comprising the majority of individuals on the municipal payrolls, the simple *salaristae* only accrued a very limited share of the total payments listed. Municipal public servants' salaries were drawn from two main sources: the allodial treasury and the national treasury. The former collected incomes from the allodial lands of the Saxon nation, those villages or territories which had been gifted over time to various Saxon cities. The nation's administration of the allodial territories had been investigated by the Economic Commission led by Wankel von Seeberg in the 1750s, as the previous chapter noted. Although the national treasury's incomes were more difficult to clearly delineate, it is clear that its funds were used primarily to cover what were regarded as national expenses: the dispatch of various individuals in the interests of the nation in the imperial capital, the meetings of the University, the travel costs of Saxon deputies during meetings of the Diet, etc.³⁸⁸ Various other "communal expenses" which appeared in the city's accounts – and were thus paid directly by the city – could be assimilated into the same category: for instance, a yearly supplement for the salaries of the Judges of the Seven Seats amounting to 650 Hungarian Florin was recorded in 1731.³⁸⁹ What reports on Saxon finances during the eighteenth century made very clear was the lack of boundaries between public, private, and national goals when it came to expenses drawn from these treasuries.

Among the most significant category of expenses were the salaries drawn by the municipal administration of Hermannstadt. No systematic reviews of this issue exist in secondary literature, apart from a minimal discussion of the salaries of the lower ranks of the urban administration during Charles VI's rule.³⁹⁰ It is nevertheless possible to obtain a birds-eye-view of how this category of expenses evolved over the eighteenth century, and how it was divided between the different administrative circles, by examining some of the city's payrolls.

A late seventeenth-century or early-eighteenth century project regarding the salaries of the urban administration had proposed very high sums for the uppermost offices: the Saxon

³⁸⁷ This is important, because in broadest terms, all of those included on the payrolls of urban administration were *salaristae*, or salaried employees. To lump them together under the same category would however be erroneous.

³⁸⁸ No work of general Transylvanian Saxon history explicitly discusses the differences between these two treasuries. The clearest information for the eighteenth century, stems from Joseph II's final report following his 1773 visit. See Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 753-754.

³⁸⁹ Herbert, "Der Haushalt Hermannstadts", p. 122-123.

³⁹⁰ Herbert, "Der Haushalt Hermannstadts", p. 125-126; An overview of salaries for some municipal offices around the mid-seventeenth century was provided by Albrich, "Die Bewohner Hermannstadts im Jahre 1657", p. 268-275.

Bailiff and the mayor were projected to earn some 6000, respectively 4000 Rhenish Florin yearly, while the senators were entitled to 600 Rhenish Florin³⁹¹. Substantial quantities of victuals and wood, grain, and hay accompanied these sums.³⁹² Unfortunately, the same project only includes these projected sums for the upper levels of the administration. For the medium and lower levels, only the required number of positions for each type of office were recorded: for instance, 4 tax-collector positions for the city were included, alongside 2 for the suburbs, and one director. The mayor's office included 5 secretaries. Of the 5 extra scribe positions listed, one was attributed to the stewards' office, while the other 4 served to handle writing tasks in the filial seats of Selischte and Talmatsch, the Seven Villages, or in the Seat more broadly (*scriba territorialis*).³⁹³

There is no evidence that this rather audacious proposal, which would have cost the city around 17.200 Rhenish Florin yearly (20.640 Hungarian Florin), a staggeringly high sum by any accounts, was ever implemented.³⁹⁴ Later payrolls from the mid-eighteenth century show that the expectations of the municipal leadership had been considerably lowered. A 1751 document provided salaries of 2500 and 1500 Rhenish Florin to the mayor and the Saxon Bailiff respectively, while the Seat Judge earned a lower sum of 1000 Rhenish Florin. The first seven senators, who were ranked higher within the Small Council, likely as a result of their increased years of service and experience, were listed as earning between 400 and 600 Rhenish Florin. The incomes derived by more junior counterparts were lower by only 100 Florin. Other positions filled either by the junior members of the Senate or the senior members of the Great Council accrued additional ranging between 250 and 100 Florin. All in all, these positions/individuals accounted for 11.150 Rhenish Florin, more than half of the total wages as reported by the payroll. In addition, the document only listed the salary expenses which were incurred from the allodial treasury, without mentioning the corresponding expense from the national treasury.³⁹⁵ According to a partial payroll from 1760, which explicitly listed the Seat Judges of Szeliste and Talmetsch among the higher officials paid by the city, almost 15% of

³⁹¹ Eighteenth-century payrolls list salaries in Rhenish Florin, rather than Hungarian Florin. One Rhenish Florin – the currency used by the imperial administration – equaled 1.2. Hungarian Florin.

³⁹² According to Müller, *Stuhle und Distrikte*, p. 63, the monetary value of victuals could reach 500 Florin per year for each individual senator.

³⁹³ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, document M IV A 4a, fol. 16r, entitled “Novum Salariorum Projectum in Civitate Cibiniensis.”

³⁹⁴ Total sum calculated by multiplying the minimal number of senators (12) with 600 R. fl., and adding the two other salaries. None of the other salaries, for the remaining 77 positions were included in the count.

³⁹⁵ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, unnumbered document, “Salarien Betrag welcher jährlich ex Cassa Allodialis zu zahlen kommet.”, fol. 17r-18r.

the total sum of wages was covered by the University's treasury. The wages of the first ten officials on the list accounted for almost 60% the entire payroll.³⁹⁶ Likely the most detailed payroll dated from 1773, having been compiled sometime around Joseph's visit, and included 192 positions, displaying an extensive and wide-ranging "status personalis", which had risen nearly threefold since the early eighteenth century, when only 77 positions had been listed aside from the highest offices and the Small Council. Aside from the growth of the urban apparatus, the list showed just how significant the wage polarisation was among those who worked for the benefit of the public: the first 14 individuals (around 7% of all positions) earned more than 37 % of all income. From thereon, the first 30 positions (15%) earned around 54 % of all income, with wages weighing less and less in the total amount. Near the median level in order of rank and wages, the eight town riders (*equites civitatis*) earned an estimated 60 Rhenish Florin a year, some 2.4% of the mayor's income. The wages of the remaining individuals on the list (52%) accounted for less than 20% of all salaries.³⁹⁷

The intersection between the gradient of rank and that of wages should shed light on the very clear iniquities present within the fold of the urban administration, as well as on the fact that a very slight numerical minority of individuals managed to accrue a staggering amount of the yearly income. Despite the fact that the number of positions in the employ of the city had risen impressively over time, testifying to the diversification and specialisation of tasks in the urban milieu, those at the helm of the city – and the nation – had maintained their salaries at regular rates, preferring to dilute the earnings at the lowest levels rather than to take pay cuts. Certainly, it may be argued that urban hierarchy was regarded as a natural, and reflective of the high burden of responsibility shouldered by those in the Small Council compared to the rather limited tasks assumed by, for instance, the city's butcher, whose yearly wage amounted to some 33.20 Rhenish Florin. At the same time, it cannot be disputed that by all appearances, the sums drawn by the political elite through salaries served primarily themselves, rather than the interests of the common urban taxpayer.

Given the fact that their holders wielded the greatest political power and tended to stem from the most important Transylvanian Saxon families, the highest offices aroused the greatest

³⁹⁶ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, "Interimul Lista", fol. 37r – 39r. This document had been directly requested by the Directorium Oeconomicum, according to a notation on fol. 39v.

³⁹⁷ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, unnumbered document, marked as 'copie', entitled "Status Passivus. Sive Specificatio omnium Civitatis Locorum Sedis Cibiniensis Salaristarum eorumque Salariorum annorum, ut et reliquarum erogationum annuarum", fol. 74r – 85v. The city employees are listed on fol. 74r – 78v.

interest among historians.³⁹⁸ The identity between national and urban leadership in the case of Hermannstadt additionally contributed to the increased attention devoted to this elite political segment. Moreover, this overlap meant that those who occupied these offices were also co-opted into the provincial administration at various levels.³⁹⁹ The political elite in Hermannstadt was moreover regarded as more apt than its counterpart in other Transylvanian Saxon cities to serve the nation's needs as a cogwheel of the imperial framework: those hailing from other cities such as Kronstadt were said to have "too little and incomplete knowledge of the *negotia nationalia*" and therefore could not serve the interests of the "entire national body" well enough.⁴⁰⁰

From the Habsburg perspective, the same political elite was not only more versed in the "affairs of the nation", but also a potential conduit of soft power into the Royal Lands, where the reach of imperial infrastructure was considerably weaker than in the urban centre. During elections for a position of Seat Judge in 1763 in the neighbouring 'filial seat' of Leschkirchen, which was to a certain degree subordinated to the centre of the Saxon nation, the Gubernium reminded the local council of the customary practice to include individuals from Hermannstadt as potential candidates for the highest offices at seat level. This expression of customary subordination was moreover extended to "award consideration to both confessions": "as there were no Catholics living within one's midst, then one might be suggested as a candidate by the mayor of Hermannstadt". When the Catholic proposed by the nation's capital lost the vote, the seat's representatives voiced their concerns of undue influence, noting that they had only included the individual in question out of "dutifulness" to the provincial authorities. Moreover, they did not wish to set a precedent whereby Catholics could be "imported" from the centre should they be lacking at the local level. What is more, the entire affair had led the representatives to reconsider their seat's legal relation to the centre and question Hermannstadt's prerogative to interfere in the elections altogether, arguing that it was only maintained "out of the deference, which our forefathers wished to show to the Count of the Nation and the Provincial Mayors, in the absence of [*m. n. qualified*] natives" and in no way stemmed "from any kind of duty".⁴⁰¹ Nevertheless, well into the eighteenth century, the

³⁹⁸ For this reason, two of the first Transylvanian Saxon prosopographies concerned the Saxon Bailliffs or the mayors of Hermannstadt. Müller is one of the few authors to include some information on lower-level offices in *Stuhle und Distrikte*.

³⁹⁹ Early prosopographic works focusing on the Transylvanian Saxon urban leadership cities were restricted to Hermannstadt, signalling that it was not urban administration per se which was deemed important, but rather the national leadership.

⁴⁰⁰ Herbert, "Der innere und äussere Rath Hermannstadts", p. 439.

⁴⁰¹ Friedrich Hann, "Organisation der inneren bürgerlichen Verwaltung vom Stuhle Leschkirch im 18. Jahrhundert", in *Archiv des Vereins für Siebenbürgische Landeskunde*, IV. Band, I. Heft, Hermannstadt, 1850, p.

Judges of the Seven Seats were still regarded as subordinate to the national leadership in Hermannstadt, explicitly binding themselves by oath to submit to the will of the Saxon university and to the authority of the magistrate in Hermannstadt:

“... no less do I submit myself, in filial subordination, to the body of the praiseworthy University, and especially to the noble, notable and wise Count of the nation, and the entire most wise Provincial magistrate of Hermannstadt, as the mother of the present seat, with befitting respect and veneration...”⁴⁰²

Hermannstadt’s situation as capital of the nation had become a double-edged sword, wielded by the Catholic state and the Lutheran urban leadership alike, bringing potential advantage but also considerable difficulty in managing the delicate balance between the different components of the Saxon nation. In turn, the precariousness of this intra-national balance was evidenced for instance during negotiation of fiscal burdens within the Saxon seats and districts. In the few exceptional situations where the Saxon nation managed to obtain a reduction in the total tax amounts, other seats or districts would have no qualms to seek an equal tax cut by directly appealing to the Government, despite having previously benefitted from other substantial tax decreases. Hermannstadt’s precedence within the fold of the nation only stretched as far as it did not infringe upon the interests of the local magistrates.⁴⁰³

5. Counternarratives: autonomy and arbitrariness

The workings of the urban administration in Hermannstadt during the rule of Charles VI have been comprehensively examined by the Transylvanian Saxon historian Heinrich Herbert, one of the most reliable chroniclers of eighteenth-century developments in this milieu. Herbert diligently worked through the town magistrate’s ten registers of protocols between 1711 and 1740, which contained hundreds of election lists, debates, and extensive petitional activity committed to the repository of the urban collective memory.⁴⁰⁴ The narrative account presented by Herbert highlights the gradual, but immutable changes that were engendered within the ranks of the urban administration by Habsburg officials, who exerted pressure at various levels and through various channels. Given the provenance of the source material, the

41-44: “aus Ehrerbietung, welche unser Vorfahren bei Mangel an Einheimischen dem Nations-Grafen und Provinzial-Bürgermeister bezeigen wollen.”

⁴⁰² As quoted by Müller, *Stuhle und Distrikte*, p. 378, notes 3044-3045: “Wie nicht weniger bei dem corpore einer löblichen Universität insoderheit aber dem hochedlen namhaft und wohlweisen Herrn Comiti nationis und dem gesambten hochweisen Hermannstädter Provinzialmagistrat als der Mutter hiesigen Stuhles in gebührendem Respect und Veneration mich zu submittieren, sodann in obgedachter Filiasubordination...”

⁴⁰³ See the discussion in Herbert, “Die Haushalt Hermannstadts”, p. 85-86.

⁴⁰⁴ Herbert, “Die innere und äußere Rat”, p. 348-349.

same account also exhibits at times a clear bias in favour of the Transylvanian Saxons, framing many of the events recounted within the overarching narrative of recatholicization and loss of communal autonomy. Nevertheless, it did not sidestep contentious matters such as mismanagement or general arbitrariness present in the same framework, even if it was not entirely free of value judgement. When counterbalanced by other sources of imperial provenance, such as the reports supplied to Joseph II prior to his visit to the city, Herbert's account provides a reliable and in-depth view of the workings of the administration. The present sub-section therefore focuses precisely on these inner workings, while deconstructing both sides of the story, which alternately set the tone for historiographical accounts of the Habsburg reforms in the urban administrative fold. The enquiry therefore follows both strands: on the one hand, the broader narratives of Recatholicization, centralization, and loss of autonomy perceived by the Transylvanian Saxon; on the other hand, the mismanagement, abuse, particularism and passive resistance exhibited by the urban authorities in Hermannstadt.⁴⁰⁵

Although the goals of the Transylvanian Saxon leadership in the nation's capital converged to a certain extent with those of the Habsburgs, the entrenched nature of the essentially conflictual provincial and inter-estate status-quo meant that even when this alignment was present, it was a precarious one. Owing to the action of other significant power players in the province, either collective or individual in nature, the default stance adopted by the Transylvanian Saxons to any and all external attempts at disentangling, regulating, or rationalising urban administration was characterised mostly by passive resistance, outright refusal to implement new legislation, delay, and tergiversating.⁴⁰⁶ The tactics of delay were not a novelty on the political scene of eighteenth century Transylvania, but rather one of its main features.⁴⁰⁷ The imperial administration and the Court were equally well versed in equivocation

⁴⁰⁵ I employ the characterizations used by the sources themselves to discuss these clusters of related phenomena, rather than casting value judgements informed by contemporary meanings of administrative malpractice. This approach is taken for three reasons: on the one hand, the Habsburg and the Transylvanian Saxon milieu had different definitions of what constituted abuse, definitions that were primarily context-dependent, rather than legally entrenched. On the other hand, the shifting and blurred lines between public and private which were visible within the Habsburg provincial-level leadership also applied to the urban milieu, where family matters intersected with national interests, and so on. Finally, individual agency was an essential force in pushing through political decisions, on both sides of the divide, which made charges of lobbying moot points.

⁴⁰⁶ Numerous examples of these types of counter-tactics employed by Transylvanian Saxon authorities in Hermannstadt and throughout the Royal Lands abound in the reports submitted to Joseph II by Auersperg.

⁴⁰⁷ Several works on the seventeenth and eighteenth-centuries political history of Transylvania mention this tactic of passive resistance either explicitly or implicitly. It became most visible in the discussion of fiscal and administrative reform. See for instance Konrad Müller, *Siebenbürgische Wirtschaftspolitik unter Maria Theresia*, Buchreihe der Südostdeutschen Historischen Kommission, Band 9, München: R. Oldenbourg, 1961, p. 18-20; Schaser, *Reformele iosefine*, p. 47, argues that reforms led to a "regular polarization within the Transylvanian

and postponement when it suited their purposes, preferring to let deferrals and evasiveness speak for themselves when an unequivocal decision might have provoked too great a negative reaction.

The actions of the Habsburg leadership concerning the Transylvanian Saxon urban administration were couched within the broader need to ensure that the administrative mechanism it had inherited by means of the Leopoldine Diploma functioned to the best of its ability. Hermannstadt was the most visible proof that this mechanism was not working well, at least by Habsburg standards. Auersperg's final report from 1772 noted, among other "useful and necessary measures that should still be introduced in Transylvania", that a good "Pollizeyordnung" should be implemented, "especially in Hermannstadt, where the administration is as bad as can be".⁴⁰⁸ Count Clary went into more detail in a report drafted in the same year, adamantly complaining that "in the entire Principality, and in the capital itself, there exists no administrative order, and that owing to this everyman and even the Gubernium itself, depend on the arbitrariness of the urban authorities and the citizenry."⁴⁰⁹ To reinforce the impression left by his brief account of life in the city, Clary ended with the image of „unequal streets through which one cannot pass on foot without great difficulty, ride without danger, and be driven [in a coach] with even greater danger", which compel one to acknowledge the fact that there is no "worse administered capital in civilized countries, than Hermannstadt."⁴¹⁰

What were the root causes of this situation, and how had they been addressed? How did encroachments upon urban and national autonomy, nuanced by Recatholicization, play into the general improvement of the *Polizey* envisaged by the Habsburg authorities?

One of the overarching aims of the Habsburg leadership was to ensure that individuals whose loyalty could not be questioned were gradually but surely inserted into the urban social fabric, and from there on ascended the ladder of urban government until reaching the uppermost office. Without a modicum of power in the city councils, any decision made in Vienna could

society and a passive resistance within the ranks of the local authorities, so much so that the administration was nearly paralysed."

⁴⁰⁸ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 209: "11^{mo}. Die Einführung einer guten Pollizeyordnung, besonders in Herrmannstadt, wo sie so schlecht, als nur immer möglich, bestehet."

⁴⁰⁹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 331: "Endlichen kann 15^{mo} nicht unberühret belassen werden, dass in dem ganzen Fürstenthum, und der Hauptstadt selbst keine Polizey bestehe, und dass hierdurch jedermann, ja das Gubernium selbst, von der Willkuhr der bürgerlichen Vorstehern, und von der Bürgerschaft abhange [...]."

⁴¹⁰ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 331: "... die Ungleichheit der Gässen in welchen man nicht ohne Beschwerlichkeit zu Fuss gehet, nicht ohne Gefahr reiten kann, und mit noch grösserer Gefahr fahret, die unwandelbare und verderbliche Beschaffenheit der Weegen- und Brücken durch den grössten Theil des Landes fallen jedermann in die Augen, und erzwingen die allgemeien Übereinstimmung, dass keine übler policirte Hauptstadt in gesitteten Ländern bestehe, als Hermannstadt."

fail to materialize in Hermannstadt. The process by which the social and political ascension of select individuals was fostered was lengthy and of uneven intensity throughout the century, overlapping to a great extent with the realignment of the urban-national leadership with the confessional pillar of the Empire: Catholicism. For this reason, Recatholicization and what were perceived as unlawful ingressions into the national *cum* urban self-government received the lion's share of attention in Transylvanian Saxon historiography. Nevertheless, these two goals were not identical, but rather closely intertwined: from the Habsburg perspective, trust could be placed first and foremost in Catholic individuals.⁴¹¹ While in other territories such as Bohemia, imperial policy had been exceedingly forceful in imposing its own favourites in urban milieus, heavily curtailing or even revoking the autonomy of urban governments even prior to the events of the 1620, in Transylvania this process displayed more subtlety.⁴¹² The manner in which the Habsburgs approached the issue of the Transylvanian Saxon urban milieus in the eighteenth century was reminiscent of its stance towards Royal Prussian cities. The confessional wedge driven by the Reformation between Protestant cities and Catholic rule in East Central Europe had led to a provisional '*modus vivendi*' of mutual accommodation prior to the eighteenth century. Like in Transylvania, this had entailed an acknowledgement of the tenets of urban autonomy requested by Lutheran burghers, while at the same time testing the limits of this autonomy by establishing Jesuit colleges or supporting Catholic minorities.⁴¹³ A similar status quo had prevailed in the free royal cities in Hungary until the seventeenth century.⁴¹⁴ Nevertheless, as soon as the central Catholic power found its position to be secure enough, it applied the same recipe for state-building in most Protestant urban environments under its allegiance: it dismantled self-governance through local power structures, confessionally realigned the urban social fabric, and expanded state structures to control matters which had been under the purview of the urban administration.⁴¹⁵ Increased bureaucratisation contributed to administrative centralisation, establishing for instance clearer

⁴¹¹ On Re-Catholicisation within the Saxon urban milieu during the eighteenth-century, see for instance Sever Oancea, "Absolutism without Counter-Reformation"? The Catholicisation of Public Town Offices in Bistrița in the Eighteenth Century", in *Studia Universitatis Babeș-Bolyai, Historia*, Vol. 58, Issue 1, 2013, p. 71-94. The same strategy had been employed in Hungarian towns some decades earlier. See for instance István H. Németh, "Venerable Senators or Municipal Bureaucrats? The Beginnings of the Transformation of the Estate of Burghers at the Turn of the Seventeenth and Eighteenth Centuries", in *Hungarian Historical Review*, Vol. 1, Issue 1-2, 2012, p. 49-78.

⁴¹² Elisabeth Gruber, "Towns in Neighbouring Regions (1400-1700): Austria, Bohemia, Moravia, and the Carpathian Basin", in Kateřina Horníčková (ed.), *Faces of Community in Central European Towns. Images, Symbols, and Performances, 1400–1700*, Lanham, Boulder, New York, London: Lexington Books, 2018, p. 8-9.

⁴¹³ Miller, *Urban Societies*, p. 150-152.

⁴¹⁴ Miller, *Urban Societies*, p. 153-157.

⁴¹⁵ Miller, *Urban Societies*, p. 156.

alternative channels through which public grievance could reach provincial decision-makers while bypassing those with a direct stake in local affairs.⁴¹⁶ The same channels were intensively used by local power players when they felt that the situation balanced in their disfavour, showing that allegiance to the nation and defending one's own interests were not mutually exclusive.⁴¹⁷

Ingressions into urban elections reverberated most powerfully in Transylvanian Saxon historiography. Tense moments were elicited by the vacation of the highest offices in the urban hierarchy, when it became possible for Habsburg military or civil officials located in the city to claim the Empire's prerogative to propose its own candidate, confirm a preferred choice, or even sanction the results of previous elections. Examples of this strategy abounded throughout the century and were rapidly countered through formal or informal channels, though not always successfully. In 1716, the Governor's pretence to interfere in the procedure for the election of the Mayor of Hermannstadt was summarily curtailed by the Great Council, which reminded the imperial authorities "that from ancient times, the election of a Mayor mostly fell under the purview of the Community" and that it hoped "to maintain the old practice and not to introduce anything new."⁴¹⁸ In 1734, when new elections for the highest offices in the city were underway, the Military General Commander Count Anton Wallis dispatched a secretary to the town hall, who notified the council that the two incumbents, Michael von Rosenfeld and Jacob von Harteneck, were to keep their positions as Mayor and Seat Judge. The councilmen and the Community did not seem to be swayed by this rather impolitely delivered recommendation, electing another individual instead of Harteneck.⁴¹⁹ In 1739, when the Community again rejected the imperial proposal for the Mayor's office, and instead settled upon the incumbent, the Commander General Prince Joseph Georg Lobkowitz prohibited the usual celebratory

⁴¹⁶ While not as forceful as in other areas, the increased and continuous presence of the Habsburg bureaucracy in Hermannstadt had allowed for a considerable widening of the official petitional channel, which grew to include more than major political actors, such as the nation estates, or institutionalised collectives, such as guilds. The presence of imperial authorities established in theory a direct tie between individual subject – soon to be state-citizen – and the Court, which could bypass local town councils. In fact, local level authorities frequently discouraged and hindered petitional activity that could reflect poorly on how their implementation of imperial decrees. On the rise of "bottom-up communication" through petitioning, see for instance Diego Palacios Cereales, "Re-imagining Petitioning in Spain (1808-1823)", in *Social Science History*, Vol. 43, 2019, p. 487-508.

⁴¹⁷ This had also been encountered in earlier periods. Thomas Nögler, in "Die Sozialstruktur der Siebenbürger Sachsen im ausgehenden 16. Jahrhundert", in Kessler (ed.), *Gruppenautonomie*, p. 221-222, argued that towards the end of the sixteenth century, "die führenden Männer der sächsischen Patriziats die Autonomie des Königbodens für ihre eigene Interessen ausgenützt hatten."

⁴¹⁸ Herbert, "Die innere und äußere Rat", p. 358.

⁴¹⁹ Herbert, "Die innere und äußere Rat", p. 376, 458-459; Interestingly, the individual in question was a certain Johann Kinder von Friedenbergh, a close associate of Johann Sachs von Harteneck, the Saxon Bailiffs who had been beheaded following a process of adultery and murder in 1703. Kinder von Friedenbergh had been likewise condemned to face capital punishment, but was pardoned by the acting General Commander Count Rabutin.

election procession through the city, threatening to shoot anyone who dared go against his order.⁴²⁰ Despite many failed attempts, imperial influence nevertheless managed to break through to the highest national Transylvanian Saxons offices by the 1740s, though not without eliciting major debates concerning proper election procedure and jurisdiction.⁴²¹

By the time Joseph II visited Hermannstadt, the position of provincial Mayor had likewise been occupied by a Catholic stemming from Kozlovice, in Moravia, by the name of Johann Georg Honnamon (also Hanneman). Honnamon's rise through the ranks of the provincial and urban hierarchy should be regarded as stellar, and was likely the result of more than just the right confessional adherence. The same speedy ascendance also exhibits how fast the situation could change after the coming of the Habsburg administration, and especially during the second half of the century, when the new institutional framework had developed and spread throughout the province. In 1754, Honnamon had obtained full citizenship in Hermannstadt. On this occasion, he provided his occupation as secretary to one of the *Kurrasier* regiments stationed locally, and apparently afforded the rather hefty fee of 30 Hungarian Florin without issue.⁴²² Two years later, Michael Conrad von Heydendorff had mentioned serving alongside Honnamon under the employ of Wankel von Seeberg in the contentious Economic Commission, where the Moravian worked as a finance clerk (*actuarius*). When the Commission had come to verify the financial affairs of the urban administration in Schäsburg, the local mayor had countered that they would not concede to have the city's records checked by a "foreigner, who was not even a citizen of the nation."⁴²³ Less than fourteen years later, the former clerk had been ceremoniously installed as the mayor of Hermannstadt, "an honour which he fulfilled with patriotic zeal" until 1777, when he returned to the ranks of the senators.⁴²⁴ As one of Auersperg's reports described the situation in 1772, "although he is a Catholic, the mayor Honnamon sings from the same hymnbook as the Evangelicals."⁴²⁵ Thus, personal and political interests could intersect with confessional adherence in unexpected and unpredictable ways over time.

⁴²⁰ Herbert, "Die innere und äußere Rat", p. 378.

⁴²¹ See Sever Oancea's detailed study "'Stehe Wanderer und beweine die Siebenbürger, die heute Freiheit und Privilegien verloren haben!' Die 'Wahl' des Sachsengrafen Stefan Waldhütter von Adlershausen", in *Zeitschrift für Siebenbürgische Landeskunde*, Vol. 38, Issue 1, 2015, pp. 81-103.

⁴²² Probate Database of Transylvania – Section of Citizenship Records – Individual Id. 1880. Some applicants to citizenship could choose to pay only a partial fee, provided they engaged to pay the remainder within a certain time frame.

⁴²³Theil, "Michael Conrad von Heydendorff", in *Archiv des Vereins für Siebenbürgische Landeskunde*, XIV. Band, Heft II, 1881, p. 230-231.

⁴²⁴ Hochmeister, *Kurze Geschichte der Provinzial Bürgermeister*, p. 157.

⁴²⁵ Bozac, Pavel, *Die Reise Joseph II*, p. 175: "...dass aber der Bürgermeister Honnemann, obgleich er catholisch ist, mit den Evangelischen ganz wohl in ein Horn blase...".

Apart from clear ingressions, more subtle tactics were also employed. Even when a candidate was elected seemingly without interference, obtaining the Emperor's confirmation proved to be a difficult task. In 1728, when the office of Saxon Bailiff was vacated for the first time since the province had been integrated into the Habsburg polity following the passing of Andreas Teutsch, the General Commander Wallis refused even to provide symbolic acknowledgement of the matter, indefinitely postponing the traditional tolling of the bells in the city's Lutheran parish church "in order to prevent disorder."⁴²⁶ The newly-elected Bailiff, Simon von Baußnern, was notified in writing in August of 1728, while a letter asking for the Court's confirmation of choice was dispatched to the Transylvanian Saxon agent in Vienna, Johann Kinder von Friedenber^g.⁴²⁷ Despite all Saxon attempts to the contrary, it would take almost five years to obtain an official confirmation of Baußner as Bailiff.⁴²⁸ As contemporary Small Council protocols highlight, the urban government was aware that "this Bailiff affair initially appeared quite awkward, [and] how difficult the work to bring to fruition this drawn-out solicitation was." Certainly, the members of the Magistrate agreed that "after God, the greatest merit" for having finally obtained confirmation was to be ascribed to "His Excellency, the General Commander". Therefore, it seemed not only fitting, but quite direly necessary to "offer His Excellency a respectable recognition, in accordance with his high character without delay". What is more, two other officers stationed in Hermannstadt, who had contributed to the favourable result, were also awarded 50 Ducats each from the national treasury fund.⁴²⁹ Such forms of inducement were not the perquisite of the military alone, but rather an acceptable form of currying favour when regular institutional channels proved less than responsive.

Individual intervention, either rewarded or unrewarded, remained the decisive factor influencing outcomes on urban political scene in many scenarios, despite increased centralisation and bureaucratisation. It did however work both ways, as well-placed Catholic figures in the urban milieu worked successfully as conduits for imperial wishes, heavily informed by the goals of counter-Reformation. Personal intervention was in fact often necessary to see new pieces of legislation implemented, as urban authorities made it very

⁴²⁶ Herbert, "Die innere und äußere Rat", p. 368.

⁴²⁷ Johann Kinder von Friedenber^g's biography entangled with many of the turning-points in Transylvanian Saxon history. See his short biographic sketch in Georg Daniel Teutsch, "Kinder von Friedenber^g, Johann", in *Allgemeine Deutsche Biographie*, Vol. 15, 1882, S. 749-753 [Online-Version]. <https://www.deutsche-biographie.de/pnd137739214.html#adbcontent>, last accessed 20.05.2020.

⁴²⁸ According to Johann Höchsmann, "Studien zur Geschichte Siebenbürgens", in *Archiv des Vereins für Siebenbürgische Landeskunde. Neue Folge*, Band XI, Heft 2, 1873, p. 255-256, p. 59, prior to the Habsburg takeover, it took at most eight days to reoccupy the office of Saxon Bailiff once it became vacant.

⁴²⁹ Herbert, "Die innere und äußere Rat", p. 370-372. More on the various forms of inducement provided to the officers stationed in Hermannstadt will be discussed in the following sections.

difficult to claim one's rights as per newly issued decrees, when these contravened established practices. In 1734, two years after the issuing of an imperial decree mandating that Catholics be entitled to occupy public offices proportionally to their number, the Jesuit father Gallop presented himself to the Magistrate to remind it of the force of law, proposing four Catholic candidates for the newly opened positions within the Community of One Hundred.⁴³⁰ Of the four individuals in question, only the merchant Jacob Öttinger, a native of Hermannstadt who had received settler status in May 1721, was deemed acceptable by the Magistrate.⁴³¹ The other three craftsmen – a shoemaker, a tailor, and a lorimer - were plying their trades outside the boundaries of the city guilds, and, though they might not have been newcomers to the city, could not be elected to the Community without first being accepted into a local guild. In turn, the guilds, which were direct stakeholders in the maintenance of urban uniformity, could defer acceptance or outright reject any candidates they saw fit on arbitrary grounds. Even so, Öttinger was twice passed over as an acceptable choice for a senator's position which opened up on the Small Council, though the Magistrate acknowledged that "this promotion from our midst could have already happened" and that from then onwards "Herr Öttinger would also be taken into consideration and would not be forgotten."⁴³²

Nevertheless, by the 1760s, the policy demonstrated at least partial success: a list of city councillors compiled in 1767 which noted individuals' denomination contained six Catholic senators out of fifteen, and one Catholic secretary out of thirteen position.⁴³³ By the time Joseph II reached Hermannstadt in 1773, the number of Catholic senators remained stable, with two of the highest urban offices occupied by individuals from this denomination: Johann Georg Honnamon was mayor, and Daniel Kain was city steward. Likewise, Johann Christian Müller,

⁴³⁰ Anton Gallob or Galop was mentioned as operating in Temesvar in the early 1730s, and then relocated to Hermannstadt after 1733, where he first served as confessor and private chaplain to General Commander Count Wallis, prefect of the Jesuit school, and head priest of the Catholic parish in Hermannstadt until 1763. See K. Fabritius, "Namen und Verwendung der Jesuiten, welchen von 1730-1773 in den siebenbürgischen Ordenshäusern wirkten. Nach den gedruckten Jahrescatalogen der Ordensprovinz Österreich zusammengestellt", in *Archiv des Vereins für Siebenbürgischer Landeskunde*, Neue Folge, 11. Band, 1873, p. 184.

⁴³¹ SJANS, *Magistratul oraşului și scaunului Sibiu - Protocoalele de ședință [Magistrate of the city and the seat of Sibiu - Meeting protocols (1522-1861)]*, register no. 230, 1709-1764, year 1721, fol. 113r. Although Öttinger was a native of the city, the mention is made that his father stemmed from Steyermark. Given the time frame – more than a decade prior to the first deportations of Protestants from the Austrian Crownlands - it is likely that the merchant stemmed from a Catholic family background.

⁴³² Herbert, "Die innere und äußere Rat", p. 384-385, 392: "diese Promotion ex nostratibus dermaln schon geschehen könne, nur dass künftighin auch auf ihn, Herrn Öttinger, reflectiret und nicht vergessen werde."

⁴³³ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu, [Documents regarding the salaries of public servants]*, "Tabella Salaristarum Civitatis Sedisque Saxonialis Cibiniensis", fol. 52r -56v.

the speaker for the Great Council, was also a Catholic.⁴³⁴ The ascent of Catholics into the upper ranks of the municipal hierarchy was fostered successfully during the last two decades of Maria Theresia's reign, while the recruitment of Catholics for higher offices relied mainly on foreign imports to Hermannstadt.⁴³⁵ Most of the Catholic senators or high officials in the 1760s and 1770s were not *Stadtkinder*, but rather immigrants from various regions in the Holy Roman Empire. Their denominational adherence had clearly played a significant part in their speedy ascension to the Small Council: in more than half the cases, the individuals in question had only entered the ranks of the urban citizenry less than 5 years prior to their election.⁴³⁶ The patterns of resistance displayed by the municipal authorities to the political ascension of certain individuals who stemmed from German-speaking milieus in the Empire however emphasizes that individual status also played a part alongside confessional adherence: Johann Christian Müller, a physician and doctor of medicine, had had a more difficult *cursus honorum* than his noble counterparts. As Auersperg noted in a 1772 report, Müller had only managed to become Speaker for the Community after the General Commander's renewed intervention with the Inner Council. Blatantly disregarding imperial orders, the members of the Inner Council, headed by Honnamon as mayor, refused however to admit the physician into their midst. While it was true that "the Saxon nation cares not for the cleanliness of German blood [...] but rather for the purity of the Evangelical religion", individual circumstances sometimes made one's entry into the nation more palatable.⁴³⁷ Despite these top-level changes, the confessional status quo beyond the boundaries of the Small Council was left nearly unchanged: out of the remaining 117 individuals who were employed by the city in 1773, the overwhelming majority were Evangelical.⁴³⁸

⁴³⁴ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, "Consignatio omniorum individuorum anno 1773 in officiis et servitiis Liberi Regiaque Civitatis Cibiniensis constitutorum", fol. 86r.

⁴³⁵ Oancea, "The 'manger' of the elites?", p. 109-110.

⁴³⁶ The following senators were recorded as Catholic in 1773: Franz Anton Offner, who had obtained burgher franchise in 1769 (id 2660) stemmed from Lower Austria; Michael Köller stemmed from Vienna, and had been awarded the burgher franchise in 1769 (id 2657); Johann Christian Müller stemmed from Leipzig, and had purchased citizenship in 1768 (id 2628); Daniel Gräser, listed as "Senator et Archivi Inspector", had purchased full citizenship in 1766, although he was apparently already active as legal clerk for the city at the time (id 2067). Two other Catholic officials, Daniel Kain and Friedrich Schreyer, had become citizens in 1758 and 1757. Oancea also makes a similar point in "The 'manger' of the elites?", p. 109, without however examining when each individual in question had entered the fold of the urban political community by gaining burgher rights.

⁴³⁷ Bozac, Pavel, *Die Reise Joseph II*, p. 175: "... die Sächsischen Nation nicht auf die Reinigkeit des teütschen Geblüts (wie es allemhalen verschützet, wenn ein Catholischer in ihr Mittel befördert, oder angenohmen zu werden suchet) sondern auf die Puritaet der Evangelischen Religion sehe..".

⁴³⁸ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, "Consignatio omniorum individuorum", p. 87-88. The Wallachian scribe, who had also taken on the designation of "expeditor" and was listed as a Catholic, was presumably part of the Greek Catholic denomination. Two of the city riders (*equites civitatis*) were Calvinists.

Beyond more or less institutionalized measures meant to foster the growth of Catholicism within the ranks of the urban leadership, the imperial authorities pursued a concerted policy directed at the dismantling of particularism in administration. Several tangent aims were to be achieved once the urban *cum* national government of Hermannstadt grew into a controllable cogwheel of the Habsburg state: once one had obtained a clear outline of the competencies and retribution of the urban and national administration, these could be clearly separated, a process of fragmentation that would decrease the infiltration of national politics into the governance of the urban space; following this canvassing of the system, increased predictability in officeholding patterns could be engendered, while informal, arbitrary, or blatantly anti-meritocratic factors could be gradually eliminated from the appointment process; finally, once the urban government was refashioned upon clearer bases, like in all other Habsburg provinces, the implementation of imperial/provincial level legislation would become increasingly successful, and therefore the *Polizey* would be much improved.

Separating the municipal from the national leadership at the very top proved to be the easiest measure to pursue, simply because it involved fewer offices with a high level of decision-making power. This had been on the Habsburg agenda at least since the election of Simon Baußner as Bailiff. During Baußner's protracted process of confirmation, the Court advanced the notion that "in the person of the Bailiff, no fewer than three offices are reunited, he is Royal Judge of Hermannstadt, Bailiff of the Saxons, and Councillor on the Gubernium". The logical conclusion, hailed as "incorrect and unheard of" by Transylvanian Saxon historiography, would have been to separate the three offices and assign them to three different individuals. The Saxons' counterargument, almost wholly couched in the language of estate privilege, that the terms "Bailiff" and "Royal Judge" were merely two different designations for the same office, would only delay the final outcome, but not prevent it altogether. Thus, offices which the Court could not transform institutionally were subordinated by directly appointing Catholic individuals.⁴³⁹

Prior to Joseph II's visit, the Magistrate, the General Commander, and the Gubernium had been involved in a longstanding and far-reaching dispute, focusing among other things on the entrenchment of informality and damaging "customs" into the midst of the urban government. Interventions were made to discourage the practice of maintaining a single individual in office for lengthy periods, of up to several decades, and to effectively implement the original mandate

⁴³⁹ In this case, the desired status-quo was achieved in 1744, when Stephan Waldhütter von Adlershausen was appointed Bailiff, and the Catholic convert Samuel Herbert became Councillor on the Gubernium. See Höchsmann, "Studien zur Geschichte Siebenbürgens", p. 59-60, 62.

term of either one or two years. Though this was signalled as one of the main causes for the less than successful Recatholicization of the Saxon nation, as a Lutheran official would naturally protect the confessional pillar of Transylvanian Saxon identity, the Roman Catholic Bishop Bajtay also noted that it would ultimately be “useful to the local polity, as well as to the Catholic religion [...] to release the officials from two to two years and to occupy the liberated offices in the fashion described above.”⁴⁴⁰ The Bishop’s intervention was not without basis, as for instance the senators’ offices on the Small Council had indeed been subjected to yearly re-election, according to Hermannstadt’s municipal statutes of 1541.⁴⁴¹ The so-called *Regulativpunkte*, a collection of imperial decrees and edicts pertaining to administration and civil law on the Saxon lands passed between 1795 and 1805, which aimed to codify extant practice and remove arbitrariness in official procedures, would however concede to senators serving life-long terms in office.⁴⁴²

Examples of other prescribed patterns of office holding which had been circumvented over time were abundant, and even Saxon historiography did not demur from pointing them out. To be admitted into the Great Council, one had to have obtained the uppermost level of burgher rights in the city (i.e. owning property within the city boundaries) and be married.⁴⁴³ One’s religion had not always proven to be a decisive factor in this respect, as earlier municipal statutes, such as that of 1614, only stated that “the community demands that the numbers of both councilmen and members of the One Hundred be replenished with untarnished individuals from the German nation.”⁴⁴⁴ The confessional wedge had likely been driven within the community of burghers and therefore within the Great Council only following the increasingly evident manoeuvres of Recatholicization during the early eighteenth century.⁴⁴⁵ As evidenced by the cases of the three Catholic craftsmen whose candidacy was summarily rejected, entry into a guild presented a further obstacle on the pathway to urban civil service. Additionally, to

⁴⁴⁰ Georg Daniel Teutsch, “Actenmäßige Beiträge zur Geschichte Siebenbürgens im XVIII. Jahrhundert. 1. Gutachten des römisch-katholischen Bischofs in Siebenbürgen, Freiherrn Joseph Bajtay, wie die katolische Religion hier in größere Aufnahme zu bringen sei”, in *Archiv des Vereins für siebenbürgische Landeskunde*, XI. Band, III. Heft, 1873-1874, p. 475 – 477.

⁴⁴¹ Müller, *Stuhle und Distrikte*, p. 59 – 60. The same term limit applied throughout the Royal Lands.

⁴⁴² Müller, *Stuhle und Distrikte*, p. 60, 62. The transformation of yearly term limits into life- or decades-long tenures was a characteristic of East Central European urban milieus during early modernity, stemming from what Miller, in *Urban Societies*, p. 133, has described as “the widely shared consensus that only certain urban competencies qualified men to govern the city” which “legitimized the long-term tenures of many individuals in city councils.”

⁴⁴³ Though some women did obtain burgher rights in Hermannstadt, membership in the Great Council was strictly limited to men.

⁴⁴⁴ Müller, *Stuhle und Distrikte*, p. 80: “Begehret die Gemein, daß beyde, Rath- und Hundertmannszahl, mit unbefleckten Leuten deutscher Nation sollen besetzt und erwehlet werden.”

⁴⁴⁵ It is not always possible to assess the denominational adherence of individuals who received burgher rights in Hermannstadt prior to the mid-1780s, as the burgher rolls did not record this segment of information.

become a member of the Great Council, one's "provenance" or "good burgher background" often weighed heavily in the selection process. For those whose provenance was sufficiently proper, other prerequisites could be circumvented: in 1738, two unmarried sons of two different senators were admitted into the Great Council, though the mention was made that "in order to observe the oldest orders and customs, [they] should not be allowed to attend meetings nor vote, prior to having entered matrimony."⁴⁴⁶ Likewise, one could easily receive a share in a piece of real estate in the city, which could be regarded as sufficient for accession to the Great Council: both Samuel von Brukenthal⁴⁴⁷ and Antonius Bartholomaeus von Bausnern, a scion of one of Hermannstadt's well-established families, received the burgher franchise and then were immediately elected into the Council after their fathers-in-law had gifted them partial ownership of their property in Hermannstadt.⁴⁴⁸ Conversely, one's lesser provenance could stand against one's chances to accede to public office, despite evidence of personal qualities: as one Hungarian governmental councillor remarked to Joseph in 1773, "the Saxons have skilled people here [in Hermannstadt], but they cannot rise up, if they are Catholic or do not come from the predominating families."⁴⁴⁹

Perhaps the most significant provision regulating the election into public office regarded kinship ties between members of the Small Council. The municipal statutes of Hermannstadt repeatedly prohibited any advancement or appointment which would engender the existence of such relationships between senators.⁴⁵⁰ Although such provisions existed throughout East Central European cities, they were often less than effective in practice.⁴⁵¹ The opposite was the case for the Great Council: one's kinship ties to well-placed individuals within the Small Council were a safe guarantee for one's entry into the Community of One Hundred Men. The practice of co-opting one's son on the Small Council while one was still in office, though often encountered, could also be employed as a weapon in disputes between various urban factions. Towards the late 1730s, the Governor notified the Mayor that "certain individuals" had come

⁴⁴⁶ Herbert, "Die innere und äußere Rat", p. 381.

⁴⁴⁷ Müller, *Stühle und Distrikte*, p. 78;

⁴⁴⁸ Herbert, "Die innere und äußere Rat", p. 428. In Bausnern's case, the property had come from Lucas Graffius, the Superintendent (Bishop) of the Lutheran church in Transylvania. In Brukenthal's case, the property had come from the mayor-in-office, Daniel von Klocknern. On the latter see Schaser, *Denkwürdigkeiten aus dem Leben des Freiherrn Samuel von Brukenthal*, p. 4.

⁴⁴⁹ Bozac, Pavel, *Die Reise Joseph II*, p. 684.

⁴⁵⁰ Friedrich Schuler von Libloy, *Munizipal Constitutionen*, "Statuta Specialia Liberae ac Regiae Civitatis Cibiniensis" 1631, p. 91: "Zum dritten ist beschlossen, das hinhiero nimmermehr Vatter und Sönnne, Schwäger und andre Blutsverwandten in Einem Ehrsamen und Wohlweisen Rath bei einander zu sitzen eingezogen werden." Such provisions were however common throughout early modern urban milieus, which likely suggests that this practice was extremely widespread, even if it was not always explicitly tolerated.

⁴⁵¹ Miller, *Urban Societies*, p. 135-136, recounts that a burgomaster "found himself under pressure to abdicate because of his kinship to other councilors", but only after "stormy events" had occurred in the city.

to him to complain that one of the newly elected senators was in fact the Mayor's son, and that "such a thing was clearly against the constitutions and in contradiction to the latest resolutions of the town council." While His Excellency, the Governor, had "nothing against Herr Rosenfeld's person [*m.n. the Mayor's son*]", the same well-wishers reminded the Governor that if he were not "apprehended of the situation, one could easily bear responsibility for the matter." Although kinship ties clearly functioned as a decisive factor in urban elections at the highest level, with over one third of senators being related in some capacity to the *Oberbeamten* during the first half of the eighteenth century,⁴⁵² the practice was generally tolerated by the imperial authorities, who often preferred to employ it as a lever of control over urban officials. As the "concerned persons" explained, the Mayor as well as the Magistrate had been advised to present the matter officially to the Great Council, as the lawful electoral body for senators' offices. Rather expectedly, the Small Council was united in its belief that "it would be damaging to the character of the Magistrate to report this matter to the Community, especially as it was not the entire Community who had stood against this promotion, but only some a few select individuals." Finally, the matter was buried in a commission and the Governor reassured that all had been done according to the spirit of the law and the prestige of the newly elected senator's public service.⁴⁵³ Urban service and national allegiance did not preclude interventions in the right places – in this case, with the Governor of the province – when individual or group interests were at stake. What is more, the addition of a new powerful actor into the midst of urban politics had not eliminated the power balance between the Small and Great Councils altogether: the senators and *Oberbeamten* could still be held accountable by the *Centumviri*, as had happened in previous centuries. Rather, it had pitted both the Magistrate and the Community against one another, playing on the burghers' "entitled resistance against illicit policies pursued by city fathers" when it was suitable for imperial purposes, while also de-emphasizing the actual impact of the Community as a guarantor of social order.⁴⁵⁴

Many other issues in the ensuring the proper implementation of a *Polizeyordnung* in the city not only became increasingly visible with the advent of Habsburg rule, but were in a sense also engendered by it. The gradual construction of a provincial administration as well as the various more or less official positions which opened up in Vienna presented attractive

⁴⁵² Oancea, „The ‘manger’ of the elites?“, offers a relatively comprehensive discussion of kinship ties between the members of the Small Council of Hermannstadt during the first half of the eighteenth century. Many of the reports submitted to Joseph during his travel to Transylvania by Hungarian noblemen in provincial offices underlined the same issue.

⁴⁵³ Herbert, "Die innere und äußere Rat", p. 392-394.

⁴⁵⁴ Miller, *Urban Societies*, p. 128-130.

alternatives to serving the city for the sons of well-to-do Saxons, as Michael Conrad von Heydendorff's memoirs amply testified to. At the same time, many were wary of giving up tenures within the urban government, which, though less glamorous, provided a welcome safety net for the rapidly changing environment of the *Landesämter*. Beside the Mayor and the Saxon Bailiff/Royal Judge, who were allocated two seats on the Gubernium, other senators alternately or simultaneously catered to both the urban community and the Empire. This would pose an issue for the Habsburg side as well as for the Transylvanian Saxon estate, especially when both needs were met at the same time, as senators who were promoted to membership in the provincial government also kept their seats on the town council. This created an increased financial and administrative burden on the city, because they still received their salaries while their duties needed to be taken over by other councilmen. Imperial leadership was aware of this situation and attempted to curtail it through a Court Decree in 1752, which established the "incompatibility of the office of senator with [occupying] provincial functions." Nevertheless, in practice, one could obtain a personal waiver of the decree and remain in office as senator while managing in fact the administration of the province.⁴⁵⁵ Incompatibility, like kinship, could also be wielded as a weapon by various factions within the urban government, or even by discontented individuals. When the most senior among the senators, the former Mayor Werder, was refused a certain secondary appointment, he countered that the individual who had replaced him found himself in a situation of incompatibility, as he was also Councillor on the Gubernium. As the senator explained, "should he be thusly affronted, then it could not be held against him if he were to allow the matter to reach the Court".⁴⁵⁶ Even leaving aside the issue of incompatibility, urban officials who were dispatched to Vienna to serve the nation's needs as agents often dallied in the capital, once they had been elected to positions in the urban government. Johann Kinder von Friedenberg was elected to the office of Seat Judge in absence at least twice, delaying his return from Vienna to occupy the position for several months each time, and then leaving the city without actually having fulfilled any of his duties.⁴⁵⁷ His son, Johann Kinder von Friedenberg junior, who had been accepted into the Community without having married and then appointed as *registrator decimarum* in the summer of 1736, also preferred to spend his time with his father in the imperial capital. When the Magistrate inquired

⁴⁵⁵ Müller, *Stühle und Distrikte*, p. 64.

⁴⁵⁶ Herbert, "Die innere und äußere Rat", p. 401.

⁴⁵⁷ Herbert, "Die innere und äußere Rat", p. 376, 378, 424-425.

when he might return to the city, Kinder senior notified them that his son's position should be occupied by someone else, "either temporarily or definitively."⁴⁵⁸

Prolonged absences and arbitrarily enforced provisions concerning appointment to secondary offices were also behind the lack of public order. As one city councillor eloquently described the situation in 1788 in an official report, likely responding to criticism brought to the urban administration:

"If under these abovementioned circumstances [*m.n.* the reforms of 1783-84], some things are lacking in the effective and active advancement of the *Polizei* in Hermannstadt, then it is not for want of good institutions, but rather on account of the lately exceedingly deteriorated activity of the Magistrate, which must often remain inactive [...] because of certain temporal circumstances and persons, and especially due to the lack of sufficient subordinated staff as well as to the lack of the necessary cash fund."⁴⁵⁹

Like most early modern cities and towns in East Central Europe, Hermannstadt was possessed of a sprawling system of urban governance amounting to no less than an "exuberance of municipal bureaucracy", which reflected what Miller has called the "overstructured and overregulated nature of medieval and early modern society."⁴⁶⁰ The number of subordinate positions had risen from around 77 at the beginning of the century, to nearly 200 by 1773. To better place this figure in perspective, the local imperial infrastructure in Hermannstadt – the Gubernium, the Treasury, and the Provincial Exchequer –, which had been described as a 'mammoth-department' around the same time, contained only 153 individual positions.⁴⁶¹ What had led to the emergence of this impressive urban framework?

One cause had been the increasing use of the written record in all kinds of civil and municipal affairs, and the requirement that keener oversight on various matters be exerted. This not to say that prior to the eighteenth century, the writing tasks involved with managing a city's affairs had not been onerous: on the contrary, it was not unheard of for city notaries and other officials who preferred to give up their positions altogether than continue in public service.⁴⁶²

⁴⁵⁸ Herbert, "Die innere und äußere Rat", p. 432.

⁴⁵⁹ "Ein ämtlicher Bericht über Hermannstädter Zustände aus dem Jahre 1788", in *Korrespondenzblatt des Vereins für Siebenbürgische Landeskunde*, XXVI. Band, 1. Heft, 1903, p. 132: "Wenn dahero unter diesen nämlichen Umständen an dem wirksam- und thätigen Fortgang der Polizei in Hermannstadt etwas gefehlet, so ist hieran nicht sowohl der Mangel guter Anstalten, sondern vielmehr die seit einer Zeit so sehr verfallene Magistratualaktivität, die oftmals bei dem grössten Diensteifer wegen gewisser Zeitumstände und Personen unthätig bleiben musste, besonders auch der Mangell an genugsamen untergeordneten Personale und der benötigte Fond an barem Gelde Schuld daran gewesen." The report was produced by the city Steward, Daniel Müller, for the Commissioner Count Kemény, and was part of a wider periodical inquiry into the state of the free royal cities.

⁴⁶⁰ Miller, *Urban Societies*, p. 134.

⁴⁶¹ Dörner, *Reformismul austriac*, p. 156.

⁴⁶² Herbert, "Die innere und äußere Rat", p. 409-410; Müller, *Stuhle und Distrikte*, p. 57: "Die Betätigung als Notar ist gewöhnlich al sein schwerer Dienst empfunden worden. Im Jahre 1697 erklärt sich beispielweise der Bistritzer Notar, lieber als Nichtbeamter Zins (Steuer) zahlen, als das beschwerliche Amt weiterführen zu wollen."

However, starting from the 1720s and 1730s, and paralleling the development of the imperial infrastructure in the province, the business of writing began to overwhelm many members of the urban administration.⁴⁶³ Positions for writers and scribes began to accompany almost every secondary office, or were increasingly institutionalized, growing from temporary aides into regular servants for the urban public.⁴⁶⁴ In most cases, appointments which involved taking over writing duties for a particular *Nebenamt* were made from the Community: given the often encountered kinship ties between senators and members of the Great Council, it was not impossible for a son to be appointed as his father's secretary. This practice was neither entirely discouraged, nor completely acceptable: during one of Johann Kinder von Friendberg's stints as Seat Judge, the Magistrate took active notice of the incompatibility which had resulted from his son's service as adjunct secretary for judicial matters, and relocated Johann Kinder junior to the position of scribe to the office supervising estate divisions.⁴⁶⁵

The administrative burden rose steadily over the century in all domains under the city's jurisdiction, making it difficult to properly staff all positions while also ensuring that those who could no longer fulfil their tasks were cared for. Formal petitions, such as that submitted to the Magistrate in 1763 by a judicial secretary by name of Carl Gottlieb von Scharffenbach provided glimpses into the severity of the situation. As Scharffenbach recounted, due to this "abiding illness and the ensuing disability" the Magistrate had found him a temporary replacement. But, given the increased needs of the city for qualified individuals, as well as a noticeable improvement in his health, Scharffenbach had dared to ask whether he might be allowed to resume his service to the public.⁴⁶⁶ He had been encouraged in this attempt because the workload had not abated, after his replacement, but rather to the contrary:

"The overwhelming tasks, which in case of the worthy *Judicat* constantly accumulate rather than decrease [...] and therefore do not allow any reduction in the current staff, along with the praiseworthy care with which the much esteemed Magistrate observes the speedy advancement of justice, as a cornerstone of the authorities' official duties, demand this inevitable provision, which I myself recognize as the fairest [...]."

⁴⁶³ The imperial administration in the province was similarly overwhelmed with the increase in the business of writing, which led to the emergence of separate institutional frameworks meant to handle, organize, and oversee the flow of documents – the registrar's office and the provincial archive. See Andea, "Instituțiile centrale ale Principatului Transilvaniei", p. 402, 385 which also acknowledges the "intense writing activity, which characterizes the evolution of urban chanceries." ["activitatea scripturistică intensă ce caracterizează evoluția cancelariilor orășenești."]

⁴⁶⁴ Herbert, "Die innere und äußere Rat", p. 410-412 offers a wealth of examples.

⁴⁶⁵ Herbert, "Die innere und äußere Rat", p. 394.

⁴⁶⁶ SJANS, *Magistrate - Fascicular documents*, Folder M 146 – *Cereri de angajare și mărire a salariului funcționarilor*, unnumbered document, Carl Gottlieb von Scharffenbach's petition of 1763, fol. 17r – 18 v. Scharffenbach had suffered from, in his words, "unsägliche Schmerzen, so ich eine gerrömmte Zeith an den Augen erlitten habe", a "stone" from which "God had freed" him. This had given him hope to apply for his old position.

He went on to note that his temporary inability to fulfil his duties did not mean he had wished to give up his position altogether, and expressed his desire to “work in the service of the worthy local public from now onwards, to the extent of my abilities”, continuing in the footsteps of his parents and grandparents.⁴⁶⁷ Scharffenbach’s petition proved successful: in 1767 he appeared on a staff list drafted by the Magistrate as secretary to the Judge of the Seven Villages, a position in which he had served for the past three years. Scharffenbach had been working in the urban public administration at least since 1759 and was only 44 years old in 1767, thus only 41 when his sight began to pose a serious problem: to lose a qualified individual in his prime, who was experienced in the practice of law, would have certainly proven difficult for the Magistrate.⁴⁶⁸ As Honnamon had reported to Joseph II during his first visit, the lack of individuals who had any kind of legal training was still plaguing the city council in the 1770s.⁴⁶⁹

Even when certain offices were occupied by qualified persons, it did not always follow that the tasks they involved were accomplished to the best standards. The city’s accounts were repeatedly found to be in disarray by the Great Council during the late 1720s, but barely any attempt was made to replace the Mayor, who was tasked with overseeing the account books, despite his own protestations to the contrary. In a meeting of the Small Council, the Mayor Werder had tearfully asked his colleagues to dismiss him from this onerous office and absolve him of his responsibilities, as his bodily frailty and the continuous sufferings impinged upon him by various diseases prevented him from appropriately managing the city.⁴⁷⁰ While some of the tasks were provisionally taken over by the city notary, who also received part of Werder’s remuneration for his involvement, this did not prove sufficient: in 1730, the balance of accounts still presented deficiencies. The Mayor’s renewed plea to the Community grew explicit: the situation would not improve until he would be replaced, and it was the councilmen’s task to ensure that the public was “appointed with capable subjects.”⁴⁷¹ Nevertheless, Werder would

⁴⁶⁷ SJANS, *Magistrate - Fascicular documents*, Folder M 146 – *Cereri de angajare și mărire a salariului funcționarilor*, unnumbered document, Carl Gottlieb von Scharffenbach’s petition of 1763, fol. 18v: “Als nehme hirmit die Freyheit einen Hoch Löbl. Magistrat unterthänigst anzugehen, Hoch Dieselben wollen meine dahmalige Entsagung, von dem bishero aufgehabten Dienste, nicht dahin, daß ich ingleich auf alle andere renuntieret hätte, ausdeüten, sondern vielmehr mein unverörderlicher Verlangen dem hiesigst Löbl. Publico auch künfftig hin nach dem Maßen meiner Kräfte zu dienen, mit denen Verdiensten, welche sich meine in Gott ruhende Elter, und Groß Eltern, von Vatter und Mutter bey eben diesen Löbl. Publico erworben dergestalt zu verbinden.”

⁴⁶⁸ SJANS, *Magistrate - Fascicular documents*, Folder M 149 - *Documente privind salarizarea funcționarilor publici în orașul Sibiu*, unnumbered document, “Tabella Salaristarum Civitatis Sedisque Saxonicalis Cibiensis”, fol. 55v- 56r.

⁴⁶⁹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 606..

⁴⁷⁰ Herbert, “Die innere und äußere Rat”, p. 366.

⁴⁷¹ Herbert, “Die innere und äußere Rat”, p. 367.

only withdraw from the onerous position of Mayor, without renouncing his seat as senator on the Small Council. He would also be quick to speak out when he felt himself slighted in the distribution of secondary appointments, as per his rank as most senior councilman, though by all accounts he had neither the ability nor the desire to work any longer, not having attended any council meetings between 1730 and 1739.⁴⁷² To convince Werder to give up his pretences over his desired appointment, the Council agreed to provide him with a generous yearly stipend of 100 Ducats (roughly 500 Hungarian Gulden), though the source of the sum was still to be determined. Although the eldest senator initially had no qualms to submit a formal petition against this injustice to the Court, noting that he had been utterly disrespected by this offer, which amounted to nothing more than “prostitution”, over time he would declare himself content with the monetary provision made for him.⁴⁷³

While questions of rank were still of the utmost significance for city councillors, the issue underpinning both the unmanageable administrative burden and the “deteriorating” activity of the urban government was the profound and irrecoverable disequilibrium between what the Saxon Lands produced, and what, in this case, Hermannstadt’s urban *cum* national administration consumed. On the one hand, many of the city’s civil servants were insufficiently remunerated, a problem which had been also signalled by Auersperg as plaguing the entire provincial system. Low wages would not encourage “an upright and propertied individual” to occupy office, and therefore the door would be left open to “people, who have nothing, and are [therefore] not of the best sort, to assume such service“ and to an entire host of abuses against taxpayers at local level.⁴⁷⁴ Proper financial compensation was the key to ensuring that the system functioned accordingly. In the Saxons’ case, this seemed impossible to achieve, as the numerous petitions submitted by local officials requesting an increase in salary attested to. The same petitions were often also couched in the language of privilege, exhibiting their authors’ sense of their own standing, compared to other positions in the urban government. Writing around 1715, Johann Kinder von Friedenberg senior described the income derived from the

⁴⁷² Herbert, “Die innere und äußere Rat”, p. 403.

⁴⁷³ Herbert, “Die innere und äußere Rat”, p. 404-405. Werder was vying for the appointment as Seat Judge of Szeliste, one of the city’s domains in the seat. Although this responsibility was traditionally settled upon the most senior senator, Werder was eventually only named as Secondary Judge. The tasks involved by his office were likely shouldered by the senator appointed in his stead.

⁴⁷⁴ Bozac, Pavel, *Die Reise Kaiser Josephs II*, “Verzeichniss Jener Sachen, so in Siebenbürgen annoch einzuführen theils nothwendig, theils nützlich wäre”, April 1772, p. 211: “18^{vo} Die Vermehrung der Besoldungen der Officianten gedachter Individuorum massen selbe so schmal ausgemessen sind, dass sie ohnmöglich besteten können, 20 fl. hat jährlich ein V. Stuhlsrichter, der alle Befehle zur Execution bringen muss, wie kann man sich wohl beygehen lassen, dass ein rechtschaffener Mann der begütert ist, diesen Dienst annehmen werde, woraus sich dann leicht folgen lässt, dass Leute, die nictes haben, und nicht von der besten Gattung sind, derly Bedienstungen annehmen [...]”.

position of secretary to the office overseeing urban estate divisions as “impossible to live on”, and asked whether he might be allowed to also protocol the estate divisions from the neighbouring villages, as this task would likely be “in contradiction with the character of a senator’s office”. Were he not granted this favour, Friedenbergh feared that both he and his family would be in danger of falling into the “greatest misery and most obvious poverty” over winter.⁴⁷⁵ Petitioning activity was not limited to those educated and often well-to-do individuals who fulfilled offices assigned to them as members of the Great or Small Councils, as such instruments were wielded by those on the lower rungs of the administration as well. A petition drafted in the name of the guards assigned to protect the city’s four gates underlined the issue:

“Since the growth in the expense of victuals, which nevertheless remain indispensable, such as firewood, the home and city taxes, beside the daily bread, and what else is necessary for the sustainment of life and limb, our graciously set salary amounting to 40 Hungarian Gulden is no longer enough to provide us this needful and poor livelihood over the entire year.”⁴⁷⁶

Increasing cost of living aside, the unregulated nature of provisions made for those who had served in the administration and were provided for from the various treasuries managed by the city meant that individuals such as Werder could leverage their way into a comfortable position for their remaining days, while others managed on lower salaries or found other means to compensate for their low income.⁴⁷⁷ Officials who substituted for others were to be compensated by those whom they replaced, and not by the city. This increased delays in salary payments, sometimes indeterminately,⁴⁷⁸ while even under normal conditions, remunerations

⁴⁷⁵ SJANS, *Magistrate - Fascicular documents*, Folder M 146 – *Cereri de angajare și mărire a salariului funcționarilor*, unnumbered document, Petition by Johann Kinder von Friedenbergh, cca. 1714, fol. 10r- 10v: “Nachdeme nunmehr mit gesambt verfallenen allhiesigte publicquen Affairen, mich die Einkünfftten eines Theilschreibers solchergestalten abgenommen, daß es unmöglich dabey zu subsitieren; als gelanget an Einem Hoch Löbl. Magistrat meinen demüthigst gehorsamste Bitte, es wolle Hochderselbe mir die hohe und großen Gnade wiederfahren zu laßen, und da sich ex Gremio Incl. Magistratus zu denen Dorffs-Divisonen /: weilen solches vielleicht mit dem Senatoris Character streitet:/ sich niemand finden will, auch H. Hoch mit unpäßlichkeit bechaffet, mir so thann Function meinen jetzigen Ambte großgünstigst zu adjugieren gerufen; angesehen bey so sehr viellen Bedienst müßen gegen den Winter bey dermahligen meinem Umständen, für mich mein armes Weib und Kind gar keinen Außkunfft sehe, und bey so gestalten Sachen in die größte Schmach und äußerste Armuth zu gerathen Gefahr lauffe.”

⁴⁷⁶ SJANS, *Magistrate - Fascicular documents*, Folder M 146 – *Cereri de angajare și mărire a salariului funcționarilor*, unnumbered document, Petition by the guards of the city gates, cca. 1740, fol. 23r: “Nachdeme bey so theuer gewordenen, und doch dabey unentbehrlichen Lebens Mitteln, als Brenn-Holtz, Hauß und Stadt Zinß, nebst dem täglichen Brodt, und waß noch mehr zum Unterhalt des menschlichen Leibes und Lebens gehöret, unser gnädig gesetztes Salarium, in 40 Ungarischen Gulden bestehend, nicht hinreichend ist, uns diesen nöthigen und armen Unterhalt zu geben, das gantze Jahr hindurch;”

⁴⁷⁷ Herbert, “Die innere und äußere Rat”, p. 419-421.

⁴⁷⁸ Herbert, “Die innere und äußere Rat”, p. 424-425. On Kinder von Friedenbergh’s second election as Seat Judge, his replacement only agreed to substitute under the condition that “ihm sowohl für die Vergangenheit, als für die Zukunft eine entsprechende Entschädigung von Friedenbergh zugesichert werde.”

could be deferred up to several years.⁴⁷⁹ In addition, the safety net in place for those who could no longer fulfil their tasks operated on a case-by-case basis, and often involved appointing a helper for the individual in question – usually the secondary officeholder – or simply relocating him to a less demanding office.⁴⁸⁰

It was only in 1774 that a clear project for a pension system in the urban civil service was devised. Until then, the families of deceased civil servants could not always count on any significant or speedy financial aid to supplement the loss of husbands and fathers' income.⁴⁸¹ The timing of the project was likely not coincidental, but rather signalled the fact that the urban *cum* national leadership had perceived a threat to its status in Joseph's visit. The founding document of the pension system deserves a closer examination, as it very clearly articulated just how dissatisfied the upper-level urban leadership was with the attempts to make their incomes and responsibilities legible and transparent. As the members of the Inner Council argued, the pension plan had been devised because "it did not appear that either the salaries or the official incomes of the senators will be allowed to increase". This outrageous situation was all the more deplorable, given that present incomes did not allow anyone to put anything aside "to the future aid of their widows and orphans." "Without a substantial yearly contribution either from one's own economy (i.e. household economy), or from inherited wealth", a senator's wage was barely enough to allow one "a day-to-day living in accordance to their character". What then was to become of those left behind? The pension scheme was meant to "create such conditions, that the provision for one's own, which one was compelled to ensure" would not cease with one's death, but rather "extend even after one's died."⁴⁸²

⁴⁷⁹ Delayed payments were not insignificant either, as attested to by various documents drawn up by the Magistrate: a list of overdue remunerations for several higher offices for 1762 and 1763 amounted to 3370.50 Hungarian Gulden. SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul Sibiu*, unnumbered document, fol. 45r.

⁴⁸⁰ Herbert, , "Die innere und äußere Rat", p. 426.

⁴⁸¹ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul Sibiu*, unnumbered document, fol. 45r, includes a list of salaries owed to the heirs of various officials, including those of the former Saxon Bailiff, Stephan Waldhütter von Adlershausen, who had perished in November 1761. Two years later, his family was still owed the rather considerable sum of 1883.20 Hungarian Gulden.

⁴⁸² SJANS, *Magistratul orașului și scaunului Sibiu - Caseria alodială a orașului [Magistrate of the city and seat of Sibiu - Allodial exchequer of the city]*, Folder 1/1774, containing the decision of the magistrate of the city and seat of Sibiu regarding the administration of a pension fund, unnumbered document, unnumbered folio: "Da die Salaria und übrigen Amts-Einkünfte derer Senatorum weder dermahlen von den Betrage sind, noch dem Anscheine noch jemals dahin einwachsen dörften: daß selbige ohne eine jährliche, entweder aus eigener Wirtschaft, oder ererbten Vermögen herfliessende beträchtliche zubeußen, auch nur zu ihrem charactermäßigen täglichen Unterhalt, und übriger Nothdurft, geschweige denn auch darzu hier reichend und erklücklich seyn sollten, jährlich etwas dawon zu ersparen, und zum künftigen Behuf derer etwa hinter ihnen bleibenden Wittwen und Waysen bey Seite legen zu können, und es dahero bey so bewandten Umständen einen jeden Senatori nicht anders als recht nahe am Herten liegen kann, die Vorsorge worzu er denen Seinigen verpflichtet ist, solcher

While it is debatable whether senator's salaries were insufficient to allow one to save and to live in a way that was worthy of one's character, other petitions submitted to the magistrate by lesser officials suggested that in some cases, the business of running the town could become damaging to one's own *Wirtschaft*. The lack of financial security could be damaging to those who occupied offices of lesser importance, recruited from the members of the Great Councils, and who had to temporarily give up their regular employments as members of one of the urban craft guilds. As Michael Dietrich, the younger market judge, aptly described the situation in a petition around mid-century,

“this office necessarily demands a continuous exertion from early morning until nightfall, and therefore I can neither carry on with my own work nor pursue my own enterprise. It is thus easy to pick up on [the fact] that this office, for the current salary of 60 Rhenish Florins, cannot not lead me anywhere else than to [...] damage.”⁴⁸³

Attempts to remedy this situation had been made since at least the 1730s, when the Court had ordered that a clear overview of the salary scheme along with a description of the attributions pertaining to each office. The Magistrate had regarded the matter as one of the utmost importance, its foremost concern being to “prevent any damage to the nation.” In 1731, it decided to establish a commission to handle the matter, composed of three senators and headed by none other than the absent and long-suffering Werder. The outline was prepared but had little echo in the day-to-day workings of the administration. A further imperial decree from 1736 warned that city officials should not increase their incomes unduly on the expense of their subordinates.⁴⁸⁴

Nothing much seemed to have been achieved until the 1750s, when urban officials' privileges began to witness a more concerted process of dismantling. In the years preceding Joseph's visit, Auersperg and others highlighted the dire situation elicited by the disequilibrium present in the Transylvania Saxon nation's accounts, pointing to officials' salaries and various other “extraordinary” expenses as its main cause. As Auersperg explained, in the early 1750s, the Commission headed by Wankel von Seeberg had officially requested a clear overview of

gestalten einzurichten, daß deren wohlthätige Wirckung nicht mit ihm zugleich aufhören, sondern auch auf die Zeiten nach seinem Todte erstrecken [...].”

⁴⁸³ SJANS, *Magistrate - Fascicular documents*, Folder M 146 - *Cereri de angajare și mărire a salariului funcționarilor*, unnumbered document, Petition by Michael Dietrich, younger market judge in Sibiu, 1758, fol. 28r: “dieser Dienst dermalen eine von Früh-Morgens biß auf die Nacht täglich fortdauernde Beschäftigung nothwendig erheische, und ich dahero weder meien Profession dabey zu treiben, noch sonst meiner eigenen Wirtschaftt in etwas nachzugehen im Stande bin. Gleich wie nun daher leicht abzunehmen daß mir deise Function bey dem dermaligen Salario von 60 Rfl. Nicht anders als zum Lagenscheinlichen Schaden gerrichen könne”.

⁴⁸⁴ Herbert, “Die innere und äußere Rat”, p. 423.

the “fixed salaries of the officials, the Magistrate, and their subordinates, in addition to the by-appointments adhering to these posts, and the *Accidenzien*” they entailed. At least on paper, the salaries appeared to the General Commander as “sufficient to ensure the necessary and proper subsistence of an official”, and therefore all other “*Accidenzien* and emoluments” which they had previously enjoyed had been abolished.⁴⁸⁵

The town councillors’ tax exemption was also summarily repealed, despite an ample petition campaign to the contrary. However, it would take nearly until the end of the century to see the results of this measure. In 1796 senators whose house taxes had been paid from the city’s treasury were compelled to cover this burden themselves, and one year later a monthly deduction meant for the retroactive payment of the *Haus-Zins* was decreed.⁴⁸⁶

Transylvanian Saxon officials’ salaries were only one example of arbitrary policy implementation. Throughout the eighteenth century, exceedingly high sums were assigned to Transylvanian Saxon delegates present in Vienna on national matters. Auersperg’s thorough examination of the accounts of the Saxon University, housed in the provincial capital’s archive, revealed that these delegations were “expensive” and a “piece of evidence of the Saxon nation’s largesse when it came to its deputies”: a delegate in service of the nation received a daily stipend of 16 Hungarian Florin, while an imperial councillor with the rank of knight was granted a bit over half of this sum.⁴⁸⁷ In 1760, the nation’s agent in Vienna, an official who was not always explicitly mentioned on staffing schemes, earned a salary of 333.20 Hungarian Florin, some 10% more than the city’s physician, the speaker of the Great Council (*orator civitatis*), or the vice Notary.⁴⁸⁸ Other delegations directly representing the nation’s interests in the capital during 1759 and 1760, which were out of the purview of the urban administration, and therefore went unlisted in the regular staffing schemes, had incurred expenses of some 15.000 Florin.⁴⁸⁹ Saxon historical literature over the nineteenth-century does not seem to agree with these assessments, but demurs from directly engaging with these issues, preferring to counter instead with the argument that the costs incurred by the Economic Commission over the decade or so that it functioned amounted to some 100.000 Rhenish Florin. Another often-highlighted issue is the fact that those employed by the Commission – a list from which Michael

⁴⁸⁵ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 161-162.

⁴⁸⁶ Müller, *Stuhle und Distrikte*, p. 65.

⁴⁸⁷ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 223

⁴⁸⁸ SJANS, *Magistrate - Fascicular documents*, Folder M 149 – *Documente privind salarizarea funcționarilor publici în orașul și scaunul Sibiu*, “Interimul Lista Jener Titl. Hll. Ober-Officianten, Magistratualium, Subalternen p.p. bey dem Hermannstädter Publico, wie viel an jährlichen Salarien, ein jedes Individuum, und aus welchen Cassen zu bekommen hat”, fol. 37r-37v.

⁴⁸⁹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 238.

Conrad von Heidendorff is sometimes missing – were primarily Catholic or new imports to the Saxon national milieu.⁴⁹⁰

The “profligate largesse” evidenced in administering the nation’s funds was also complemented by an almost complete lack of oversight when it came to balancing the accounts of those who had conveyed the grievances of the nation in the imperial capital. According to Auersperg’s inquiry, Samuel von Brukenthal had received over 17.000 Florin for his service in Vienna, of which only roughly 13.350 had been appropriately accounted for. It had not been possible to tell whether the remaining sum – a rather hefty one – had went into his own pocket, as no one had dared require Brukenthal to provide a complete balance of his expenditures. As the protocols of the University explained, during one’s time in Vienna, many additional expenses might crop up; what is more, the Baron von Brukenthal was known to have much influence on all matters, given that he was already present at court; given that one might need his mediation for the nation’s needs in the future, it would prove unwise to request a detailed reckoning.⁴⁹¹ As Auersperg noted, other deputies to Vienna had not even deigned to submit a partial account of their expenses for his examination, a matter which likely owed to “the Saxon nation’s exaggerated fear of any ‘national’ individual, who occupied such substantial offices.”⁴⁹² The Magistrate had been undoubtedly capable of exercising thriftiness in official matters, as for instance in 1707, when it had commanded Simon Baußner, its delegate to Vienna, to find a post carriage to travel with, and send back the horses to the city with his servant.⁴⁹³ However, by the late eighteenth century, the business of the nation had become a pretext for an entire host of expenses, which the city, the seat, and the regular taxpayer bore with some difficulty.

⁴⁹⁰ See for instance Schaser, *Denkwürdigkeiten*, p. 9-10.

⁴⁹¹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 223, 225: “Baron Brukenthal wurde den oben Puncto 23^{to} berührte Überschuss von 3.751 fl. 29 xr. nachgesehen, und demselben ein a Absolutorium über dessen bis dorthinigen über dessen bis dorthinigen Empfang ertheilet, weil bey Gelegenheit solcherley wichtigen Deputationen (so lauten die Ausdrücke des Protocollis Universitatis) öfters ad improviso dergleichen ex ratione status unvermeidliche Erogations-Posten vorkommen, die eben nicht so genau ad calculum erogationum in eien Rechnung eingebracht werden können, und doch manchmal sehr considerable sind, und weilen bekannt ist, dass Baron v. Brukenthal in der Limitrophen Sache, da er bey Hof ist, eine grosse Influenz habe, fortan eine grosse Ursach obwalte, desselben Interposition vor die Nation auszubitten, ohne Ertheilung aber eines Absolutorii seiner Rechnungen, die er als Deputatus abegeleget, man nicht eben so frey an ihn würde recurririen können.”

⁴⁹² Bozac, Pavel, *Die Reise Kaiser Josephs II*, “Kurzer Inhalt der Anmerkungen, so über die Universitäts-Protocolla der Sächsischen Nation in Siebenbürgen vom allerhöchstdero siebenbürgischen Gubernatore sub dato 10^{mo} abgefasset, und den 12^{ten} inlebenden Monats April Euer Majestät in allerunterthänigkeit eigebracht worden” , p. 221: “Der Gubernial Rath v. Huttern hat die Rechnung über jenes Geld, was er als ehemahliger anhero gesandter National Deputierter empfangen, bis zur Stund nicht abegeleget, aus beeden ist übertriebenen Furcht der Sächsischen Nation gegen jene national Individua, so in ansehnlichen Bedienstungen stehen abzunehmen.”

⁴⁹³ Szirtes, “Der Hermannstädter Gesandte”, p. 328 – note 28.

Conclusions

To understand the impact of Hermannstadt's status on its inhabitants, it is necessary to examine the threefold context in which it was embedded: firstly, as a royal free city part of the medieval urban network of the Kingdom of Hungary; secondly, as capital of the Transylvanian Saxon nation, and thirdly, as an urban republic with a lengthy tradition of self-government. These three contexts did not operate independently of one another, but rather entangled to a considerable extent.

The city's status evolved over time, as Hermannstadt became a 'Haupt' of the nation. As placeholder to the Transylvanian Saxon nation when the University was not in conflux, Hermannstadt assumed several roles that distinguished it from other Transylvanian Saxon cities. In turn, these additional attributions came not only with increased political prestige, but also transformed social fabric of the city. Imperial and national politics reverberated directly and rapidly in the daily life of its inhabitants, shaping their expectations and opportunities, while also influencing their leadership's medium and long-term goals.

Hermannstadt's position within the Royal Lands also brought with itself extended jurisdictions, unclear administrative and fiscal boundaries, and a sprawling bureaucracy. These tendencies were compounded by the inter-estate status-quo and by the lack of a clear fiscal system, which made national attempts to obtain leverage over one's adversaries more important than ensuring that the good order of the republic remained resilient. At the same time, the urban administration should not be regarded as a homogenous group in terms of income and opportunity, as being in the city's employ did not mean high salaries and benefices for the great majority of those who worked as *sallaristae*.

The majority of the issues identified by Habsburg reports on the municipal leadership and the lack of proper *Pollizey* stemmed from the relationship of identity which existed between the highest urban officials from Hermannstadt and the Transylvanian Saxon nation. This relationship, predicated on privileges and customs established between the twelfth and fifteenth centuries, was no longer functioning within acceptable parameters. Once the Habsburgs entered the Transylvanian political scene, it became increasingly difficult to obscure the fact that the Saxon nation was much narrower in reality and practice than it was referred to in public discourse. When Saxon delegates in Vienna or members of the town council spoke about the nation, they envisaged a relatively closed circle of elite families, whose network stretched to encompass the leadership of the majority of the urban milieu in Transylvania. As Joseph himself had noted, when one spoke of the Saxon nation in Vienna, one needed only to think of

a group of “60 to 70” individuals, rather than the several thousand of politically-empowered citizens who formed the core of the urban population in the province.⁴⁹⁴

The constant blind eye turned to kinship and nepotism had not only narrowed down the nation’s interests to overlap to a great extent with those of the uppermost levels of the elite, but also allowed the national leadership to turn into an extractive institution, while still claiming to be an inclusive one. This matter would persist well into the late eighteenth century, leading many of Joseph’s interlocutors to remark that the Saxon *Beamte* had managed to turn their offices into “hereditary” positions.⁴⁹⁵ With the gradual crystallisation of the Habsburg infrastructure, the increased fiscal pressure exerted on the province, and particularly on the Saxon Royal Lands, had begun to shake the foundations of this relationship. Close to one third of the reports Joseph II received prior to and after his journey devoted ample space to this issue, which arguably ranked as one of the thorniest matters in the province during the entire eighteenth century. In many regards, the lack of external oversight had allowed the fund of the University Treasury to become a private coffer for well-placed Saxon individuals, to the detriment of the common Saxon taxpayer. “Confusion and disorder” reigned in the Small Council, the collection of taxes was “so difficult, that one cannot even begin to explain it to the common man”⁴⁹⁶, and many of the councillors showed little to no “officialness” or desire to improve their conducts.⁴⁹⁷ The only visible effect of Habsburg policies was the implementing of a pension scheme in 1774, which was meant to help further cushion the fates of the urban leadership. The reductions in tax cuts and exemptions for the upper councillors would only be felt towards the final years of the century, while other measures meant to prevent kinship ties from overlapping with official business would be wholly unsuccessful.

Habsburg policies had not managed to cut through to the core of the issue by the late eighteenth century, a result of the fact that even within the ranks of the military, the nation’s pathway to complain and obfuscate was in many cases opened by greasing the right hands. In these conditions, it was difficult to disagree with Joseph’s assessments. To ignore the fact that the door to the drastic reforms of the 1780s had also been forced open by the grassroots situation observed in 1773 seemed inconceivable, yet that is precisely what the national leadership did. As Honnamon wrote to Brukenthal following Joseph’s departure, “His Majesty seemed to have been entirely content with us, but what he thought to himself, on God can tell.

⁴⁹⁴ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 751.

⁴⁹⁵ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 683.

⁴⁹⁶ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 683.

⁴⁹⁷ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 462-463.

His Majesty told me, among other things, that he regretted not having been able to see the whole city, [...] and that ‘it is not that far away, perhaps I shall see Hermannstadt some other time.’”⁴⁹⁸

⁴⁹⁸ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 452: “übrigens muss ich unterthänigst bekennen, dass Seine Majestät gantz mit uns zufrieden zu seyn schiene, dann de internis non nisi deus judicat. Seine Majestät sagten mir unter anderen, wie Allerhöchst Ihro bereuten nicht enimahl die Stadt ganz gesehen zu haben (dann Seine Majestät arbeiteten von 5 Ur. fruhe bis 11. Uhr Nachts in ihren Zimmer) und dass sie auch Heltau und die dasige Manufacturen nicht beaugenschienigen konten: es ist doch nicht sogar weit, vielleicht sehe ich Hermannstadt ein andermahl.”

Part III. Provincial and urban hierarchies

Introduction

In May of 1727, the Senator Matthias Fronius had been dispatched from Kronstadt to the city of Klausenburg to attend a meeting of the provincial parliament. Between the beginning of the century and the end of Charles VI's reign, the Diets' itinerancy mirrored that of the Provincial Government, and in turn, the unsettled balance of power in the province. Only after 1733 would the Diet regularly meet in Hermannstadt.⁴⁹⁹

Fronius, a regular delegate to the Diet meetings since 1720, had apparently recognized the necessity of keeping a record of the proceedings, and the usefulness of this record for the goals of the Saxon nation in the long term. Though highly biased toward the Saxon cause, the work nevertheless provides a glimpse into the province's most contentious matters: the overall provincial fiscal burden and its subdivision among the estates and their territories. The controversies generated by the taxes levied by the Habsburgs in the first half of the eighteenth century easily rivalled those surrounding the administrative reforms of the 1780s, and given their reflection of the contemporary political and inter-estate status quo, deserve a closer examination.

In 1727, the province's representatives voted not only on the taxes for the current year, but also agreed to settle arrears for the previous two years, which amounted to 98.617 Rhenish Florin and 30 Kreutzer.⁵⁰⁰ The entire sum levied on the province's taxpayers – including the outstanding debt – had reached 358.617 Rhenish Florin and 30 Kreutzer, more than four times the amount that the *Diploma Leopoldinum* had prescribed as the maximum level of taxation for peace years.⁵⁰¹ From a disaffected Fronius, the reader also learns that seven years earlier, in 1720, the Government had also taken upon itself to partition the tax burden within each estate,

⁴⁹⁹ Kutschera, *Landtag und Gubernium*, p. 62-64 for the list of Diets after the Habsburg takeover. The 1727 Klausenburg meeting to which Fronius had been summoned does not appear to be included on the list.

⁵⁰⁰ Gräser, "Beitrag zur Geschichte des Siebenbürger Steuerwesens", p. 61. To this were added some 50.000 *Kübel* or barrels of corn.

⁵⁰¹ According to Johann Karl Schuller, "Die Siebenbürgische Steuergesetzgebung", in *Archiv für die Kenntniß von Siebenbürgens Vorzeit und Gegenwart. In Verbindung mit merheren Mitarbeitern, und in zwanglosen Heften herausgegeben*, I. Band, I. Heft, Hermannstadt: Martin Edlen von Hochmeister'sche Buchhandlung, 1840, p. 1-2, the Diploma "still retained constitutional value" in the matter of taxation throughout the eighteenth century. According to its provisions, during times of peace, the province had to pay a tax of 50.000 Thaler (*m.n. amounting to 75.000 Hungarian Gulden/Florin*). Only during a war against either Hungary or Transylvania, did the province's fiscal burden rise up to 400.000 Gulden, wherein the tax paid in kind was included. In 1691, as the war with the Ottoman Porte was still ranging, the tax requested amounted to the latter sum.

as well as between the three main tax-paying units (counties, Saxon lands, Szekler lands).⁵⁰² To the Transylvanian Saxons, whose University had held the prerogative of subdividing taxes as one of the essential signs of its autonomy, this had been an ominous foreshadowing. Fronius had believed the measure to be “to the great detriment of our order”, but there was little the Saxon delegation could have done to counter it.⁵⁰³ Protests against what was perceived as the highly prejudiced division of taxes between the three national bodies, as well as within the Saxon nation, had led to no improvements but on the contrary, to censure. The head of the provincial government, Count Sigismund Kornis, argued that this division of burdens was only natural, following the legal and social boundaries actually in place:⁵⁰⁴

“The gentlemen Saxons must not reckon themselves equal to the other nations; if there should be no distinction between noble and burgher, then I would send my son to Hermannstadt or Kronstadt and let him marry a shoemaker’s daughter [...]”⁵⁰⁵

The governor’s view of the repartition of tax burdens in the province succinctly encapsulated both the imperial and the mainstream provincial perspective on the social-legal order present in eighteenth-century Transylvania, as well as its natural repercussions in the differing levels of taxation. As this chapter will show, the same founding privileges of the Transylvanian Saxon nation had led to the emergence of a social-legal hierarchy that could not be transgressed *en masse*, but only individually, and even then, only in certain contexts.⁵⁰⁶ At a provincial level, the Transylvanian Saxon nation was placed lower on a symbolical scale than the noble nation, and significantly lower than its aristocratic figures. Regardless of the shower of titles of nobility that had fallen upon the Saxons – and on Transylvania itself – in the last few decades of the seventeenth century and during Maria Theresia’s reign, the Saxon nation was regarded as a homogenous and inferior component of the estate-based system, compared to the nobility in general and the aristocracy in particular.⁵⁰⁷ While noble titles did grant their bearers some prestige in exterior circumstances, growing up as shoemakers’ sons tarnished this

⁵⁰² A fourth category was constituted by the so-called “Taxal Orte”, the three free royal cities and the ‘market towns’ located within the counties (on noble lands) or the Szekler seats. All of these units were taxed directly by the state, rather than through the mediation of the estates. These communities were also represented in the Diet. See Kutschera, *Landtag und Gubernium*, p. 37-38.

⁵⁰³ Gräser, “Beitrag zur Geschichte des Siebenbürger Steuerwesens”, p. 49.

⁵⁰⁴ According to the list of Governors supplied in Kutschera, *Landtag und Gubernium*, p. 311.

⁵⁰⁵ Gräser, “Beitrag zur Geschichte des Siebenbürger Steuerwesens”, p. 62: “die Herrn Sachsen müssen sich nicht den andern Nationen gleich schätzen; wenn kein Unterschied sein soll inter nobilem et civem, so will ich meinen Sohn auf Hermannstadt oder Kronstadt schicken, und eines Schusters Tochter ehelichen lassen [...]”

⁵⁰⁶ Auersperg’s complaint about Baron Samuel von Brukenthal’s heritage is a telling example in this sense.

⁵⁰⁷ Zsolt Trócsányi, “A New Regime and an Altered Ethnic Pattern, (1711-1770)”, in Makkai and Szász, *History of Transylvania, Vol. II, From 1606 to 1830*, p. 549-550; Schaser, *Reformele iozefine*, p. 68, notes that around the late 1770s, there were at least 40 ennobled Transylvanian Saxon families.

image to a considerable extent. At the same time, the fact that the most prosperous and populous urban centres in the province had sprung up within the boundaries of the Royal Lands meant that it was higher on the hierarchy of fiscal yields compared to the counties, a matter of utmost interest to the Habsburg state. It would become increasingly difficult to mesh these two competing hierarchizations during the eighteenth century, given the growing social, occupational and economic differentiation visible foremost in the urban environments. Finally, social and occupational differentiation often came at the cost of entrenched privileges wielded by various urban corporate actors, whose pretences were repeatedly challenged in broad petitional campaigns involving various stakeholders, including the urban leadership, various Habsburg or provincial officials, and other well-placed individuals. Nowhere were these emblematic clashes more manifest than in the national and provincial capital.

Following up on the premises opened by the preceding section, this segment will shed light on the overlaps and divergences between the various ways of ordering society within the province and the city of Hermannstadt, as a means of obtaining insight into what mattered when it came to distinguishing between the fortunate and the unfortunate, and how contextually-dependent these criteria were. The examination is predicated on the notion that by the early 1720s, there were multiple inequalities within the urban fabric, only some of which had been engendered by the specific privileges ascribed to the Transylvanian Saxon nation. To underpin the investigation into the testamentary transmission of property, the chapter shall first survey the social-economic and professional structure of the city at several points in time, and assess the inequalities present both between various groups and within them. It will reconsider the different ways of dividing and regrouping individuals into legal, social-occupational, and economic classes, and confront political discourse about the social content of the Transylvanian Saxon nation with the grassroots situation observed in the capital. The chapter will primarily focus on the hard and resilient nucleus of the nation, namely the ranks of the urban citizenry, as the only stable and readily-discernible group over the *longue durée*.

The chapter is structured as follows: firstly, the enquiry is directed at the ideologies and legal considerations underpinning fiscality in the province, and the place of the Saxon nation in these debates, as a way to understand how the politicization of tax burdens had translated into the social construction of the nation-estates; secondly, it examines the growth of Hermannstadt over the course of the eighteenth century, as reflected in the changes exhibited by the politically-enfranchised groups in the city in terms of occupational structure. I then turn from self-referential legal categorisations to explore what current class schemes bring to the discussion, and how they might aid in operationalising the blurry category of the urban

citizenry, as the primary focus on the present work. Finally, explore the apparent robustness and salience of social classes constructed mainly on the basis of occupational affiliation by superimposing them to hierarchies created by various types of income and tax rates.

6. Who counted, who paid? Fiscality and legal orders

Between the fifteenth and eighteenth centuries, an entire host of institutions and corporate actors made repeated, systematic, and highly idiosyncratic efforts to list and count various categories of individuals. In many scenarios, these efforts were tied to the defence of collective rights – privileges and freedoms – as well as to the enforcement of discipline and order.⁵⁰⁸ These endeavours were always purpose-driven, with a view to directly shaping policy design or at least its implementation, even when the resulting documents served primarily as a repository of institutional memory. Most of these undertakings produced a flurry of documents, registers, and protocols which present the historian with increasingly detailed snippets of various early modern groups. In the case of early modern Transylvania, no source which could provide a disaggregate image of the territory's household structure for the eighteenth century has survived completely.⁵⁰⁹

What is more, as was the case for the province's legal landscape, the efforts to make the province's social fabric legible neither began with the entry of the state onto the scene, – particularly, the Habsburg state –, nor ended with its partial exit after 1867.⁵¹⁰ To clarify the question of “who counted” in Hermannstadt, under what circumstances, and how this influenced the transmission of property, several types of sources will be assembled to trace the city's growth over time. In order to make sense of the composite image that results from this

⁵⁰⁸ Corporate bodies keeping track of their membership was one of the elements of continuity between pre-modern sociability and the emergence of the ‘classical’ era of associations around the middle of the nineteenth century. On the continuities between these two forms of assembly see Maarten F. Van Dijck, Bert De Munck, Nicholas Terpstra, “Relocating Civil Society: Theories and Practices of Civil Society between Late Medieval and Modern Society”, in *Social Science History*, Vol. 41, Issue 1, 2017, p. 7-9 and David Garrioch, “‘Man is Born for Society’: Confraternities and Civil Society in Eighteenth-Century Paris and Milan”, in *Social Science History*, Vol. 41, Issue 1, 2017, p. 108-109.

⁵⁰⁹ As Péter Őri and Levente Pakot point out in “Census and census-like material preserved in the archives of Hungary, Slovakia, and Transylvania (Romania), 18-19th centuries”, Max-Planck Institut für demografische Forschung (MDIPR) Working Paper, WP 2011-020, December 2011, p. 10-11, even the 1787 conscription has not survived in the original apart from very few localities.

⁵¹⁰ The overwhelming majority of works dealing with censuses and categorisations employed in the Dual Monarchy focus on the nineteenth century and early twentieth-centuries, as part of the grander narrative of the rise of nationalism. See for instance Ulrike Hirschhausen, “From imperial inclusion to national exclusion: citizenship in the Habsburg monarchy and in Austria 1867-1923”, in *European Review of History- Revue européenne d'histoire*, Vol. 16, Issue 4, 2009, pp. 551-573. In a fiscal and military sense, it may be argued that the Habsburg state exited the Transylvanian scene after the 1867 Compromise.

assembly of partially comparable documents, I will firstly discuss the context in which they emerged and the political debates they engendered. After shedding light on the political issues underpinning the matter of taxation – and therefore the reckoning of taxpayers –, I will turn to the legal order that provided the categorisations employed in the process of counting.

Following in the footsteps of the conscriptions undertaken in the Austrian Crownlands and Bohemia during the 1770s,⁵¹¹ in 1785 Joseph II would finally manage to wrangle the provincial estates into agreeing to a comprehensive population enumeration to parallel the efforts to map the province. This was no meagre effort, even beyond its political and fiscal implications: some 1.200 bales of writing paper would be used to map the province's inhabitants; with the addition of printing costs, the entire enterprise amounted to some 95.000 Florin, an immense sum by any criteria.⁵¹² Why had it taken the Empire nearly a century since its army had entered Hermannstadt to see this task through? The answer lies, like in most other cases, with the estate system and the entanglement of competing collective rights it was predicated on. Various groups used the process of 'counting' as an instrument of control and a potential weapon against their adversaries, a tendency which grew increasingly evident during the provincial parliament's debates on the necessity of organising a fiscal conscription. Over time, all stakeholders either outright opposed this endeavour or at least thwarted efforts to adequately see it through. Plans to undertake a province-wide listing of taxpayers had been formulated as early as 1703, when the Gubernium had released a first draft of instructions highlighting some of the chronic issues expected to impede this effort: individuals attempting to abscond from commissioners, under-reporting assets that contributed to income, or fraudulent claims of tax exemption or immunity.⁵¹³ To this was added the significant variation present within the contemporary concept of a "taxable unit", which was at best heavily fraught with inconsistencies, if not altogether unusable.

A brief discussion of several characteristics of the Transylvanian tax system prior to the mid-eighteenth century will help shed light on the ingrained disparities that had already

⁵¹¹ Costin Feneşan, *Izvoare de demografie istorică*, Vol. I, Secolul al XVIII-lea. Transilvania, Bucharest: Direcția Generală a Arhivelor Statului din Republica Socialistă România, 1986, p. 14. On the unfolding of the 1770-1771 conscription in the Hereditary Lands and those of the Bohemian Crown, see Michael Hochedlinger, Anton Tantner (eds.), *“Der größte Teil der Untertanen lebt elend und mühselig”. Die Berichte des Hofkriegsrates zur sozialen und wirtschaftlichen Lage der Habsburgermonarchie 1770-1771*, Mitteilungen des Österreichischen Staatarchivs, Sonderband 8, Innsbruck-Wien-Bozen: STUDIENVerlag, 2005, p. XXXVII-LIII.

⁵¹² Johann Hintz, “Volkszählungen in Siebenbürgen (Vorgetragen in der Versammlung der statistischgeographischen Sektion des Vereines für siebenbürgische Landeskunde am 5. Juni 1846)”, in *Archiv des Vereines für Siebenbürgische Landeskunde*, III. Band, 1848, p. 50.

⁵¹³ The text of the instructions is reproduced in the original Latin with a Romanian translation in Feneşan, *Izvoare de demografie istorică*, Vol. I, Secolul al XVIII-lea, p. 31-40.

made the situation extremely tense at the onset of Habsburg state-building in the province. Classical Hungarian scholarship has characterized this system as “anachronistic” from its inception in 1609, regarding it as the short-term solution envisaged to deal with the damages incurred by the province during wartime. As it had been designed and negotiated between the central power and the estates, the system left the latter in charge of actually distributing the fiscal burden amongst themselves. No property tax existed within the province, outside of the tax on houses levied within the cities. Bearing in mind the overwhelmingly agricultural character of the province’s taxpaying corps, a poll tax had been devised according to an ideal unit of a “gate” (“porta”), which comprised ten villeins or serfs.⁵¹⁴ Over time, given that the taxes were levied communally, in cases where the allotted number of gates per locality no longer corresponded to the actual number of taxpayers – or to their economic circumstances – the other inhabitants would have to band together in order to cover the remaining sums. The tax value attached to a gate could also differ from area to area, and from year to year, disregarding the actual taxable basis and prioritizing instead the needs of the province or the negotiating power of a particular estate. The Diet merely divided the number of gates among the three major stakeholders, while only marginally attempting to rectify the relationship between dues and the ability of the taxpayer corps to bear them. Over the course of the seventeenth century, some villages were allotted more gates than the number of actual households, while in others, several dozens of taxpaying households covered the costs of two or three gates. To make matters worse for the average provincial taxpayer, a wide variety of individuals were exempted from these dues according to various criteria, both charitable and professional in nature.⁵¹⁵ Attempts were made during the course of the seventeenth century to increase fiscal extraction in order to keep up with military costs, but their patchwork character made them relatively inefficient at reducing pressures. Incomes could not keep up with tax rates per gate, which increased steadily from the around 10 Florin in 1660s to 50 or even 200 Florin in the late 1680s. Still, no tax on landed property was levied, and instead small indirect fees were extracted on products such as tobacco, whose main consumers were primarily

⁵¹⁴ The “porta” or “gate” had initially comprised the plot located within the village lands wherein a villager could make his home. Any other landed property outside the village boundaries was not taken into consideration. Outside of Hungarian-language scholarship, the most extensive discussion of the tax system prior to the reforms of the eighteenth century remains Vasile Ionaş, *Reformismul austriac și fiscalitatea în Transilvania în secolul al XVIII-lea*, PhD Thesis, Manuscript, Babeş-Bolyai University, Cluj-Napoca, 1998, pp. 65-91; See also Katalin Péter, “The Golden Age of the Principality”, in Makkai and Szász, *History of Transylvania, Vol. II, From 1606 to 1830*, p. 47-49.

⁵¹⁵ Ionaş, *Reformismul austriac*, p. 65-68. Among the exempt were certain members of the clergy, teachers, clerks and employees of the county, seat, or the provincial administration, as well as those deemed incapable to earn a living for themselves, such as the very old, infirm, etc.

recruited from among the well-to-do. To cope with this increased fiscal burden and the ensuing need to provide payment in cash, an extensive and insidious network of credit emerged in the province, which comprised actors on the entire spectrum of political power, religious affiliation, and ‘collectiveness’, ranging from counties, seats, or cities to local institutions and individuals.⁵¹⁶ The advent of Habsburg rule – the famed fiscal state – only served to compound the tendencies visible prior to the late 1680s: the tax burden levied on the province rose steeply, while also bypassing some of the major political stakeholders, such as the members of the upper nobility, who successfully defended their interests and immunities.⁵¹⁷

How was the Transylvanian Saxon nation faring under these circumstances? The instructions formulated in 1703, which should have led to a clearer image of the province’s actual fiscal capabilities and improved its payment capacity, could find no immediate application in the first two decades of the eighteenth century due to the anti-Habsburg rebellion which ravaged Transylvania.⁵¹⁸ Given the disorder present within the provincial government, taxation was fraught with difficulty, compounded by the fact that the great majority of taxpayers experienced a shortage of liquidity.⁵¹⁹

The 1750 conscription would finally allow for a clear image of the consequences of fiscal pressure and lack of cashflow, as for the first time in provincial history, publicly contracted loans were reliably chronicled for the majority of localities in Transylvania. Between 1600 and the mid-eighteenth century, over 70% of total public debt in the entire province had been accrued on the Royal Saxon Lands. In the decade of Habsburg takeover (1681-1690), Transylvanian Saxon jurisdictions had contracted between 97.4% of all debts at provincial level, and still continued to take out the overwhelming majority of loans until 1750, ranging between 58% (1721-1730) and 72.8% (1701-1710) of the Transylvanian totals.⁵²⁰ While the Saxon lands – including the two districts of Bistritz and Kronstadt – consistently remained the highest debtor at provincial level, patterns of contracting public loans differed

⁵¹⁶ Ágnes R. Várkonyi, “The Last Decades of the Independent Principality”, in Makkai and Szász, *History of Transylvania, Vol. II, From 1606 to 1830*, p. 297-299.

⁵¹⁷ Várkonyi, “The Last Decades of the Independent Principality”, p. 390.

⁵¹⁸ Another attempt to register the taxpayers in Transylvania was made in 1713-1714, but was deemed unusable due to the differences in the registration procedures employed. Vasile Ionaș, “Conscripțiile fiscale din Transilvania în secolul al XVIII-lea”, in *Annales Universitatis Apulensis. Seria Historica*, Alba Iulia, issue 1, 1997, p. 64.

⁵¹⁹ Höchsmann, “Studien zur Geschichte Siebenbürgens”, p. 255-256: „1709 repräsentirte das Gubernium noch nur ein Mann. ... Die Geldkräfte des Landes waren erschöpft; das Landvolk konnte die Contribution nicht erschwingen; fast alles Gold- und Silbergeld war verschwunden, und man sah nur die kupfernen ‚libertas‘: für 17 Kreuzer konnte man ein Schaft mit dem Lamm kaufen.“

⁵²⁰ See Ladislau Gyémánt, Remus Câmpeanu, Anton Dörner, Florin Mureșan (eds.), *Conscripția fiscală a Transilvaniei din anul 1750*, vol. II, part I, Tabelele statistice, Bucharest: Editura Enciclopedică, 2016, p. VIII, CCLI-CCLIX.

from one administrative sub-unit to another. The highest debtor over time was Kronstadt, which managed to accrue some 12.2% of all debt (122.599 Rhenish Florin), with Hermannstadt's debts only accounting for a relatively modest 5.8% (58.106 Rhenish Florin). Michael Conrad von Heidendorff's native Seat of Mediasch, much smaller and less populous than Hermannstadt, had managed to accrue 8% of all provincial debt, to the sum of 80.790 Rhenish Florin.⁵²¹ The majority of debts had been contracted in order to pay the provincial tax – the contribution -, or to satisfy the demands of the military. In the seat of Hermannstadt, over 70% of all loans had been taken out to pay the ordinary and extraordinary taxes requested by the government. In Bistritz and Kronstadt a little over half of the total debt had been accrued in order to satisfy the military contribution.⁵²² What is more, the overwhelming majority of debt was represented by cash loans, highly productive for those who extended credit, and disastrous for those who borrowed. Hermannstadt had contracted some 50.335 Rhenish Florin in cash loans between the late seventeenth and mid-eighteenth century, a sum that however paled in comparison to the 104.292 Florin borrowed by the District of Kronstadt.⁵²³ The situation had reached terrible proportions by the mid-century, when Transylvanian Saxon public revenues were insufficient to even cover the costs of the legal interest, notwithstanding that many had been contracted at even higher interest rates (10%).⁵²⁴

By the 1720s, when Fronius attended the Diet's meetings, the situation of the Saxon Lands was already extremely difficult from this perspective. Among the Transylvanian Saxon administrative units, Fronius' home district of Kronstadt had been obliged to take out some of its highest loans in the late seventeenth and early eighteenth centuries,⁵²⁵ further incentivizing the Transylvanian Saxon deputy to argue for the reduction of tax burdens and a very carefully conducted process of fiscal conscription at provincial level, in the hopes that it would result in a more equitable situation.

However, the discussion which resumed at the Diet in 1720 had not been favourable to the Saxons at all: as Fronius recounted, in order to finally achieve some semblance of order in the interminable debates, the Government had seized the task of dividing the fiscal burden among the estates, and within each nation. Although no protests had been admitted, some Saxon cities, like Kronstadt, had managed to negotiate for themselves small reductions, a

⁵²¹ Gyémánt et al., *Conscriptia fiscală a Transilvaniei din anul 1750*, vol. II, part III, table 58, p. 530-532.

⁵²² Gyémánt et al., *Conscriptia fiscală a Transilvaniei din anul 1750*, vol. II, part III, table 61, p. 539-540.

⁵²³ Gyémánt et al., *Conscriptia fiscală a Transilvaniei din anul 1750*, vol. II, part III, table 60, p. 536-538.

⁵²⁴ Trócsányi, "A New Regime and an Altered Ethnic Pattern", p. 593.

⁵²⁵ Gyémánt et al., *Conscriptia fiscală a Transilvaniei din anul 1750*, vol. II, part III, table 58, p. 531-532. Kronstadt had contracted over 61% of all its public debt between 1681 and 1720, with the greater majority before 1700.

practice which continued well into the eighteenth century and signalled the fact that the hierarchy of collective interests did not always place the nation first.⁵²⁶ The matter of the fiscal conscription had aroused spirits even more than the tax burden: the Saxon deputies' plea that the groups of officials tasked with undertaking the registration also include military and cameral commissioners – who were likely believed to be more impartial than the members of the estates – was received with threats. The same Governor Kornis cautioned Fronius that the Saxons have “restless heads within their midst”, and that they should take care, lest they lose them. Owing to the intervention of the General Commander, the Saxon initiative was nevertheless approved.⁵²⁷

As the results of the conscription showed, the Transylvanian Saxons' fears regarding the partiality of the estate-appointed commissioners were not unfounded. The priority of personal or estate-based interests superseded any other considerations and marred the entire endeavour. The 1721 conscription was regarded as unusable as a basis for fiscal reform, owing to a host of procedural errors and variation in registration.⁵²⁸ As a Transylvanian Saxon-authored petition from 1726 described the matter, the members of the Hungarian nation had employed various strong-arm tactics, refusing for instance to grant the Saxon scribe access to the conscription sheets and to their corrections.⁵²⁹ What is more, no unitary norms had been agreed upon prior to the beginning of the process, which had resulted in a staggering variety of practices in registration. On county lands, local village authorities and trustworthy sworn men had not provided the necessary information to the conscription commissions, either because they lacked the knowledge, or because they had been coerced to withhold it.⁵³⁰ Entire villages located on noble estates had escaped conscription altogether and serfs had been under-registered; in other settlements, individuals had been conscribed as serfs instead of free tenants,

⁵²⁶ Gräser, „Beitrag zur Geschichte des Siebenbürger Steuerwesens“, p. 48-49.

⁵²⁷ The original quote is, per Gräser, „Beitrag zur Geschichte des Siebenbürger Steuerwesens“, p. 55: “... alles zuwider, sogar daß auch der Herr Gubernator herausfuhr, und sagte: Ihr habt unruhige Köpfe in der Nation, welche nicht ruhen werden, bis man ihnen nicht, wie dem Szász János es macht”. It refers to Johann Sachs von Harteneck (Hungarian Szász János), a former Saxon Bailiff, who had been beheaded in 1703, owing what was widely regarded as a conspiracy of the nobility. This had been one of the most striking moments in the recent history of the Transylvanian Saxons, sure to evoke traumatic memory.

⁵²⁸ Ionaş, *Reformismul austriac*, p. 94.

⁵²⁹ In the decades following the *Ausgleich* of 1867, Transylvanian Saxon *Landeskunde* literature was exceedingly critical of the stance assumed by the Hungarian aristocracy during the early eighteenth century, characterising the noble estate's resistance against a more balanced distribution of taxation as outright corruption. According to Höchsmann, „Studien zur Geschichte Siebenbürgens“, p. 258, corruption „ist bis in die Versammlung der Väter des Landes gedrungen, sie besitzt ein reiches Feld ihrer verderblichen Thätigkeit mitten in der Regierungsbehörde des Landes, in dem Gubernium.“

⁵³⁰ “Considerationes difformitatum conscriptionis”, 4th May 1726, reproduced in Feneşan, *Izvoare de demografie istorică, vol. I*, p. 83; Ionaş, “Conscriptiile fiscale din Transilvania”, p. 68-69 summarizes some of the petition's main points of contention.

thus lowering the tax rate to be extracted from the area. As the Saxons countered, such issues had not plagued the registration process on the Royal Lands, where aldermen had presented the commissioners with all required information, and even with the original taxpayer registers kept in each locality. The commissioners had also carefully visited each house and *Hof* to prove the veracity of the settlement's claims. On county lands, up to 18 villages had been conscribed in a single day by the same commission, which had led the petition's drafters to argue that the registration had been made artificially, without any real basis. Apart from the under-registration of land and persons in the counties, the most obvious issues with the results of the conscription arose from the employment of slightly different social-legal categorizations, even within the Saxon lands.⁵³¹ For instance, different criteria had been used to ascertain an individual's transient status, which had resulted in the category of "vagrants" (*vagi*) comprising several distinctive groups. Additional distinctions had been introduced for other categories of taxpayers, such as widows: whereas on the Royal Lands they had been registered without regard to their former spouses' legal status (the most common criterion used), in the free royal city of Klausenburg councilmen's widows and on county lands poor widows who earned their income by working had remained unrecorded. Similarly, arbitrary criteria had been employed in assessing craftsmen's incomes, depending on their provenance: Saxon craftsmen had been pressed into listing much higher incomes than they could actually earn, which often even included the value of the clothes and shoes they wore, in blatant contradiction to the instructions issued by the Government;⁵³² in the Saxon city of Schäsburg, even the income generated by craftsmen's wives was included in their husbands' taxable earnings. Meanwhile, craftsmen in other areas had been artificially ascribed lower annual incomes.⁵³³ Finally, an entire host of differences was visible in the registration of assets such as bales of hay, cattle, stills used for spirits, and wine barrels, almost each administrative unit employing its own measures and criteria instead of assessing what was actually at hand.⁵³⁴

The issues highlighted by the Transylvanian Saxons' complaint remained relevant during the next decades, as little was done to improve the fiscal capabilities of the province at large. In the late 1730s, new waves of plague would strike the province, preventing any kind

⁵³¹ Ionaș, "Conscriptiile fiscale din Transilvania", p. 67 also notes the lack of unitary registration criteria, especially in regards to social-legal categories of taxpayers.

⁵³² As per the clarification of the 1721 Instruction, point 7, in Feneșan, *Izvoare de demografie istorică, vol. I*, p. 64: "Nicht das Vermögen oder sogennanten facultas intrinseca, als Kleider, Häuser, Hausrath, Geschmeidt, so keinen Nutz abwirfft, sondern der wirkliche Genuss und Profit dessen was einer besizet, soll beschrieben werden."

⁵³³ Feneșan, *Izvoare de demografie istorică, vol. I*, "Considerationes difformitatum...", p. 84-88.

⁵³⁴ Feneșan, *Izvoare de demografie istorică, vol. I*, "Considerationes difformitatum...", p. 89.

of broader efforts to reform this field.⁵³⁵ The increased financial pressures of the early 1740s and the loss of Silesia would make the matter of the fiscal yield of Hungary and Transylvania return to the Habsburg agenda in full force. The resistance of the estates to attempts at disentangling the bases of provincial taxation was not however confined to the two abovementioned territories: as Maria Theresia herself noted, everywhere “selfish ministers protecting their own *Länder*” and “*Stände*, dominated by ‘praepotente ständische subjecta’” heavily impeded efforts to improve the monarchy’s precarious financial situation.⁵³⁶ Nevertheless, regardless of province, the estates could not be excluded altogether from the matter of taxation, despite Haugwitz’s desire to implement “God-pleasing equality” in evaluating, settling, and collecting taxes.⁵³⁷ In Hungary, the balance between the estates and the monarchy leaned towards the former, especially after 1711, as noble resistance successfully coalesced against any changes in the taxation system while at the same time assuming the mantle of protector of the *misera plebs contribuens*.⁵³⁸ Although the Transylvanian estates presented similar opposition on the matter of taxation, the essentially competitive if not outright confrontational inter-estate status-quo prevented them from acting in a unified manner, as the quarrels recalled by Fronius attested to.⁵³⁹

Prior to 1750, when a new and somewhat perfected conscription was eventually undertaken, Transylvanian Saxon finances were in a longstanding state of disarray.⁵⁴⁰ Although the entire sum of the provincial contribution – the main tax levied by the central authority with the consent of the estates⁵⁴¹ - had experienced some variation between 1720 and the late 1740s, the most visible increases would only occur in the 1760s and 1770s, after the implementation of significant reforms in the system. The shares allotted to the Saxon nation and the Seat of Hermannstadt generally followed a similar pattern to the provincial one, with the Seat covering

⁵³⁵ Emil Sigerus, *Chronik der Stadt Hermannstadt 1100-1929*, Hermannstadt: Honterus-Buchdruckerei, 1930, p. 27.

⁵³⁶ As per the two memorials written in 1750 and 1756, quoted in P.G. M. Dickson, *Finance and Government under Maria Theresia 1740-1780. Vol. II: Finance and Credit*, Oxford: Clarendon Press, 1987, p. 2-3, notes 1-3; On the difficult financial situation in which the monarchy found itself at the time, see p. 4-8.

⁵³⁷ Dickson, *Finance and Government*, p. 11-12.

⁵³⁸ István M. Szijártó, “The Diet: The Estates and the Parliament of Hungary, 1708–1792”, in Gerhard Ammerer et al (eds.), *Bündispartner und Konkurrenten der Landesfürsten? Die Stände in der Habsburgermonarchie*, Vienna, Munich: Böhlau, 2007, p. 133; See also Szijártó, “The Integration of Hungary into the Habsburg Monarchy at the Beginning of the Eighteenth Century”, in Robert Bartczak, Adam Perlakowski, Anton Schindling (eds.): *Die Reiche Mitteleuropas in der Neuzeit: Integration und Herrschaft. Liber memorialis Jan Pirozinski*, Krakow: Księgarnia Akademicka, 2009, p. 226-228.

⁵³⁹ Höchsmann, “Studien zur Geschichte Siebenbürgens”, pp. 257-265, also discusses some of the debates occasioned by the distribution of the tax burden, largely based on Fronius’ account.

⁵⁴⁰ The most revealing image of the effects of fiscal pressure on the budgets of the Saxon seats is that presented by Herbert, “Der Haushalt Hermannstadts”, p. 88-202, 246-476, 501-630.

⁵⁴¹ Dickson, *Finance and Government*, p. 186.

between 6 and 8.5% of the total provincial tax between 1720 and 1740. This figure reached 14.7% in 1749, signalling the general growth in the provincial fiscal yield, and the monarchy's need to compensate for the loss of Silesia (See Annexes - Table 1 –*Contribution levied in Transylvania and shares assigned to Hermannstadt*).⁵⁴² Over the course of the late seventeenth and the first half of the eighteenth century, massive tax arrears would accrue on the Saxon lands, drawing the monarchy's attention to the state of Saxon finances.⁵⁴³

The conscription undertaken in 1750 formed the basis for the reforms implemented in the second half of the century, and has been praised by historians as a uniquely revealing survey of Transylvania's economic and social resources.⁵⁴⁴ Instructions were sent from the Government, then under the leadership of Johann Haller⁵⁴⁵, to all officials tasked with aiding in the registration process: assurances were made that “through this conscription, the noble prerogatives and privileges will not suffer any damages”, while all commissioners were ordered to submit their registration sheets for review to the commission established in Hermannstadt. All documentation pertaining to the works of the conscription was to be submitted likewise in Latin.⁵⁴⁶ The conscription did not proceed without issue or delay, as a letter addressed by the substitute president of the commission to the nobility of Kokelburg county (*Hu. Küküllő*) attested to: the registration sheets that were coming in for review did not allow one to “grasp the true and precise number of taxpayers”, and reports had been made that individuals on county lands had not only been permitted, but even forced to relocate, likely in an attempt to

⁵⁴² Unfortunately, the history of fiscality in Transylvania prior to the 1750s remains a relatively uncharted territory, with the exception of contributions such as those of Vasile Ionaș, Andreas Gräser, and Friedrich Hann, “Über die siebenbürgische Staats-Steuer (contribution regia) mit Beziehung zur Volksökonomie. Beitrag zur siebenbürgischen National- und Finanz-Wirtschafts-kunde“, *Archiv des Vereins für Siebenbürgische Landeskunde*, IV. Band, Heft..., 1850, p. 1-17. Dickson's account focuses primarily on the period after 1740, and largely follows G.A. Schuler's monumental biography of Samuel von Brukenthal in very briefly discussing the reforms implemented in the 1750s, 1760s, and 1770s. The primary emphasis is placed, as usual, on Hungary rather than on Transylvania. See Dickson, *Finance and Government*, p. 255 – 259 for Hungary, p. 259-267.

⁵⁴³ This situation was one of the main reasons behind the establishment of the Economic Commission led by Martin Zacharias Wankel von Seeberg around mid-century.

⁵⁴⁴ The conscription of 1750 has recently been edited and published in two volumes, each comprising two, respectively three tomes: Ladislau Gyémánt, Remus Câmpeanu, Anton Dörner, Florin Mureșan (eds.), *Conscriptia fiscală a Transilvaniei din anul 1750, vol. I, part I-II, Descrierea localităților conscrise*, Bucharest: Editura Enciclopedică, 2009; Ladislau Gyémánt, Remus Câmpeanu, Anton Dörner, Florin Mureșan (eds.), *Conscriptia fiscală a Transilvaniei din anul 1750, vol. II, part I-III, Tabelele statistice*, Bucharest: Editura Enciclopedică, 2016. The only extensive account of the procedures followed during the registration remains that of Zsolt Trócsányi, „Erdélyi összeírások (I. Az 1750 évi Erdélyi országos összeírás) in J. Kovácsics, *A történeti statisztika forrásai*, Budapest, 1957, pp. 273-293.

⁵⁴⁵ On Governor Johann Haller von Hallerkő (Hallerstein), see Kutschera, *Landtag und Gubernium*, p. 222-225. Haller was a descendant of one the leading Transylvanian Saxon families, which had intermarried with the Hungarian nobility during the course of the seventeenth century and had parted ways with the Saxon nation, both confessionally and politically.

⁵⁴⁶ Order of the Governor of Transylvania, Johann Haller, addressed to the Small Council of Brasov, pertaining to the appointment and instruction of conscription commissioners, reproduced in Feneșan, *Izvoare de demografie istorică, vol. I*, document 16, pp. 235-240, here p. 238-239.

conceal human assets. The Baron Lázár, the letter's author, offered reassurance that no other purpose rested behind the conscription apart from her Majesty's desire to achieve "a balanced settlement of fiscal burdens to the preservation of the taxpaying population and the state's finances."⁵⁴⁷ Meanwhile, clarifications kept coming both from the Government and from the Saxon University, highlighting some of the issues encountered on the Royal Lands: the difference between immunity (freedom from any tax burden owing to legal privileges) and exemption (temporary release from taxation owing to specific circumstances or office tenure); the registration of houses (each house was to be registered separately, even if located on the same *Bauern-Hoff* or *fundo*);⁵⁴⁸ the conscription of household heads depending on marital status (each conjugal unit was registered separately, even if inhabiting the same home, while unmarried sons would not be listed).⁵⁴⁹ Beside these matters, the registration of various legal groups and corporations in urban areas continued to pose problems⁵⁵⁰, and, although some uncertainties were elucidated by the Government, there remained a relative degree of variation. Nevertheless, the conscription accomplished what previous attempts had failed to do, managing to provide the state with a clear and in-depth overview of the great majority of the province's urban and rural settlements (94%), especially in regards to income sources and land ownership.⁵⁵¹

Building on the results of this conscription, successive reforms were designed and implemented over the course of Maria Theresia's reign. These shifted emphasis within the basis of taxation so as to benefit particular social-legal categories or areas, while also allowing the state to increase the fiscal yield. The question of the nobility's immunity and the taxation of landed property and real estate (apart from urban residences) remained at the forefront of the discussion, while estate or even private loyalties continued to intersect in the decision-making process.⁵⁵² This first system, designed in 1754, introduced the criterion of a settlement's economic placement into the estimation of tax rates, taking into account taxpayers' ability to commercialise their products regardless of the economic sector in which they were employed. According to this criterion, the province's localities were divided into three *emporium* classes, corresponding to their degree of openness to trade routes and the ensuing prosperity of their

⁵⁴⁷ Feneşan, *Izvoare de demografie istorică, vol. I*, document 17, p. 242.

⁵⁴⁸ Feneşan, *Izvoare de demografie istorică, vol. I*, document no. 21, p. 254.

⁵⁴⁹ Feneşan, *Izvoare de demografie istorică, vol. I*, document no. 18, p. 245.

⁵⁵⁰ Ionaş, "Conscripțiile fiscale din Transilvania", p. 71.

⁵⁵¹ Remus Câmpeanu, "The Development of the Urban Communities in Transylvania Under the Reign of Maria Theresia" in Daniele Andreozzi and Luca Mocarrelli (eds.), *The Empress Cities: Urban Centres, Societies and Economies in the Age of Maria Theresia von Habsburg*, Trieste: EUT Edizioni Università di Trieste, 2017, p. 19.

⁵⁵² See the brief discussion in Ionaş, "Reformele fiscale din Transilvania", p. 79.

inhabitants. Hermannstadt and Kronstadt were ranked first, while most of the other free royal cities and Transylvanian Saxon towns were ranked second. While a standard poll-tax or head-tax was still required, it took into account both the taxpayer's legal category and their income. Income sources grew to include agricultural yields (according to externally assessed fertility indicators), apart from other earnings. Cash income, of the type craftsmen derived, was taxed 6 Kreuzer per Florin, amounting to 10% or 12%, depending on the currency.⁵⁵³ A higher income therefore also raised an individual's head tax, and the resulting fiscal yield. Widows continued to be taxed at half of their deceased husbands' level of earnings. The nobility was immune and therefore did not figure on the lists, with the exception of those noblemen (and aristocrats) inhabiting the Royal Lands, who paid the income tax but not the head-tax. Still exempted were individuals who performed various public services, apart from holding office, as well as most clergymen. Most significantly, the 1754 system managed to rid the province of the antiquated unit of the "gate" and remove some of the arbitrariness present within the earlier arrangements. Despite its overall improvements, the system was neither straightforward nor without bias: each source of income had to be transformed into a single unit, namely the *cubulus* or grain barrel, according to a pre-existing table. Further complicating the process, the value of a barrel depended on an area's economic prosperity – 3 Kreuzer/barrel in the counties and on the Szekler Seats and 4 Kreuzer/barrel on the Royal Lands. In order to maintain accurate yearly estimates of the tax owed, the services of 20 to 40 additional office clerks were required.⁵⁵⁴

This first system had not considerably improved the Transylvanian Saxons' overall position in the fiscal hierarchy, owing to its limited integration of landed property – the core of county wealth and income – into the mixture. Two further reform projects were put forward by the General Commander Baron Adolf Buccow in the early 1760s, and then by Samuel von Brukenthal. Buccow's reform was framed by an entire complex of policy changes aimed at reducing the power of the estates in essential state affairs, of which fiscality was perhaps the most important.⁵⁵⁵ While in Hungary the Habsburg advisors had had to tread more carefully, in Transylvania harsher action could be taken, as Buccow argued. In a report dispatched to

⁵⁵³ One Rhenish Florin amounted to 60 Kreuzer, while one Hungarian Florin or Gulden amounted to 50. I have followed the English terminology for various units of measure provided by Antal Szántay in „Prices in 18th Century Hungary”, p. 187, in Giampiero Nigro, *I prezzi delle cose. Nell'età preindustriale. Selezione di ricerche*, Firenze: Firenze University Press, 2017; for other units of measure employed at the time, see Gyémánt et al., *Conscripția fiscală a Transilvaniei*, volume I and tome I, p. CCXXX.

⁵⁵⁴ Ionaș, “Reformele fiscale din Transilvania”, p. 80-82.

⁵⁵⁵ On Buccow and the major policies implemented during his tenure see Kutschera, *Landtag und Gubernium*, p. 227-232.

Maria Theresia in 1761, the General mentioned that he “expected little use from the Diet” and that the nobility was thoroughly “insubordinate”, which was the usual course of things in “any kind of democracy.”⁵⁵⁶ After the Diet approved the new tax rates in the same year, it was no longer summoned until the watershed year of 1791.⁵⁵⁷ Buccow’s plan was likely the most radical to have been proposed over the course of the century, envisaging among other changes the expansion of taxation to include the noble estate and all landed property. For this as well as other reasons, the system was only implemented for a limited period of time, a modest achievement which owed much to Brukenthal’s interventions at the court. To the benefit of the Saxon nation, Samuel von Brukenthal’s accession to a position of trust within Maria Theresia’s circle had paralleled the General’s fall into disfavour, and created a set of favourable circumstances for the reassessment and redesign of the tax system. In 1770, the new system, under which landed property rather than individuals’ earning capabilities constituted the basis for taxation, went into force.⁵⁵⁸ Compared to Hungary, where “reform remained on paper”, the situation in Transylvania was, at least in theory, somewhat improved for the average urban taxpayer.⁵⁵⁹

In order to better grasp the notion of the average urban taxpayer in eighteenth-century Hermannstadt, one must first turn to the legal coordinates according to which the city, nation, and later on, state, made sense of the social fabric. It has already been noted that the nobility – or better said, the aristocracy – clearly drew a line between themselves and the Transylvanian Saxon estate, a distinction also largely supported by the exponents of Habsburg policy. This could not have come as a surprise to the Saxons, who had themselves been supporting the same distinction for several centuries, as a response to the nobility or the Transylvanian princes’ attempts to obtain the right to settle on the Royal Lands and in the Saxon cities. According to a late sixteenth-century speech held before the assembled Diet by Albert Huet⁵⁶⁰, the Saxon

⁵⁵⁶ Private report submitted by Buccow to Maria Theresia following the meeting of the Transylvanian Diet of 1761, quoted by Müller in *Siebenbürgische Wirtschaftspolitik unter Maria Theresia*, p. 16, note 16.

⁵⁵⁷ Kutschera, *Landtag und Gubernium*, p. 65. The only exception was the 1781 Diet summoned on the occasion of Joseph II’s inauguration, solely for this purpose. See also Müller, *Siebenbürgische Wirtschaftspolitik unter Maria Theresia*, p. 17.

⁵⁵⁸ Dickson, *Finance and Government*, vol. II, p. 261-263; On the division of the contribution per the major taxpaying units/areas, see p. 264-265.

⁵⁵⁹ Dickson, *Finance and Government*, vol. II, p. 270; This should not however imply that by various other economic indicators, Hungary was not experiencing more pronounced and robust growth compared to Transylvania, as shall be discussed in the following sections.

⁵⁶⁰ On Albert Huet, see most the most recent contribution by Mária Pakucs-Willcoks, *Sibiul secolului al XVI-lea*, p. 103-105. Huet’s memorialisation in the Saxon imaginary as one of the nation’s greatest political figures was not without historical basis.

Bailiff and Royal Judge of Hermannstadt, the Hungarian nobility had claimed that the Saxon nation was composed only of “shoemakers, tailors, and tanners, and not of warriors and defenders of the realm [...]” Instead of claiming the contrary, Huet fully assumed the social and occupational content of the Saxon nation:

“Precisely this we hold to be to our honour [...]. That however shoemakers and tailors are guildmembers, God be praised, [for it means] that finally times so peaceful have arrived that [*m.n.* the realm] can sustain itself with shoemakers, who can deliver to your Highness [*m.n.* the Prince of Transylvania] a fat, rich, and convenient tax[...]. For this reason, your Princely Highness should rather suffer [it], and we would rather bear the names of *Kürschner*, *Schneider* than those of thief, murderer, and looter.”⁵⁶¹

The distinction had therefore been long in the making by the time Fronius was censured by the Governor, and had not been the unilateral product of the noble estate. The Saxons had been using the argument of the Royal Lands’ fiscal precedence over the noble counties over the course of the centuries, while at the same time maintaining that tax shares should be equalised between estates. How did the legal hierarchy underpinning all fiscal and political debates of the eighteenth century appear to work in practice, beyond political discourse, and how precise were the boundaries it drew in categorising individuals?

Hungarian and Transylvanian Saxon scholarship have employed two contradictory metaphors to describe the issue: on the one hand, the Saxons taken together – in the form of the University – were regarded as noble, just as the free royal cities enjoyed noble privileges corporately. The difference between the Saxons and the other legal and political stakeholders in the province was not one of essence, but of degree: an aristocrat’s power stretched over the entire land, a nobleman’s over the county wherein their estate was located, while a Saxon citizen (*Bürger*) could only wield political power within the confines of their free royal city, or its dependent areas.⁵⁶² On the other hand, Hungarian historians argued that the “separate legal order” which obtained on the Royal Lands had preserved a certain “middle-class social order”

⁵⁶¹ From the *Sächsisch-Schwäbische Chronik*, quoted in Paul Niedermeier, *Städte, Dörfer, Baudenkmäler. Studien zur Siedlungs- und Baugeschichte Siebenbürgens*, Köln, Weimar, Wien: Böhlau Verlag, 2008, p. 142: “ihr seid nur[...] Schuster, Schneider und Kürschner, nicht Kriegsleute und Verteidiger des Reiches[...]. Gerade das aber rechnen wir uns zur Ehre [...]. Dass aber Schuster und Schneider Zunftleute sind, da sei Gott dafür gelobt, dass endlich so friedliche Zeiten gekommen sind, dass man sich mit Schuhmachern mag erhalten und Eurer Fürstlichen Ganden einen dicken fetten und angenehmen Zins geben kann. [...] Darum sollen Euere Fürstliche Durchlaucht viel lieber dulden, und wir wollen sie viel lieber tragen, die Namen Kürschner, Schneider, als Diebe, Mörder und Räuber.” The version provided by Georg Daniel Teutsch in *Geschichte der Siebenbürger Sachsen für das sächsische Volk*, Zweite Auflage, 1. Band, Leipzig: S. Hirzel Verlag, 1874, p. 91-94 is more extensive and differs somewhat from that quoted above.

⁵⁶² Wolfgang Kessler, “Universitas Saxonum” in Wolfgang Kessler (ed.), *Gruppenautonomie in Siebenbürgen. 500 Jahre siebenbürgisch-sächsisch Nationsuniversität*, Köln, Wine: Böhlau, 1900, p. 15: “Die Sachsen, Ende des 13. Jahrhunderts als ‚more Nobilium se gerentes‘ bezeichnet, waren in ihrer Gesamtheit, als universitas, adlig, wie auch die Freistädte als Korporation Adelsrechte genossen.“

characteristic to the Saxons from the incursions of external feudalism. According to this second view, by the end of the sixteenth century, the entirety of the Saxons was akin to a “gigantic urban community”.⁵⁶³

The key to disentangling the situation behind these two characterisations lies within the concept of urban citizenship, as it was devised and implemented during early modernity on the Royal Lands. The Transylvanian Saxon *Bürgerrecht* was one of many variations of pre-modern corporate legal rights. While not initially restricted to urban areas, over time it became synonymous with the notion of “urban citizenship” as employed with reference to early modern towns throughout Europe.⁵⁶⁴ Like its equivalents employed in other European urban milieus, it was starkly divergent from the modern conception of citizenship in several respects.⁵⁶⁵ One of the main differences stemmed from the fact that the Saxon burgher franchise was predicated on the existence of the Saxon *natio* as a buffer between individual and state, which was empowered to act as safekeeper of privileges exerted within the boundaries of the *fundus regius*. Only to the extent of one’s membership in the privileged collective could one also benefit from the myriad of legal entitlements that came with burgher status. This dependence between individual status and collective empowerment was most visible in the fact that the burghers who inhabited manorial towns in the Kingdom of Hungary were regarded as serfs (*iobbagyones*) rather than legal equals of their counterparts in free royal cities.⁵⁶⁶ Moreover, burgher status was granted according to arbitrary and wavering criteria or earned through particular service and individual qualities, and, as opposed to the notion of national-state (or at least extended) citizenship defined around the mid-nineteenth century in the wake of

⁵⁶³ Péter, “The Golden Age of the Principality”, p. 173.

⁵⁶⁴ Arguably the most comprehensive work discussing the contours of urban citizenship prior to 1789 is that by Marten Praak, *Citizens without Nations: Urban Citizenship in Europe and the World, c. 1000-1789*, Cambridge: Cambridge University Press, 2018; Praak’s work adds an important temporal and conceptual dimension to the scholarship focused on the composition and transformations experienced by urban citizenship in German-speaking milieus during the eighteenth and nineteenth centuries. For a succinct review of the essential German-language literature on the topic, see Ralf Roth, “German Urban Elites in the Eighteenth and Nineteenth Centuries”, in Ralf Roth, Robert Beachy (eds.), *Who Ran the Cities? City Elites and Urban Power Structures in Europe and North America, 1750–1940*, Burlington, Vt.: Ashgate, 2007, p. 127-130; One of the most significant contributions to the issue of urban citizenship in the cities of Hungary proper (excluding Transylvania) can be found in Árpád Tóth, Gábor Czocho and István Németh, “Urban communities and their burghers in the Kingdom of Hungary (1750-1850). The possibilities databases offer for historical analysis”, in Justin Colson and Arie van Steensel (eds.), *Cities and Solidarities. Urban Communities in Pre-Modern Europe*, London and New York: Routledge, 2017, p. 188-208.

⁵⁶⁵ Gary B. Cohen, in “Our Laws, Our Taxes, and Our Administration: Citizenship in Imperial Austria”, in Omer Bartov and Eric D. Weitz (eds.), *Shatterzone of Empires. Coexistence and Violence in the German, Habsburg, Russian and Ottoman Borderlands*, Bloomington and Indianapolis: Indiana University Press, 2013, p. 105, rightly points out that even after the passing of the 1786 civil law code which explicitly defined “Staatsbürgerschaft”, “the monarchy continued to mix notions of citizens, subjects, and corporate estates (Stände) for some decades into the nineteenth century.”

⁵⁶⁶ Tóth, Czocho and Németh, “Urban communities”, p. 192.

revolutionary upheavals, did not draw on natural law. As shall be seen, one's personal ties were sometimes of paramount importance in obtaining full political enfranchisement, when other attributes could lead to disqualification. At the same time, burgher status on the Royal Lands nevertheless presented a series of similarities to newer concepts of citizenship increasingly employed in the process of state-building, in that it was tied to property ownership and was coequal with local-level political enfranchisement. In historical examinations of late eighteenth and early nineteenth century "national emancipation" in Transylvania, these two meanings of the *Bürgerrecht* were not always explicitly acknowledged.⁵⁶⁷ In light of recent reconsiderations of urban citizenship, it should be noted these two meanings were not identical, despite superficial similarities, and that towards the late eighteenth century, they operated side by side seemingly without eliciting any cognitive dissonance.

In legal terms, burghers who inhabited cities and towns located on the Royal Lands were defined in the same relational manner, as members of an urban community. All individuals who enjoyed the same complex of political and economic rights were equally privileged in legal terms. The contours of the eighteenth-century Transylvanian Saxon burgher group, traced by its rights and duties, had not significantly changed over the course of early modernity. Nevertheless, to speak of "democratic" structures in this context would mean an uncritical and ideologized reading of both medieval and eighteenth-century social and legal hierarchies.⁵⁶⁸ Despite idealized images of hallowed equality conveyed by national

⁵⁶⁷ This dual meaning was most visible in the debates which unfolded during the 1791-1792 diets, when an extensive petition, grounded in natural law, was submitted by Transylvanian Romanians to the Court, wherein they requested acknowledgment as a fourth estate in the political system of the province. Both this petition and its echoes in Romanian milieus in Transylvania during the late eighteenth and early nineteenth century explicitly noted that Romanians wanted to be a part of the *societas civilis* – not the civil society in the Habermasian sense, but rather the polity as imagined by Aristotle – and to benefit from political rights. The term 'Bürgerrecht' was explicitly employed for instance in the 1804 Romanian petition entitled „*Kurzer Abriss der Schicksale, und des Zustandes des Walachischen Nation in Siebenbürgen*” reproduced by David Prodan and Elena Cernea in „*Încă un text din lupta politică a românilor din Transilvania*”, in *Lucrări științifice, Seria Istorie*, Institutul Pedagogic Oradea, 1973, p. 10. Natural law was used to justify accession to a premodern corporate legal entity – a *natio*, in Transylvanian terms – in such hybrid, "liminal" petitions, a sign of the apparently peaceful coexistence of premodern and modern notions of citizenship. The best work contextualising the Romanian movement for equal political rights – as a "nation" – on the Royal Lands remains that by Ladislau Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848*, București: Editura Științifică și Enciclopedică, 1986. On the non-linear transition from the classic petition as an instrument of state governance to an instrument of contentious politics see David Zaret, "Petition-and-Response and Liminal Petitioning in Comparative/Historical Perspective" in *Social Science History* Volume 43, 2019, p. 431-451.

⁵⁶⁸ Likely the most famous idealised image of the legal equality and „freedom“ of the Saxon communities stems from Georg Daniel Teutsch's *Geschichte der Siebenbürger Sachsen*, I. Band, 2nd edition, 1874, p. 50-51: "Gestützt auf diese Grundlagen und das ewige Recht, das in jedes Menschen Brust lebt, haben unsere Väter am Ende der Christenheit und rings umgeben von Völkern, die nur Knechte kannten und Herren, ein freies Gemeinwesen gegründet und trotz vieler Anfechtung erhalten in einer Reinheit, wie sie die Sonne nur selten sieht in ihrem ewigen Laufe. Da war kein Adel, keine Leibeigenschaft, kein Deutscher auf Sachsenboden weder mehr noch weniger als ein Bürger. Gott zum Gruß du freier Sachse!"; See Gündisch, *Das Patriziat*, p. 12, note 4, on the critical reception of Teutsch's work on the essential equality between the Saxon settlers.

historiography, even the original settler groups had been legally stratified, as they had been led by counts, delegated by the Kings of Hungary to govern the settler communities in their stead. These communities would in time include *cives* – the forerunners of eighteenth-century burghers – along with individuals designated by the more general *hospes*.⁵⁶⁹ Over the course of the fourteenth century, various charters granted by the Hungarian Kings began to also distinguish between the *iurati cives* – members of the urban leadership – and the broader mass of enfranchised individuals. Where *cives* were mentioned alongside *hospes*, the latter term designated freeborn individuals, who worked for their income rather than deriving it from landed property ownership, who had settled at the same time as the full-burghers and were neither transients nor foreigners.⁵⁷⁰ As settlers, they had not achieved a complete franchise, and therefore only wielded a limited amount of power within the community. As has been pointed out, the late sixteenth-century Transylvanian Saxon municipal law code which came to define the field of civil law on the Royal Lands until the mid-nineteenth century also distinguished between the these two major categories, referring to both full-rights burghers (*Burgersmann*) and settled individuals (*Seddlar*).⁵⁷¹ While further distinctions were noted in other documents throughout the late middle ages, signalling for instance that a divergence had occurred within the layer of the *cives*, leading to the emergence of the Great Councils through which the broader group of propertied burghers could leverage their power against the Small Councils comprising the political elites,⁵⁷² the essential distinctions present at the time of settlement remained paradigmatic in the legal ordering of society.

Like in the other free royal towns in the Kingdom of Hungary, this ordering of society did not remain entirely congruent with social and economic distinctions. Over time, the spectrum of wealth and social influence and balanced towards various groups, mainly drawn from the ranks of a commercial elite.⁵⁷³ This category, which assumed the label of *Patriziat*, would in time become akin to an urban “democratic aristocracy”, managing to exert a growing

⁵⁶⁹ Katalin Szende, in “Iure Theutonico? German settlers and legal frameworks for immigration to Hungary in an East-Central European perspective”, *Journal of Medieval History*, 45:3, 2019, p. 370, convincingly argues that the term “*hospes*” was initially used to refer to individuals, and then spread to designate first the “legal standing of privileged settler communities” and later “any autonomous communities, irrespective of their origin.”

⁵⁷⁰ Gündisch, *Patriziat*, p. 11-12, 68-70; According to István Petrovics, “Foreign Ethnic Groups in the Towns of Southern Hungary in the Middle Ages”, in Derek Keene, Balász Nagy and Katalin Szende (eds.), *Segregation – Integration – Assimilation: Religious and Ethnic Groups in the Medieval Towns of Central and Eastern Europe*, Farnham: Ashgate, 2009, p. 67-69, other expressions employed in urban charters granted during the course of the thirteenth century to towns in Southern Hungary referred to *cives et concives*, the leadership of the town and the “ordinary burghers”, in order to distinguish between serfs (also termed *hospites*) and burghers.

⁵⁷¹ Gündisch, *Patriziat*, p. 71.

⁵⁷² Gündisch, *Patriziat*, p. 78-79, 83.

⁵⁷³ Várkonyi, “The Last Decades of the Independent Principality”, p. 307.

amount of control over local and national politics through a deft deployment of marital strategies and economic capital.⁵⁷⁴ By the 1770s, it was common knowledge in the province that a few key Transylvanian Saxon families held the entire Royal Lands in their grasp.⁵⁷⁵ The major legal distinctions between the *Patriziat* and the rest of the enfranchised and propertied burghers resided in the former's almost exclusionary control over public offices, which provided access to a vast array of economic opportunities that clearly exceeded the boundaries of ordinary citizens' rights.

At least during the middle ages, linguistic barriers were not a criterion on which legal distinctions rested: in Hungarian towns, urban inhabitants who were active on the political scene communicated "on the same level in Hungarian, German, or Latin."⁵⁷⁶ Otherwise, the prerequisites for obtaining burgher rights were much the same in both Hungarian and Transylvanian free royal cities, despite some minimal variation: burgher status was attached to a particular location, and could be gained only by free-born individuals; it was often dependent on acceptance into an urban guild; it required applicants to be married and placed them in a particular relation to real property within the boundaries of the particular urban community.⁵⁷⁷ Acquiring urban citizenship also presupposed the establishment of civic ties of solidarity between the individual and the community through ritual: those who entered the community were required to pledge an oath of allegiance to serve the well-being of their city, and to defend it should the need arise.⁵⁷⁸ Applicants also needed to cover a burgher tax, which varied according to their social, legal and geographical backgrounds, as well as other criteria. The series of rights one received with entry into this group comprised not only political power (passive or active), but also the right to purchase, own, or dispose of personal property (including real estate), personal freedom (in the limits set by urban constitutions), and a series

⁵⁷⁴ The label of "democratic aristocracy" appears in a mid-seventeenth century description of Transylvania drafted by a native of Hermannstadt, Johannes Tröster, *Das Alt- und Neu-Teustche Dacia. Das ist: Neue Beschreibung des Landes Siebenbürgen Darinnen dessen Alter, und jetziger Einwohner, wahres Herkom[m]en Religion, Sprachen... nach Historischer Wahrheit von zweytausend Jahre her erörtert... werden*, Nürnberg, 1666, p. 379 [digital copy provided by the Bayerische Staatsbibliothek]; Studies on the *Patriziat* of the Transylvanian Saxon cities focus either on the late medieval period or on the sixteenth century. On the definitions ascribed to the concept, see Gündisch, *Das Patriziat*, p. 20-23, and Flóra, *The Matter of Honour*, PhD Thesis, p. 277-284.

⁵⁷⁵ Report submitted by the Treasurer Gabriel Bethlen to Joseph II in May 1773, reproduced in Bozac and Pavel (eds.), *Die Reise Kaiser Josephs II.*, p. 468: "... es ist nur was seltenes, dass jemand ein Weib ausser seinem Geburts Ort nimmt, folgsam sind die meiste Bürgers Leuthe in den Städten zwischen einander verschwägert, woher es denn auch kommet, dass zuweillen halbe Magistraten, wie gegenwärtig der Hermannstädter eine Schwägerschaft ausmachet."

⁵⁷⁶ Katalin Szende, "Was there a bourgeoisie in medieval Hungary?", in Bálasz Nagy and Marcell Sebök (eds.), *The Man of Many Devices, Who Wandered Full Many Ways: Festschrift in Honor of János M. Bak*, Budapest: CEU Press, 1999, p. 450-451.

⁵⁷⁷ Szende, "Was there a bourgeoisie", p. 451;

⁵⁷⁸ As noted for instance by Katherine Lynch, *Individuals, Families and Communities, 1200-1800. The Urban Foundations of Western Society*, Cambridge: Cambridge University Press, 2003, p. 16.

of economic and commercial liberties (such as the possibility of selling various kinds of victuals). Citizens were also allowed to bear arms, as a reflection of both early modern rights and duties to defend the urban community or, when necessary, the province.⁵⁷⁹ In the Saxon cities of Transylvania, the public defence obligations assumed by the burgher group remained at the forefront of the urban leadership's concerns.⁵⁸⁰ In the earliest fiscal sources, citizens constituted the core of the urban taxpayer corps, bearing most of the tax burden. What is more, owing to difficulties entailed by the process of obtaining burgher rights, it may be assumed that most individuals who received this status became permanent residents of the city that had welcomed them. The number of citizens can therefore be regarded as the most stable measure for the development of early modern urban populations, in the absence of complete population censuses.⁵⁸¹

Gradually, individuals' ability to receive burgher status on the Royal Lands and particularly in urban settlements was conditioned by their capacity for assimilation into the Transylvanian Saxon nation from a legal and confessional perspective.⁵⁸² A series of urban statutes from the late sixteenth century (1589) emphasized that in order to maintain the "good peace and unity" in Hermannstadt, the privileges and freedoms which had been received and inherited from the Saxon forefathers must be put to use - "those who do not use their freedom and privileges, misuse them."⁵⁸³ This entailed the implementation of new criteria for admission into the burger category, which would allow the city to maintain its legal and confessional unity. The "sorrowful"⁵⁸⁴ example of nearby Klausenburg loomed large in the collective

⁵⁷⁹ Szende, "Was there a bourgeoisie", p. 452; The Saxon University expressly discussed the military obligations stemming from ownership of houses within the Seat of Hermannstadt in a 1564 statute: 10 days' worth of military service (*Heerfahrt*) were imposed on each house, and would remain tied to the property itself, even after a male household head's passing. A man who married a widow whose deceased husband had already fulfilled this obligation, and therefore gained co-ownership of the house, enjoyed the collateral "heerfurt tagwerk" as if he had himself served. See Mária Pakucs-Willcocks, "zu urkundt in das Stadtbuch lassen einschreiben". *Die ältesten Protokolle von Hermannstadt und der Sächsischen Nationsuniversität (1522-1565)*, Hermannstadt, Bonn: Schiller Verlag, 2015, doc. 348, pp. 254-255.

⁵⁸⁰ See for instance Müller, *Stuhle und Distrikte*, p. 27-28 on the military obligations of the urban population during wartime.

⁵⁸¹ Jaroslav Miller, *Urban Societies in East-Central Europe*, p. 34-38, especially p. 35-36 on the historiography of burgher rolls from early modern East-Central European cities, the main source employed for the study of this stratum.

⁵⁸² The most extensive discussion of burgher status in Hermannstadt in the eighteenth century remains that by Schaser in *Reformele iozefine*, who explicitly notes that one's "German origin" had not been a prerequisite for joining the ranks of this category in the fifteenth century (p. 50).

⁵⁸³ Friedrich Schuler von Libloy, *Merkwürdige Municipal-Constitutionen der Siebenbürger Sekler und Sachsen. Zusammengestellt und theilweise ins Deutsche übersetzt sowie mit erklärenden Noten versehen*, Hermannstadt: Th. Steihnausen, 1862, p. 76, 78.

⁵⁸⁴ Schuler von Libloy, *Merkwürdige Municipal-Constitutionen*, p. 110: "Dieweil die Einigkeit unsres Volkes nächst Gottes Providence die einzige Ursache ist, daß nach sovielen Stands Veränderungen unsre Nation gleichwohlen noch stehen dargegen da man uneinig gewesen (wie *das Trauer Exempel zu Clausenburg* zu sehen)

imaginary. Klausenburg, one of the few other major urban centres in Transylvania, had not been located on the Royal Lands and therefore had not benefitted from the same corporate protection bestowed by the nation on its other urban centres prior to receiving free royal city status in 1405. The former inhabitants of the rural hinterlands of Klausenburg – mainly Hungarian - had managed to embed themselves in the urban fold as a consequence of a late fourteenth-century royal privilege which allowed them free relocation and settlement, and from thereon grew into an increasingly powerful stakeholder in local politics. Thus, the power monopoly exerted by the Transylvanian Saxons over the urban councils had become more tenuous. This was at the time a “pure social conflict”, in which splits according to “national” belonging came only as a corollary. In 1458, the Small Council of Klausenburg had been ordered by the King of Hungary to conform to the principle of “national” parity in electing the urban leadership, which would enable both communities in the city to gain a balanced political representation in its affairs. From then onward a dual-national administration had obtained in the city: the mayor and the Royal Judge were alternately elected from the ranks of the Saxon nation and those of the Hungarian party.⁵⁸⁵ Moved by this example, the leaders of the Saxon University decided to take swift measure to prevent the disunity present in Klausenburg, almost impossible to contemplate:

“Wherefore the desirous unity of the people has come to pass through God’s grace, therefore it is to be deduced that where such unity in one people of our German nation had not existed, then much and manifold refuse, division and disruption would have arisen, as visible example should be [...] Clausenburg, where there is not only perpetual envy between the people, but also the city itself has drifted from the other cities and even nowadays an unheard-of swap and exchange occurs therein yearly, with the two churches and the two kinds of judges to be observed; we have never heard of anything equal to this in any land belonging to Christianity; [...] so that we therefore pay diligent attention to the matter and grow wise with foreign damage and example, then it will be needful for us to proceed [*m.n.* take measures] from the beginning, before it (*m.n.* disunity) takes the upper hand and further ingresses within;“⁵⁸⁶

man nicht allein die Einigkeit des Glaubens verlohren sondern gar von der Nation völlig gerißen worden...” (my italicisation).

⁵⁸⁵ A recent and balanced account of the situation which had unfolded in fourteenth and fifteenth-century Klausenburg is provided by Ágnes Flóra, *The Matter of Honour*, PhD Thesis, p. 41-49.

⁵⁸⁶ Schuler von Libloy, *Merkwürdige Municipal-Constitutionen*, p. 76: “Dieweil dann das durch Gottes Seegen und begerlicher Einigkeit des Volks geschehen ist, So ist abzunemen das wo solche Einigkeit in einerlei Volk unser teutschen Nation bishero nitt were gewesen, so were fil und mancherley Unradt Spaltung und Zertrennung entstanden wie dan Exempel für Augen sein, als nemblich in Clausenburgh da dann nit allein stedter Neidt zwischen dem Volk ist, sondern die Stadt selbst von den andern Stedten abgewichen ist und auch heutiges Tages ein unerhörter Tausch und Wechsel jährlichen daselbst geschieht mit den zwo Kirchen und mit zwaierley Richtern zubenachten; desgleichen haben wir nimmer in keinem Lande der Christenheit gehört;... damit wir aber auff die Sache fleißige Achtung geben und mit frembdenn Schadden und Beispiel klug werden, so wirdt von Noten sein, daß wir den Anfang bey Zeiten weren, ehe das es überhandt nimpt und ferner einreist;”

This loss of exclusive political enfranchisement was paralleled by an increasing confessional split between the main Saxon group in Transylvania and its counterparts in Klausenburg, where Unitarianism had prevailed as the primary confessional pillar of the urban community. While still regarding themselves as Saxons, but as “other Saxons”, the German-speaking inhabitants of Klausenburg had seemingly strayed from the pillars of their identity.⁵⁸⁷ Writing towards the end of the seventeenth century, one Saxon chronicler from Hermannstadt deplored that Klausenburg “was home to few Saxons and many more Hungarians, and that the Saxon laws, the customs and traditions of the city were lost along with its freedoms and privileges.”⁵⁸⁸ The lesson taught by Klausenburg produced far-reaching results: at the latest from the end of the sixteenth century, the criteria for acquiring, owning and disposing of property within the communities located on the Royal Lands were increasingly and indelibly tied to an ideal-typical concept of “Germanness”. Given the confessional and political stakes of the time, the concept was likely synonymous to adherence to Lutheranism and non-noble, and free background.⁵⁸⁹ If individuals who did not adhere to these preconditions could not acquire property, then they could not accede to burgher status and wield political power, but would remain mired as perpetually disenfranchised tenants, under the firm control of urban councils.

Municipal statutes would continue to stress the need to maintain the burgher category free of any “foreign” ingressions as a means of preserving the political nation’s unity. Such statutes emerged in the wake of political turning points, such as 1614⁵⁹⁰ or in 1698, a decade after the Habsburg rule had been firmly established in the province. This suggests that institutional upheaval at provincial level was expected to reverberate in the social fabric of the Royal Lands. At the same time, the content of statutes implies that the matter of preserving legal unity intersected with various other issues, and could not be reduced to maintaining stringent criteria of admission to the ranks of the burghers. For instance, the 1614 article which forbade noblemen in possession of serfs from taking up residence in the city and from occupying any official position also noted the following: “when a member of the *Rat* is sent to the court to petition for collective matters, he shall not request anything for himself, and much

⁵⁸⁷ Edit Szegedi, *Geschichtsbewußtsein und Gruppenidentität. Die Historiographie der Siebenbürger Sachsen zwischen Barok und Aufklärung*, Köln, Weimar, Wien: Böhlau, 2002, p. 176 – 185.

⁵⁸⁸ Szegedi, *Geschichtsbewußtsein und Gruppenidentität*, p. 235.

⁵⁸⁹ The current account largely follows the sources and points of discussion noted in Schaser, *Reformele iozefine*, p. 49-52.

⁵⁹⁰ Schuler von Libloy, *Merkwürdige Municipal-Constitutionen*, p. 83-89.

less engage in commercial activity.”⁵⁹¹ This points to the fissures in the seemingly unitary social fabric of the nation that were not readily visible in haughty political discourse, elicited by the fact that individual interests, often of material nature, meshed somewhat imperfectly with lofty “national” ideals. This issue resurfaced increasingly often during the eighteenth century, when the defence of the Saxon nation’s interests at the court required a constant presence, rather than episodic interventions.

Meanwhile, the leitmotif of seventeenth-century Saxon municipal statutes remained the ideal of the unity and integrity of the national fabric. The 1698 statutes not only expounded on the same ideas but also spelled out explicitly the mechanisms by which the homogeneity of the burgher category would be maintained:

“the *Indigenae* or natives of the land need to be completely distinguished from the *Advenis* and foreigners, and to this end the recording of the propertied individuals (*possessionierten*), who have their own houses, and of the unpropertied citizens or settlers, should be duly undertaken separately from the registration of the strangers or foreigners.”⁵⁹²

Several scenarios were taken into account when devising the prerequisites for admission to the burgher category: individuals who could attest to an honourable and legitimate provenance and to having been born free, of free parents, and were natives of the province – ideally of Saxon background from the Royal Lands – could be admitted; serfs, even if they were of the right “national” provenance, were barred from the franchise. The path was however officially opened for members of foreign “lands or nations” to apply for urban citizenship: their applications could be taken into consideration if they possessed attributes (mainly professional in quality) that made them necessary additions to the urban social fabric⁵⁹³; the same occurred when the state, rather than the city, regarded foreign-born individuals as potentially useful in the running of the province, and granted them the so-called *ius indigenatus*, or indigeneity.⁵⁹⁴ Along with many other loopholes that allowed direct Habsburg intervention into the internal affairs of the province, the *Diploma Leopoldinum* had also included a provision according to which non-native individuals could be naturalised, should the need arise for them to occupy

⁵⁹¹ Schuler von Libloy, *Merkwürdige Municipal-Constitutionen*, p. 87: “Item wenn ein Rathsherr zu Hoff geschicket wird, gemeine Sachen zu sollicitiren, so soll Er ihm nicht selber etwaß außbetteln, vielweniger Kauffmannschafft treiben.”

⁵⁹² Schuler von Libloy, *Merkwürdige Municipal-Constitutionen*, p. 110: “so soll, jedermänniglich darob seyn, daß die Indigenae oder bürgerl. Land-Sassen von denen Advenis und Frembden wohl distinguiert und zu dem Ende die Matricul der einerseits Possessionierten, die nehmlich ihre eignen Häuser haben, andererseits impossessionirten Bürger oder Sädler, so dann Separate der Advenarum oder Fremdlingen wohl und Fleißig conserviren.”

⁵⁹³ Similar criteria were implemented to regulate urban in-migration throughout many of the East-Central European urban centres during the sixteenth and seventeenth century. See Miller, *Urban Societies*, p. 37-38.

⁵⁹⁴ Schuler von Libloy, *Merkwürdige Municipal-Constitutionen*, p. 110-111.

one of the highest offices in its central administration.⁵⁹⁵ For instance, the General Commanders along with their next of kin could receive the *Indigenat* relatively effortlessly if they so wished, several individuals in this office electing to make use of the provision throughout the course of the century.⁵⁹⁶ Although the granting of the *Indigenat* generally required the approval of the estates reunited in the Diet, in some cases even this symbolic barrier was bypassed without much difficulty.⁵⁹⁷

The same statutes also provided a clear distinction between the two categories of burghers, defined according to their relationship to real estate: propertied burghers were permitted to benefit from the entire host of commercial and political freedoms that came with this status; unpropertied citizens – *Sedler* – were entitled to purchase, inherit, or generally come into possession of houses, but were not to be admitted to the urban leadership until they had graduated into the former group, nor were they to sell victuals.⁵⁹⁸ As the following section will show, an expansion of the “urban citizen” group to explicitly include the settlers indeed occurred during the first half of the eighteenth century. From the perspective of their relation to property, the *Sedler* were akin to tenants (*inquilini*). However, this did not mean that all tenants were potential future citizens, as further divisions existed within the unpropertied group as well. During the eighteenth century, many of Hermannstadt’s tenants were not actually *Sedler* – settled – but simply persons who resided within the boundaries of the city’s jurisdiction. This latter group was likely completely disenfranchised and generally barred from purchasing real estate. An increasing number of sub-categories would have to be devised over time to deal with these legal distinctions and their social translations. Despite the Saxon University’s emphasis on clear classification and the enforcement of strict boundaries between groups, the variation present in the social-legal composition of Transylvanian Saxon urban centres would manifest itself over the course of the eighteenth century as a proliferation of idiosyncratic typologies.

Thinking in terms of nations as legal categories did not stop with the Transylvanian Saxons, the nobility, and the Szeklers. Over the course of the seventeenth and eighteenth centuries, several other groups of differing size, spread, and confessional or linguistic

⁵⁹⁵ Kutschera, *Landtag und Gubernium*, p. 338. The same article began by noting that only native-born individuals would be considered for any position of provincial leadership.

⁵⁹⁶ Kutschera, *Landtag und Gubernium*, p. 206-107.

⁵⁹⁷ Kutschera, *Landtag und Gubernium*, p. 244-245 mentions that Auersperg received the *Indigenat* by direct order from Maria Theresia, without approval from the Diet.

⁵⁹⁸ Schuler von Libloy, *Merkwürdige Municipal-Constitutionen*, p. 111-112.

composition made explicit or implicit use of the concept in order to defend or reject claims to political and economic power. The broad and multi-centred petitional movement culminating in the 1791 *Supplex Libellus Valachorum*, through which the Romanians in Transylvania requested acknowledgement as a “fourth nation” in the province, has likely received the most concerted historiographic attention.⁵⁹⁹ Though unsuccessful in its essential claim to nationhood, this attempt showed that the *natio* concept had not been entirely emptied of its early modern content by the end of the century and still retained significance for local political stakeholders.⁶⁰⁰

Other groups placed themselves on the spectrum between political enfranchisement as exponents of a *natio* and “toleration”⁶⁰¹, striving for successful acknowledgement by both the state and local authorities, but mostly managing to earn one side’s favour to the detriment of the other’s interests. For the Transylvanian Saxons, and especially for Hermannstadt, the most problematic of these groups were the Greek merchants organized in the local branch of a provincial-level commercial company. The term “Greek” functioned similarly to that of “German” as used by the Saxons to designate their own membership: during the seventeenth century, it stood for “essentially any merchant coming from the Ottoman Empire and bringing oriental goods”, though in some cases it was also associated with the Greek language itself or with its confessional aspect, Eastern Orthodoxy.⁶⁰² This group had officially settled in the province in an organised manner at least since the early seventeenth century, as by 1619 Prince Bethlen had referred to them as “faithful subjects of the Greek nation”, vowing to defend their commercial privileges against other “Wallachians, Moravians and Greeks, Vlachs, Turks and other people.”⁶⁰³ By 1636, the Prince of Transylvania had issued a general charter that allowed Greeks to settle anywhere they chose, and had effectively opened the door to the coveted Saxon capital. This privilege had been a direct infringement on the staple rights of the city by the

⁵⁹⁹ On the petition, see David Prodan’s classic *Supplex Libellus Valachorum* (several editions), 1st edition Bucharest: Editura Universităţii „Victor Babeş”, 1948.

⁶⁰⁰ The hybrid meanings of the *natio* concept were most evident in the petitions submitted in the late 1780s and before the 1790-1791 diet, as was briefly discussed in the first chapter.

⁶⁰¹ In a much-used trope, the Romanians in Transylvania were collectively regarded as a “tolerated” group in contemporary sources. See for instance Samuel von Brukenthal’s 1773 report submitted to Maria Theresia, in Johann Georg Schaser (ed.), *Denkwürdigkeiten aus dem Leben des Freiherrn Samuel von Brukenthal, Gubernators von Siebenbürgen*, Hermannstadt: Georg v. Closius, 1848, p. 23, according to which “Die Wallachen sind im gesetzlichen Verstande keine Nation, sondern, ein plebs oder Volk; sie werden von den Gesetzen geduldet, aber zugleich von allen Freiheiten und Rechten der übrigen Nationen ausgeschlossen. Sie machen keinen eigentlichen Stand oder Kreis aus, sondern sind unter allen Nationen und Kreisen vertheilet[...].”

⁶⁰² According to Mária Pakucs-Willcocks, “Between ‘Faithful Subjects’ and ‘Pernicious Nation’: Greek Merchants in the Principality of Transylvania in the Seventeenth Century”, in *Hungarian Historical Review* 6, no. 1, 2017, p. 114.

⁶⁰³ Pakucs-Willcocks, “Between ‘Faithful Subjects’ and ‘Pernicious Nation’”, p. 117.

central authority, foreshadowing the Habsburgs' later circumventions of the *Diploma* and the municipal statutes. The tax-paying, organized Greeks were a nation unto themselves from the perspective of the Principality, and a useful one at that, given their extensive commercial networks and their ability to perform various invaluable services, such as currency exchange for the tribute paid to the Porte. The most significant indication as to their collective legal status was the fact that they constantly engaged in the inter-estate competition for rivalling privileges and were generally successful in their claims against other non-settled merchants of Oriental provenance. By the mid seventeenth-century, the Transylvanian Saxon University – and its local representatives in Hermannstadt – would continue to refuse to directly acknowledge the Greeks' privileges against the city staple rights, in a typical show of passive resistance to central policies, but could neither entirely impose its control over the group. In many cases, the Greek merchants became an essential asset to public finances, as they wielded significant amounts of capital that was often put to use to pay debts. The same 1698 statutes noted that “the Greeks and other foreigners are tolerated temporarily” but also allowed that “they should be given precedence over the locals after having supplied the town with goods.”⁶⁰⁴ Various individuals from their ranks would manage to infiltrate the Saxon nation through marriage and personal connections during the course of the later seventeenth century, though the nation itself remained at odds with the Transylvanian Saxon urban leadership.⁶⁰⁵ The juridical status of Greek and other foreign merchants hailing from the Ottoman Empire would be the object of “very harsh negotiations” between the Habsburg state and the urban authorities during the eighteenth century.⁶⁰⁶

The members of the Greek nation in Hermannstadt would be joined by several other clearly definable groups during the course of the eighteenth century: Armenian merchants, Prussian soldiers, and the so-called *Transmigranten*, the Protestants exiled from the Austrian Crownlands during the reigns of Charles IV and Maria Theresia.⁶⁰⁷ While none of these groups would achieve the legal recognition necessary for them to be regarded as distinct nations, neither would they melt into the Transylvanian Saxon national fabric with ease. Armenians

⁶⁰⁴ Pakucs-Willcocks, “Between ‘Faithful Subjects’ and ‘Pernicious Nation’”, p. 119-123, 126-127.

⁶⁰⁵ Pakucs-Willcocks, “Between ‘Faithful Subjects’ and ‘Pernicious Nation’”, p. 129.

⁶⁰⁶ Pakucs-Willcocks, “Between ‘Faithful Subjects’ and ‘Pernicious Nation’”, p. 126.

⁶⁰⁷ Jews were not present as a legally-defined group in Hermannstadt during the eighteenth century, according to the census of the Jewish population in the Principality requested by Maria Theresia in 1779. On the situation of the Jewish communities in modern Transylvania, see Ladislau Gyémánt, *Evreii din Transilvania. Destin istoric/ The Jews of Transylvania. A Historical Destiny*, translated by Simona Fărcășan, Cluj-Napoca: Institutul Cultural Român, 2004.

hailing from neighbouring Moldavia had settled in the province at the latest by 1672 and had received a complex of privileges during the pre-Habsburg era which included judicial autonomy and freedom of trade. Initially, they had sought access to trade routes in various urban settings or near mountain passes. As in the case of their Greek counterparts, their presence was heavily contested by Transylvanian Saxon urban authorities: the Armenian leadership, which had settled in the Transylvanian city of Bistrița, was successfully expelled in 1712. The same group then relocated to the town of Gherla (later known as Armenopolis or Szamosújvár), joining others who had settled on one of Michael II Apaffi's estates, in Dumbrăveni (the future Elisabethopolis).⁶⁰⁸ By the mid-eighteenth century, merchants hailing from the two main Armenian communities in Transylvania had managed to infiltrate the social fabric of the provincial capital, despite all protests to the contrary. Much of this had been owed to their confessional affiliation: as Roman Catholics, Armenians were regarded by the Habsburg state as instrumental in shattering the confessional unity of the staunchly Lutheran Transylvanian Saxon milieus.⁶⁰⁹

The next group in the chronological order of settlement has likely received the greatest attention of German-language historiography: the plight of the Austrian Crypto-protestant peasants deported from the Austrian hereditary lands into Hungary and then Transylvania over the course of three movements (1734-1737, 1752-1756, 1773-1776) has featured heavily in accounts of early modern population displacements, likely owing to its breadth as well as its partially disastrous results.⁶¹⁰ Although the Transmigrants, as they were explicitly referred to in contemporary Transylvanian and Habsburg sources, were meant to be easily assimilated into the Lutheran Saxon milieu, differentiation engendered by their distinct provenance and the

⁶⁰⁸ Judit Pál, "Armenians in Transylvania: From Settlement to Integration", p. 9-12, in B. Kovács, E. Pál (eds.), *Far Away from Mount Ararat. Armenian Culture in the Carpathian Basin. Exhibition Catalogue*, Budapest, Leipzig: Leipziger Universitätsverlag, 2013; For a detailed account of the Armenian community in Transylvania, see Pál, *Armeni în Transilvania. Contribuții la procesul de urbanizare și dezvoltare economică a provinciei / Armenians in Transylvania. Their Contribution to the Urbanization and the Economic Development of the Province*, Cluj-Napoca: Romanian Cultural Institute, Center for Transylvanian Studies, 2005.

⁶⁰⁹ See for instance the point expressed by State Councillor Borié in 1762, quoted in Konrad Schünemann, *Österreichs Bevölkerungspolitik unter Maria Theresia*. 1. Band, Veröffentlichungen des Instituts zur Erforschung des deutschen Volkstums im Süden und Südosten in München und des Instituts für ostbayrische Heimatsforschung in Passau, Berlin: Deutsche Rundschau G.m.b.h, 1936 p. 100, note. 115.

⁶¹⁰ The most recent synthetic account on the Transmigration to Hungary and Transylvania is that by Stephan Steiner, *Rückkehr unerwünscht. Deportationen in der Habsburgermonarchie der Frühen Neuzeit und ihr europäischer Kontext*, Wien, Köln, Weimar: Böhlau Verlag, 2014, pp. 243-298; Older, but still highly relevant works focusing on Transylvania are Ernst Nowotny, *Die Transmigration ober- und innerösterreichischer Protestanten nach Siebenbürgen im 18. Jahrhundert. Ein Beitrag zur Geschichte der „Landler“*, Jena: Gustav Fischer Verlag, 1931 and Eric Buchinger, *Die „Landler“ in Siebenbürgen. Vorgeschichte, Durchführung und Ergebnis einer Zwangsumsiedlung im 18. Jahrhundert*, München: R. Oldenbourg Verlag, 1980. Schünemann also frames the deportation of Transmigrants within the broader population policies pursued by the Habsburg monarchy in *Österreichs Bevölkerungspolitik unter Maria Theresia*, p. 95-101.

Saxon nation's mistrust of foreign-born individuals whose presence was imposed from above would persevere for many decades. Although a few scattered individuals would manage to prosper or at least make due despite the harsh effects of the relocation, various longstanding administrative abuses would compound the group's unfortunate fate.⁶¹¹

Finally, the capital's inhabitants witnessed the addition of two other groups, both of which were recruited from the ranks of the army: on the one hand, since 1688, several Habsburg companies had been billeted regularly in the city, living in close quarters with both citizens and non-citizens. Though on the whole their presence appeared to be contentious rather than peaceful, the urban milieu appealed to some who sought to integrate into the ranks of the Transylvanian Saxon nation. With the same eye toward integration, the Habsburg population policy included the relocation of Prussian prisoners and deserters in the 1760s to the area: as Protestants themselves, they could only be relocated to the confessionally-mixed province of Transylvania rather than the Banat, which, like the Hereditary lands, was to be kept homogeneously Catholic.⁶¹² Although most were "colonised" in neighbouring Saxon towns, such as Mühlbach (Sebeș), some would be naturalized in the provincial capital as well.⁶¹³

7. Urban hierarchies: population growth and occupational differentiation

Having charted the main coordinates according to which politics and policies reckoned in eighteenth-century Transylvania, and particularly in the urban Transylvanian Saxon milieu, it is now possible to turn to the content of these ideal-typical legal forms. This section addresses Hermannstadt's growth over the eighteenth century and the evolution of the social, occupational, and economic structure underpinning this process. Given the previous discussions highlighting the difficulties encountered during the proceedings of the 1720 and 1750 conscriptions, these sources' degree of comparability will be explicitly problematised. The investigation of the social and economic differentiation undergone by the urban fabric will also be supported by an examination of the individual-level characteristics of those who applied and were awarded the burgher franchise between 1720 and 1800, on the basis of burgher rolls.

⁶¹¹ On the failure to integrate the Transmigrants into the fold of the Saxon nation, see for instance Schünnemann, *Österreichs Bevölkerungspolitik*, 1. Band, p. 101-104; on the particular abuses which occurred in Hermannstadt, see Steiner, *Rückkehr unerwünscht*, p. 280-285.

⁶¹² Schünnemann, *Österreichs Bevölkerungspolitik*, 1. Band, p. 129.

⁶¹³ See for instance Friedrich Baumann, „Preussische Kriegsgefangene und Deserteure als Ansiedler in Siebenbürgen“, in *Korrespondenzblatt des Vereins für siebenbürgische Landeskunde*, XVI. Jahrgang, Nr. 11, 1895, p. 116-122. Extracts of vital events from the eighteenth century in which Prussian soldiers and deserters figured in any capacity were published for several Transylvanian settlements (but not Hermannstadt), in the subsequent volumes of the *Korrespondenzblatt*.

This comparison will reveal the extent to which legal and social-economic hierarchies diverged during the course of the century, and contextualise the resulting effects of this divergence in the urban social fabric from a broader perspective.

The present study's silence on the matter of Hermannstadt's population size during early modernity and the eighteenth century has not been for want of sources, but rather the contrary. The composition and growth of Transylvania's population over the early eighteenth and nineteenth centuries has been one of the most hotly debated fields in provincial historiography, each study marshalling various kinds of surveys ranging in provenance and completeness to underpin arguments for the numerical precedence of one ethnic group over the other.⁶¹⁴ Read in light of post-1867 political and cultural developments in the area, the sources on which the history of urban growth in Transylvania rests should be critically assessed. This is not however to imply that no piece of information regarding Hermannstadt's population prior to the 1785-1787 census can be taken at face value, but rather that the estimations behind such figures should be made transparent.

According to late fifteenth and early sixteenth century taxpayer lists, which only listed household heads, the number of *hospes* households in the city ranged from 897 in 1468 to 996 by 1518.⁶¹⁵ These were however joined by a varying number of so-called *incolae* households. This term likely described those who had only received a settled status and therefore paid a lower tax rate: a comparison of tax registers and other contemporary lists for 1478-1480 yielded 896 *hospites* and 546 *incolae*, totalling some 1442 households.⁶¹⁶ Other estimates provided for the same period deemed it necessary to include a varying share of so-called *zsellér (inquilini)*, individuals who did not own any homes but lived as tenants, and made up between 8 and 10% of the urban population on the Royal Lands.⁶¹⁷ The distinction between *incolae* and *inquilini* as two different unpropertied groups remained inexplicit, while the former term generally disappeared from later sources.

⁶¹⁴ See for instance Hintz, "Volkszählungen in Siebenbürgen", p. 57-58, who insists that population growth concentrated in the early nineteenth century primarily in the Romanian-inhabited areas, as the Romanians evidenced greater fertility and higher birth rates than the less "fertile" Szeklers and Hungarians, and the "wenigst fruchtbaren Sachsen". Romanian historians have likewise emphasized the value of the confessional conscriptions of the eighteenth century (1762, 1766 etc.) for the projected number of inhabitants. For an overview, see also Georg Müller, "Die ursprüngliche Rechtslage der Rumänen im Siebenbürger Sachsenlande. Anlagen: Register und Inhaltsübersicht. Karte über den Umfang des Sachsenlandes oder Königsbodens in Siebenbürgen im Jahre 1804", in *Archiv des Vereins für siebenbürgische Landeskunde*, XXXVIII. Band, 1912, p. 85-314, I-LVI.

⁶¹⁵ István Draskóczy, "Az erdélyi Szászföld demográfiai helyzete a 16. század elején", in *Erdélyi Múzeum*, Vol. LXI, Issue 1-2, 1999, p. 6.

⁶¹⁶ Albrich, „Die Bewohner Hermannstadts im Jahre 1657“, p. 259. Albrich uses the figures provided by Teutsch in his *Geschichte der siebenbürger Sachsen...* Vol II, p. 175.

⁶¹⁷ Draskóczy, "Az erdélyi Szászföld demográfiai helyzete a 16. század elején", p. 9.

By the mid-seventeenth century, Hermannstadt's number of taxpaying "individual households" reached 1460, with the addition of various tax-exempt individuals from other types of official sources.⁶¹⁸ Transylvanian historical scholarship has held that since the fifteenth and sixteenth centuries, a family was equivalent to an "self-supporting household" (*selbständige Haushaltungen*), which in turn comprised on average five members.⁶¹⁹ The notion of the self-supporting household, especially in the urban milieu – in fact identical to the simple family household⁶²⁰ – gained currency among Transylvanian Saxon historians.⁶²¹ This was likely also due to the prevalence of tax registers within most Transylvanian Saxon milieus and the absence of the kind of source needed to prove the contrary, namely the existence of complex or multiple family households.

Transylvanian scholarship also continued to operate with the average of the 5-person household/family, which spread as a kind of ideal-typical measure throughout studies attempting to provide a broader image of population size and growth on the Royal Lands, although some studies argued that the number was too high.⁶²² The measure was regularly employed in extrapolating the total population numbers for many of Transylvania's urban centres prior to the first complete conscription of 1785, when it was somewhat reduced. For Hermannstadt, the Josephinian census revealed 4.25 related individuals/household in the city proper, and 3.85 in its suburbs.⁶²³ Regardless of the ideal-typical indicator employed, the prevalence of simple family households, at least in the Transylvanian Saxon urban milieu, remains difficult to argue against, as most of the eighteenth-century fiscal conscriptions show. What is more, as Transylvanian Saxon historians have been rightly pointing out, even this means of extrapolating population figures was highly conservative, as it entailed the exclusion of an unknown quantity of individuals from total population figures: "broad swathes of non-

⁶¹⁸ Albrich, "Die Bewohner Hermannstadts", p. 259; Maja Philippi, *Die Bürger*, p. 272 reported some 1730 taxpaying households for Kronstadt around the same time.

⁶¹⁹ Albrich, "Die Bewohner Hermannstadts", p. 259-260.

⁶²⁰ As defined for instance in Eugene Hammel and Peter Laslett, "Comparing Household Structure over Time and between Cultures", in *Comparative Studies in Society and History*, Vol. 16, Issue 1, 1974, p. 73-109.

⁶²¹ This does not however mean that it was accepted uncritically even by nineteenth-century scholarship. As Karl Albrich pointed out in "Die Bewöhner Hermannstadt", p. 260: "Wenn man auch für das Jahr 1657 die früher angegebene Zahl von 1460 selbständigen Familien als die richtige gelten läßt, so gibt dieses noch immer keinen festen beziehungsweise unanfechtbaren Anhaltspunkt zur Bestimmung der damaligen Einwohnerzahl Hermannstadts."

⁶²² Hintz, "Volkszählungen in Siebenbürgen", p. 51, notes that the figure of 5 individuals/household is too high for the Saxon milieu, where families were, on average, smaller than 5, while those of the Wallachians were larger. In a very Malthusian remark, Hintz adds that "Es bewährt sich nach dem bekannten Zählungen auch in Siebenbürgen die allgemein gemachte Erfahrung: daß die bedeutendste Zunahme der Bevölkerung den untersten Klassen der Gesellschaft angehöre, nicht den Gegenden, welche gebundene Wirtschaft haben, also ein Art Bauernadel, nicht den reichern Familien, sondern denen, welcher nur wenig Grundeigenthum oder keines haben."

⁶²³ Teutsch, "Conscription von 1785. Hermannstadt", p. 140-141.

taxpaying” inhabitants escaped early modern fiscal records.⁶²⁴ Excluded were both domestic servants as well as more specialised individuals, such as apprentices, who must have constituted an essential category in nearly every household involved in a particular craft.⁶²⁵

During the seventeenth century, the city’s population experienced drastic fluctuations which reverberated in taxpayer lists as well as in contemporary chronicles. Like many other early modern urban milieus in the Kingdom of Hungary, Hermannstadt suffered the effects of numerous waves of plague, closely tied to the ebb and flow of Ottoman and Habsburg warfare in the province, which hindered growth comparable to other East-Central European areas.⁶²⁶ In 1614, when its autonomy was reinstated, the city was said to comprise only 53 household heads. Later on, the Ottoman campaigns of the 1660s nearly halved the number of households which figured on the lists of ecclesiastical taxpayers drawn up in 1657. Less than 10% of the original homeowners inhabiting one of the city’s main streets survived through the late 1650s and early 1660s.⁶²⁷ According to a contemporary account by the recently-instated pastor of the city’s Lutheran parish, Johannes Graffius, 2733 persons perished due to plague in 1660 alone. These shifts in population also led to moderation in the implementation of criteria regulating the accession to citizenship and property, as the urban leadership likely acknowledge that a near-empty town could not constitute a viable fiscal basis. As Graffius recounts,

“thus, the city also experienced a great dearth of menfolk; because of this, as the dying began to subside, many citizens from other cities and market towns came to the city, and settled there, as well as many young fellows (*Bursche*) from all trades; because the guilds had a great shortage of masters, they made an abatement from the entry fee, which everyman who wanted to enter had to pay, so that a stranger had nothing more to pay than 15 Florins [...] and this was then maintained until the city increased with burghers, and then the prior usual customs were resumed.”⁶²⁸

Some two decades after it had replenished the ranks of its urban citizenry, Hermannstadt increasingly tightened the conditions for obtaining burgher rights. The stark

⁶²⁴ As Maja Philippi pointed out with reference to Kronstadt in *Die Bürger*, p. 272-273. I disagree however with the resulting rejection of the value of statistical analysis based on medieval sources: “...die Geschichte eine Wissenschaft ist, die es nicht mit Zahlen und Prozentsätzen, sondern mit Menschen zu tun hat. Dar wahre Bild der mittelalterlichen Stadt kann nicht durch eine Schema wiedergegeben werden.”

⁶²⁵ Albrich, “Die Bewohner Hermannstadt”, p. 260; Philippi, *Die Bürger*, p. 213-215, notes that domestic servants’ wages were not taxed until the seventeenth century.

⁶²⁶ Miller, *Urban Societies*, p. 30.

⁶²⁷ Albrich, “Die Bewohner Hermannstadt”, p. 259-260.

⁶²⁸ Johannes Graffius, *Siebenbürger Ruin*, p. 230-231: “also, dass die Stadt auch grossen Mangel an Mannsvolck gehabt; sind derowegen nachmahlen, als der Sterb ein wenig nachgelassen, viel Bürger auss andern Städten, und Marckten in die Stadt kommen, und sich allort gesetzet, wie dann auch viel junge Bursch von alle Handwerkern, wiew die Zechen grossen Mangel von Meistern hatten, haben die Zehen von der Gebühr (so ein jeder, der sich darinn hat richten sollen, geben müssen) alles nachgelassen, dass ein Frembder nichts mehr hat geben müssen, als 15. flor darzu keine Wirtschaft, und dieses ist also gehalten worden bis die Stadt an Bürgern zugenommen, das es dann wieder zu vorigen gewöhnlichen Braudch gebracht ist worden.”

population fluctuations it had experienced during the seventeenth century would significantly abate over the course of the next century. With the exception of tumultuous events such as the noble rebellion against the Habsburg forces which unfolded over the early 1700s, the only enemy able to cull through the ranks of the burgers remained disease: in 1706, 1710 and 1717 the plague swept through the province and the city.⁶²⁹ However, even this phenomenon's force was reduced through an improved observance and implementation of public health policies.⁶³⁰

Over the course of the seventeenth century, Hermannstadt's fluctuating trajectory did not deviate much from the norm described for the majority of middling-sized urban centres in East Central Europe. The 1460 households it boasted in 1657 amounted to some 7300 persons, a sizeable figure which clearly placed it in the upper ranks of urban development for the area: in the Kingdom of Hungary, only Buda and Pest (taken together) and the capital of Pozsony exceeded it in size around the mid-seventeenth century.⁶³¹ A bird's-eye-view of the computed and reported population figures for the Transylvanian capital (*Table 1*) confirms the drop which occurred as a result of the Ottoman campaign, the ensuing plague of the late 1650s, as well as the slow recovery in the following decades. The reinstatement of restrictions placed on the burgher franchise is evidenced by the slow rise in the number of burghers reported between 1698 and 1720, on the occasion of the first province-wide fiscal conscription. Although the first aggregate findings of the 1720 conscription published in 1896⁶³² have been disputed in historical literature,⁶³³ population figures provided for the Transylvanian Saxon free royal cities computed in the same publication have been employed by more recent studies despite awareness of the source's potential failings.⁶³⁴ The original conscription sheets have fortunately survived for Hermannstadt and some of the neighbouring villages, and were edited and published in one of the main Saxon *Landeskunde* periodicals in 1903.⁶³⁵

⁶²⁹ Emil Sigerus, *Chronik der Stadt Hermannstadt*, p. 21-23.

⁶³⁰ On the organisation of public health in Hermannstadt during the seventeenth century, see Heinrich Herbert, "Die Gesundheitspflege in Hermannstadt im siebzehnten Jahrhundert", in *Archiv des Vereins für Siebenbürgische Landeskunde*, 30. Band, 1902, p. 254-306.

⁶³¹ Miller, *Urban Societies*, p. 28; While on the whole, Miller's work has drawn praise from reviewers, some historians of early modern Hungary, such as Martyn Rady, have regarded the population figures advanced for the towns located in the Kingdom of Hungary as overstated. See Martyn Rady, Review of Miller, Jaroslav, *Urban Societies in East-Central Europe, 1500-1700*, in *Austrian History Yearbook*, Vol. 41, 2010, p. 272-273.

⁶³² Ignác Acsády, *Magyarország népessége a Pragmatica Sanctio korában 1720-21*, Budapest: Athenaeum, Magyar statisztikai közlemények. Ú. F. 12, p. 38.

⁶³³ Ionaş, "Conscriptiile fiscale", p. 70, notes that the aggregate figures at province level differ significantly in the version edited by Acsády, compared to the original centralisation tables kept in the State Archives' collection in Hermannstadt and published by Feneşan, *Izvoare*.

⁶³⁴ Balász Szelényi, in *The Failure of the Central European Bourgeoisie*, p. 165, argues that "the number of households registered in the free royal towns in 1715 and 1720 was underreported by 20 percent, and in a number of towns the census takers simply got the figures wrong", but nevertheless makes use of the population figures computed by Acsády in his wide-ranging study.

⁶³⁵ Friedrich von Schuller, "Zwei Konskriptionen des einstigen Hermannstädter Stuhles aus dem Beginne des 18.

Table 1. Hermannstadt - population figures and legal composition, 17th and 18th centuries

<i>Year</i>	<i>Population number</i>	<i>Burghers</i>	<i>Settlers (Inquilini)</i>	<i>Transients (Vagi)</i>	<i>All households</i> ***	<i>% of burgher hh.</i>
1657	7300				1442 (1460)	
1698	6935	984	403		1387	71%
1710	9984					
1712		1167	431		1598	73%
1720	10116	1191	404	206	1801(2012)	59%
1750	9489*	1011	467	65	1478(1909)	52%
1785	14270	1252			2374(3240)	38%
1790	15000					

Sources: Albrich, “Die Bewohner”, p. 259-260; Acsady, *Magyarország népessége*, p. 38; Sigerus, *Chronik*, p. 22; Schaser, *Reformele iosefine*, p. 111; Schuller, “Zwei Konskriptionen”, p. 458; Szelényi, *The Failure*, p. 176; * Gyémánt et al, *Conscriptia, vol II, p. I*, p. 290 – author’s calculation, computed population number based on total number of households * 5 persons, with the addition of the 56 Greek merchants recorded as settled in the city; “Conscription von 1785. Hermannstadt”⁶³⁶, p. 140-141; Danyi, Dávid, *Az első Magyarországi Népszámlálás*, p. 368-369.⁶³⁷

*** The first figure represents the number of households noted in the city proper, when it is explicitly known, while the second number between parentheses represents the total number of households/household heads listed, with the inclusion of the suburbs. For 1785-1787, the reported number of families is provided in lieu of that of households. For 1712, the information is provided by Schuller in “Zwei Konskriptionen”, p. 103, according to whom this aggregate small-scale conscription for the Seat of Hermannstadt was not known to Acsády. Another 57 homes belonging to orphans („domos orphan.”) were listed for the city, but because no other information on these inhabitants could be ascertained, they were not included in the total count. Burghers include „cives possessionatos” and „viduas possess.”.

The 1720 conscription includes two separate registrations of taxpaying household heads for Hermannstadt: one likely refers to the city proper, and is summarized in a list entitled *extractus civitatis*, while a second registration completed in 1722 focuses on the vaguer category of individuals designated as *villici civitatis Cibiniensis*.⁶³⁸ The first group should clearly be associated with the inhabitants of the city, regardless of legal status: it includes 1191

Jahrhunderts”, in *Archiv des Vereins für Siebenbürgische Landeskunde*, 32. Band, Heft 1-3, 1903-1904, p. 458.

⁶³⁶ Teutsch, “Conscription von 1785. Hermannstadt”, p. 140-141.

⁶³⁷ Danyi Dezső, Dávid Zoltán (eds.), *Az első magyarországi népszámlálás: 1784-1787*, Budapest: Központi Statisztikai Hivatal Könyvtára: Művelődésügyi Minisztérium Levéltári Osztálya, 1960.

⁶³⁸ Schuller, “Zwei Konskriptionen”, p. 458-459, 460.

possessionati cives (full-rights burgers), 404 *inquilini cives*, and 206 *vagi*. This represents one of the first explicit combinations of the terms of “inquilini” and “cives” into the formula “inquilini cives”. This category can for all intents and purposes be regarded as synonymous in content with the lowest rank of citizens registered in the burgher rolls, namely the settlers (*Sedler*). To these were added 211 so-called “villici” household heads, who were registered separately. The overwhelming majority of this latter group appeared to have been Romanian, if an onomastic criterion is employed. The sporadic but clear presence of German names such as “Christoph Moser”, “Hanes Barth” or “Johannes Theiss” scattered throughout the list suggests that nominative information was not uniformized linguistically after registration or during the early twentieth century editing process. The “villici” were likely settled in the city’s already sizeable suburbs, where they inhabited and worked the many gardens and small plots of land owned by the urban citizenry. It does not appear that any of them possessed their own land, as suggested by the fact that they all were additionally marked as “inquilini”, or tenants. A considerable share of individuals were exempted from taxation, likely as a reward for performing various services such as shepherding or guarding forests for the city. For those who were taxed, the contribution levied was very low.⁶³⁹ Therefore, the 1720 conscription lists a total of 2012 households, for which the total population number of 10116 ascribed in the late nineteenth century source edition seems to be a plausible approximation.⁶⁴⁰

The population figure for 1750 was likewise reached by multiplying the total number of households listed with an average of five members. The decrease in both the number of households listed and the likely total population between 1720 and 1750 might be partially explained by the waves of plague that again rocked the city in 1738-39, or by an increasing limitation of new burghers admitted. In 1750, the Government had been settled in Hermannstadt for less than two decades, and thus opportunities for growth engendered by the city’s position as provincial political residence had not yet manifested to their fullest. The city was still in many respects following the same pattern of development as in the last quarter of the seventeenth century.

⁶³⁹ Persons designated as ‘villicus’ earned between 10 and 40 Hungarian Florin, and paid a tax between 1.20 to 11.10 Hungarian Florin. The majority earned between 25 and 35 Florin, and paid a sum ranging between 3.60 and 6.60 Florin. Their average income and tax placed them well within the lowest quintile of income and tax.

⁶⁴⁰ The figure of 10.116 was reached by adding a number 18 priests and teachers, who did not have established households, to the 10.098 individuals computed by multiplying the number of taxpayers with the common denominator of household size. See Acsady, *Magyarország népessége*, p. 38-39. There is a slight but still visible difference in the total population computed based on the 1903 edition of the 1720 conscription – 2012 households yield at most 10.060 inhabitants.

However, the structure of the taxpaying corps in 1750 can no longer be entirely compared to that recorded in 1720: no fewer than 11 different social-legal categories were listed in the later census, if the city suburbs are also taken into account.⁶⁴¹ Even if the 4 different categories of widows are assimilated into their former husbands' legal category, a high number of distinctive groups remains. At the mid-century mark, the full-rights burghers (*cives*) and settled citizens without property (*cives propres fundis carentes*) who inhabited the city proper were joined by the following groups, located in the suburbs: tenants (*inquilini*) who were homeowners but lacked political enfranchisement, the majority of whom appeared to be Romanian; serfs (*iobbagiones*); transients with homes (*vagi*), many of whom were servants of the city's nobility and therefore exempt from the head tax; and finally, Gypsies (*Zingari*) who were listed as serfs. The ownership of the last group – the *Zingari* – was divided between the local Transylvanian Saxon leadership, the members of the Hungarian nobility who were employed in provincial offices and resided in the city, and the state (which owned the so-called *iobbaggio fiscalis*).⁶⁴²

The process of conscription was not only hair-splitting, but also unevenly so. As in the 1720s, the local status-quo took precedence over any uniformizing norms that might have been imposed from the centre. This resulted in classifications which could not be entirely harmonized, even across theoretically homogenous milieus such as the Transylvanian Saxon free royal cities, which drew on the same “national” legal paradigm. Urban citizens (*Burger*, *cives*) and settled (*Seddlar*) but unpropertied individuals (*inquilini*) were, in theory, categories that should have applied in an identical manner to the entirety of the Royal Lands. A brief glance at the situation recorded in two other Transylvanian Saxon cities shows that this was not the case. In Kronstadt, perhaps eager to display thoroughness in registration, the conscription commission had operated with no fewer than 24 distinct groups. Some of these groups were classified simultaneously according to legal-ethnic criteria, their place of residence within the city's jurisdiction, and their relationship to real estate (both houses and

⁶⁴¹ Gyémánt et al., *Conscriptia*, vol. II, part I, p. 290, lists the following: 846 citizens (*cives*), 165 citizens' widows (*civium viduae*), 353 citizens without homes, and 114 widows who had been married in the latter group (*euorum viduae*); in the suburbs: 176 tenants with homes (*inquilini*) and 26 widows, 26 serfs, 65 *vagi* or transients, 123 Gypsies and 17 Gypsy widows. The following discussion is based both on the edited version of the aggregate figures of the Conscription, and on the original conscription sheets, part of which the author has consulted in microfilm form from the Magyar Országos Levéltár [Hungarian National Archives], F 50, Téka 71, II, 1. Mf. 26510, Téka 71 II 3, Mf. 26510-26511, Téka 71.II.4, Mf. 26511, and from the personal collection of Professor Dr. Ladislau Gyémánt. The conscription sheets for the city proper have also been entered into the *Probate Database of Transylvania*.

⁶⁴² Hungarian National Archives, F. 50, Téka 71.II.4, Mf. 26511, *Tabella ad Conscriptionem Civitatis Cibiniensis Suburbaniorum deserviens*, p. 35-45.

land). This resulted in hybrid forms such as “free Saxons in the suburbs”, “free Hungarians in the suburbs”, “free Saxons in the suburbs without houses but with sessions”⁶⁴³, “free Romanians”, “free Romanians in the suburbs”, or “free Saxons in the suburbs with neither houses nor sessions”. Almost each male category had its own female (widow) equivalent. Like in the case of the Hermannstadt, the inhabitants of the city proper were divided into citizens who owned homes and citizens who did not. These groups were also joined by serfs, Gypsies and transients.⁶⁴⁴ The record for the neighbouring town of Mediasch, from which Michael Conrad von Heydendorff hailed, listed 11 different categories of taxpayers, including groups such as the “Romanians who worked the gardens”, “foreign owners” or “garden-workers who belonged to the parish.”⁶⁴⁵ The shifting emphasis on individuals’ ethnical provenance, place of residence, relationship to real estate or a particular overlord makes it nearly impossible to draw a direct comparison between settlements’ social-legal structures, the value of current analytical attempts notwithstanding. Beyond the purely technical matter of over-distinction, basing an analysis only on the aggregate results of the conscription means that the salience of these categories is taken at face value.

The 1785 conscription not only introduced additional criteria for the categorization of individuals but also modified the hierarchy of extant criteria to reflect changes in the state’s priorities: the province’s inhabitants rather than its taxpayers became the main object of registration. The counting process focused primarily on the male individuals who were either of age or were near maturity, and could thus be mustered, if the need arose.⁶⁴⁶ Social and legal categorizations assumed a secondary role, while individual indicators such as gender and age came to the fore. A clear split between the city proper and its suburbs was maintained, and for the first time in the history of their registration, some 45 full-rights burghers were explicitly recorded as living in the suburbs, rather than the city proper. The growth of the suburbs from

⁶⁴³ The session (“sessio”) was a measure of land employed in settling tax rates, which corresponded to a surface of arable land of approximately 60 *Jugera* (what one could plough alone). The *sessio* was generally regarded as hereditary. Prior to the implementation of the reforms in the second half of the century, each household head/taxpayer’s wealth was assessed in terms of this unit. See David Prodan, *Iobăgia în Transilvania în secolul al XVI*, vol. 1, București: Editura Academiei Republicii Socialiste România, 1967, p. 480; Of the few non-Romanian sources on the issues, see Katherine Verdery and David Prodan, “The Origins of Serfdom in Transylvania”, in *Slavic Review*, Vol. 49, No. 1, Spring, 1990, p. 1-18. On the rural social-legal categories which informed much of the tax system in the province during the era of the Principality, see also Livia Magina, *Instituția judelei sătesc în Principatul Transilvaniei*, Cluj-Napoca: MEGA, 2014, p. 66-98.

⁶⁴⁴ Gyémánt et al, *Conscripția*, vol. II, part I, p. 270, 661-666.

⁶⁴⁵ Gyémánt et al, *Conscripția*, vol. II, part I, p. 275 and 661-666: “Vv1 – Români măierari”, “mp - măierari parohiali”, “o – posesori străini.”

⁶⁴⁶ The ensuing rebellion of 1784 owed much to rumours that the Empire was ready to conscribe serfs in the province and thereby grant them a significantly improved legal status, similar to that obtained by the individuals who served in the Military Border Regiments, established two decades earlier.

the 211 household heads registered in 1720 to the 866 families registered in 1785 signalled both the expansion of the urban area and the increased blurring of the boundaries that had separated the city from its hinterlands. By comparison, the limited shift in the number of burghers – 1191 vs. 1252 – suggests that the urban authorities attempted to safeguard the national and urban corporate rights by heavily limiting the core of politically enfranchised individuals, as a defence mechanism against growth and change on its outskirts.⁶⁴⁷

The moderate shifts in the numbers of burghers should however be complemented by a gaze towards the changes in the share of burgher household heads over time. If one allows that the seventeenth and eighteenth-century sources can withstand comparison from this perspective, then it follows that a relatively strong downward tendency was witnessed. This occurred in two steps: between the late seventeenth century and the 1720s, when the share dropped from some 71% to 59%; the second, between 1750 and 1785, when the citizen-led households only came to represent some 38% of the total number of households recorded for the city. The transition witnessed in the first stage was not an unusual occurrence within the broader European milieu, as in many cities – regardless of area – the share of citizen-led households fluctuated between 40 and 60%. Indeed, the figure for Hermannstadt in 1720 is not far from those noted for other German cities such as Hamburg, which reported 60% of citizen-led urban households in 1759, or Köln, where somewhat less than half of all households were headed by burghers in 1704. There were of course exceptions to the rule, such as 1730 Augsburg, where a staggering 87% of household heads were burghers, showing the strength of the urban community and the popularity of the urban franchise. Although there was no clear trend in accession to formal citizenship within European urban milieus according to “national” borders, it was clear that for most of the eighteenth century, this category retained its significance, as most household heads within the boundaries of the cities tended to be recruited from this group. The drop in the share of burghers who were household heads – and thus taxpayers, likely to be listed in city-wide surveys – was due mainly to the growth of suburbs, where “formal citizenship was not available”, as Maarten Prak has characterised the situation.⁶⁴⁸ Much lower shares of burgher household heads would be reported for the nineteenth century in the same German cities: Köln’s share reportedly dropped to 25% by 1846, while Augsburg’s share reached its lowest point at 27% in 1869. These profound changes

⁶⁴⁷ The starker growth of suburbs was also the result of patterns of urbanisation, as some cities surrounded by walls during the course of the late medieval and early modern periods could more easily expand outside of their confines than by continuously re-dividing their inner urban plots. On this pattern, see Niedermeier, *Städte, Dörfer, Baudenkmäler*, p. 168-169, 185.

⁶⁴⁸ Prak, *Citizens without Nations*, p. 38-40.

experienced over lengthier time spans, and especially during the course of the nineteenth century, were the result of both essential legislative changes to the franchise system at the broader political level as well as to an increased fragmentation of what the concept of urban citizenship meant in practice.⁶⁴⁹

Thus, the tendency to preserve a high share of burgher households within the urban taxpayer corps was likely pursued with the purpose of maintaining a clear similitude between the political community and the urban community more broadly understood. However, after the mid-century, the hold of the municipal administration over the composition of the urban milieu grew increasingly looser, a development also fostered by the advent of the Habsburg administration as a new power-wielder seeking to break down some of the autonomies specific to the urban setting. This manifested in the predominant growth of suburbs as opposed to that of the urban area proper, a phenomenon which was in many instances actively resisted by urban administrations.

This pattern was not necessarily specific for Transylvanian Saxon cities, but rather a general trend within the growth of urban settlements in East-Central Europe: suburbs were areas where the application of urban law was laxer, which consequently allowed the formation of various juridical or social enclaves.⁶⁵⁰ However, unlike in other East-Central European cities such as Warsaw, it was not the nobility who established their “vast residential suburbs” encircling Hermannstadt,⁶⁵¹ but rather an entire array of migrants and locals for whom the city could provide neither accommodation nor political assimilation, but only opportunity for work. What is more, both in Hermannstadt’s as well as in Kronstadt’s case, the state actively supported social differentiation within the city which expressed itself through the growth of suburbs, as a means to chip away at these urban centres’ considerable autonomies. This was visible for instance at the mid-century mark, when the conscription commission drafted a separate list, containing information on “new-comers of different nations, from various provinces and regions, who found themselves here in Hermannstadt October 1750”. None of the 213 individuals conscribed under this heading were regular taxpayers, and all had been under the jurisdiction of the Office of the General Auditorate, an institution subordinated to the Habsburg War Office. Many had remained under others’ protection, while the Small Council had only recently attempted to gain oversight over this category – and include them among the

⁶⁴⁹ Roth, “German Urban Elites”, p. 131-133.

⁶⁵⁰ Miller, *Urban Societies*, p. 90.

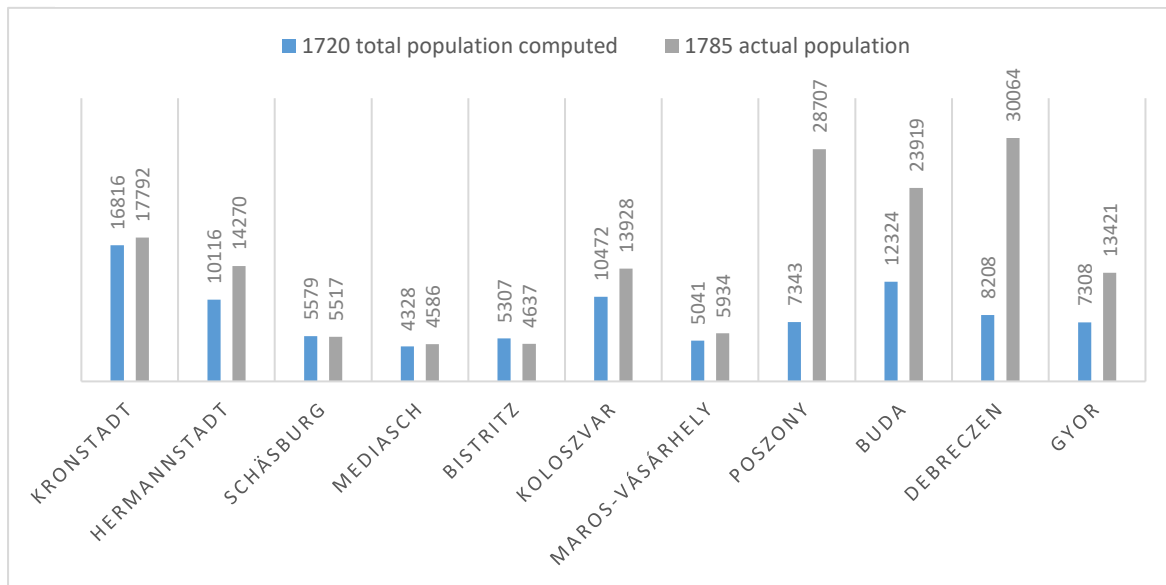
⁶⁵¹ Miller, *Urban Societies*, p. 111, 207-208.

ranks of regular taxpayers – but had been unsuccessful because of the “differences and difficulties” generated by the new-comers themselves.⁶⁵²

Although this is not explicitly noted, it is highly likely that none of the 213 individuals were enfranchised at any level, and that a significant share lived in the suburbs. The Small Council’s inability to ‘take control’ over this category can more easily be explained, if they were not living within the city walls. What is more, the use of the term ‘newcomer’ should not be taken at face value, given that the great majority of those included on the list had been in their present place of residence for at least several years. In some cases, those listed had claimed to have arrived in Hermannstadt some 20, 30, or even 40 years prior, while the majority of those who had settled in or near the capital had arrived between 5 and 15 years earlier.

⁶⁵² Gyémánt et al., *Conscriptia*, vol II, p. I, p. 424-426: “Advenae diversarum Nationum ex variis Provinciis et Regionibus hic Cibinis commorantes. Anno 1750 Mense Octobris conscript sequenti modo”, “Immunes a solita Taxa. Plerique ab eorum sub protectione aliorum subque Jurisdictione Officii Generalis Auditoratus manserunt, non a longo temporis spacio autem ad Jurisdictionem Magistratus transmissi Contributioni solitae nondum sunt obnoxii propter exorias non leves difficultates et differentia sob ipsis Advenis motas, quas adhucdum dirimere et in ordinem inducer Magistratus nequivit.”

Figure 2. Population growth, selected cities in Transylvania and Hungary



Sources: Acsady, *Magyarország népessége*, p. 38; Danyi, Dávid, *Az első Magyarországi Népszámlálás*, p. 368-369.

Compared to the broader urban landscape of the former Kingdom of Hungary, the pattern of minimal population growth which occurred between 1720 and 1785 in Transylvanian Saxon cities shows the constraining force of the Saxons' autonomy (*Figure 2 – Population Growth 1720-1785*). Although the Habsburgs' policy towards urban centres was aimed at fostering economic and early industrial development in Hungary as well as in Transylvania, at first glance it appears that its results were less than stellar in the Transylvanian Saxon milieu. Minimal growth or even stagnation was not in fact due only to what one might image to be the resilience of privilege over reform from the centre, but was also an effect of a general shift in Habsburg policy. In Hungary as well as in Transylvania, over the course of the eighteenth century, smaller towns that successfully “tapped into the agricultural sector” were favoured over urban settlements whose economy was predicated on manufacturing or mining.⁶⁵³ Within this broader landscape, Hermannstadt's growth compared to other free royal cities was owed primarily to its function as a political centre. With this status also came an unprecedented degree of social and professional diversity the likes of which few other cities in Transylvania could boast, a medley of individuals, occupations, and mores which remained resilient in the face of attempts to curtail, level, or erase it. Although the urban social fabric was increasingly

⁶⁵³ Szelényi, *The Failure of the Central European Bourgeoisie*, p. 83-86.

fraying at the edges, as reflected by the increase of its suburbs, the core of the urban population constituted by its burghers seemingly remained stable, any differentiation occurring within it being considerably less sharp compared to the fault lines between city and suburb.

More importantly, the individuals inhabiting the city proper – be they propertied or unpropertied – can be readily and continuously traced through the urban records of property transmission, as opposed to the more mobile groups in the suburbs. Enfranchisement, at any level, curtailed mobility. The last wills and testaments which have survived in overwhelming numbers in the city’s archives belong primarily to persons from the city proper, as shall be seen. What is more, the familial, economic, and occupational factors underpinning certain testamentary strategies can only be ascertained with an increased degree of certainty for those who in some way adhered to this urban core of the citizen category. The following section will examine the social and occupational contents of this group over time, as a means of obtaining insight into the process of differentiation that went largely unseen in political discourse, compared to the more spectacular and contentious rise of the suburbs.

When the Governor Sigismund Kornis remarked that the Transylvanian Saxons were a nation of shoemakers, he was not entirely off the mark. Despite their many failings, the censuses of 1720 and 1750 nevertheless allow a birds’ eye view of the urban population’s occupational structure. For the purposes of this analysis, this examination was limited to two major groups: the full-rights citizens and the settled tenants, as second-tier citizens who did not own real estate (see *Table 2*).⁶⁵⁴ These two groups were the only ones with clear social and legal boundaries, which resisted any sub-differentiation and were maintained as such over time. Burghers, whether completely enfranchised or only accepted as settlers, had the greatest incentives to remain in their selected place of residence, and therefore were the least mobile and most traceable group. For the purposes of the current analysis, widows were included in their former spouses’ legal categories, although in practice the assimilation was not entirely complete: women could own and freely dispose of property, but were not politically enfranchised, outside of exceptional circumstances.

⁶⁵⁴ For 1720, the examined group includes the *possessionati cives* and the *inquilini cives*, while in 1750 it includes the *cives* and the *cives propres fundis carentes*. Excluded from this analysis as well as from the following inquiries in the present chapter are the other Transylvanian Saxon cities which owned real estate in Hermannstadt for various administrative purposes, as their classification alongside individual citizens would not have been appropriate. The total figures for each census also differ from those reported for instance in Gyémánt et al, *Conscripția*, or in the 1903 edition of the 1720 registration because I have listed each taxpayer separately, and assigned them a partial share of income and tax, even if they contributed as part of a larger unit – a widow and an orphan son, etc. Individuals were only differentiated when the source listed them on separate lines.

Although not all of the household heads listed in the two censuses bore an explicit occupational title, the share of those for whom this information was not listed did not change much from the first fiscal census to the second: in 1720 some 24.5% and in 1750 some 26.5% of taxpayers were registered without an explicit occupational attribute. A slight increase in share of persons without explicit occupational titles in the 1750 census was owed to a more comprehensive registration of individuals who were part of the nobility or held municipal offices. Individuals employed by the urban administration granted them certain tax exemptions, and was taken to be self-evident, requiring no explicit characterisation, which is why occupational titles were lacking. Many of these individuals were also part of noble lineages, as evidenced by their noble predicates, and therefore received no occupational titles. In theory, at least those who were homeowners and owned property in the city (the precondition to acceding to citizenship, and then to office) would have had to be listed in the conscription, as they paid a set tax on their house.

A comparison of male individuals recorded without an explicit occupational title and one of the municipal payrolls from 1751 can help shed further light on this rather elusive category. Some 120 male individuals were recorded in the 1750 census without a clear occupational title, 43 of whom were settlers. The remaining 77 were listed at the end of the conscription of the full-rights citizen group, in a clearly-delimited section, after citizen-taxpayers who were men of the cloth.⁶⁵⁵ Only 10 of these bore explicit noble predicates, which would have placed them in a category that required no further explanation in terms of occupational status. A comparison to the 1751 payroll showed that at least 13 individuals of the 77 men without listed occupations were members on the Small Council or occupied other mid-level offices.⁶⁵⁶ Thus, they derived yearly wages ranging from 100 to 400 Rhenish Florin, which would have placed them among the highest earners in the city. They were not the only ones whose listed incomes did not reflect their entire earnings, as a select few individuals who were listed under a specific professional title could also be identified as fulfilling various *officiola*: Simon Czekelius, a soap boiler, derived an extra yearly income of 200 Rhenish Florin Simon Friedrich Freitler, a merchant, occupied the position of younger market judge, which brought with itself an income of 200 Rhenish Florin. At least half of the senators who appeared

⁶⁵⁵ Hungarian National Archives, F. 50, Téka 71.II.4, Mf. 26510, fol. 23r – 27r, roughly from position 795 to 846.

⁶⁵⁶ Unfortunately, it was not possible to identify in the conscription sheet all of the individuals on the payroll, because the payroll only listed them by last name, which in some cases was quite common in the city's onomastic landscape, i.e. 'Roth', 'Müller'.

on the payroll went unlisted in the conscription, while those who were listed paid, as shall be seen, relatively low taxes compared to the breadth of their earnings.

Nevertheless, despite the failures in registration exhibited by the conscription at the uppermost levels of earnings in the urban milieu, it remained a reliable and telling source for economic stratification within the heart of the citizenry, where one's occupation was clearly recorded and one's incomes resulted mainly from manual labour. Moreover, if one regards the size of this elusive group – the upper-level administration – compared to the entire sample of the conscription, it is clear that only a small numerical minority of individuals managed to escape the gaze of the state at mid-century: the bulk of those for whom occupational belonging and therefore social class could not be reliably ascertained were in fact women, rather than men. The conscriptions' particularities in registration do not hinder the broad survey of occupational stratification, as in both in 1720 and in 1750, the shares of individuals for whom no occupation was known broadly corresponded to the shares of widows listed as household heads.⁶⁵⁷

Table 2. Legal categories in the sample -1720 and 1750 fiscal conscriptions

Taxpayer category	1720		1750	
	N	%	N	%
Burgher	1140	73.83	1055	69.32
Settler	404	26.17	467	30.68
Total	1544	100	1522	100

Source: author's calculations, Probate Database of Transylvania

⁶⁵⁷ This did not however mean that widows did not work, or did not have any kind of earnings. As will be discussed in the section detailing income distribution, guild members' widows were entitled to various benefits in the wake of their husbands' passing, including the right to continue running their spouses' workshops for a limited amount of time.

Table 3. Gender distribution of household heads in Hermannstadt, 1720 and 1750 fiscal conscriptions

Gender	1720		1750	
	N	%	N	%
female	366	23.71	282	18.53
male	1178	76.3	1240	81.47
Total	1544	100	1522	100

Source: author's calculations, Probate Database of Transylvania

This means that in the great majority of cases, male household heads' occupational category could be ascertained. In order to be able to compare occupational groups over time and across different kinds of sources of varied provenance, all occupational titles were encoded and standardised using the Historical version of the International Classification of Occupations (HISCO), which has slowly grown into the field standard for social science history since the 2004. The HISCO relies on ISCO – International Standard Classification of Occupations – which divides occupational titles into 1675 different categories. HISCO adds a necessary historical contextual dimension, by drawing on a series of datasets containing historical information on vital events and the occupations of those involved. Most importantly for the present endeavour, the HISCO categorization can be used to survey the entire array of occupations present within a particular sample of historical individuals. Although it is not in itself hierarchical, it can serve as the basis for further hierarchical, status-based classifications.⁶⁵⁸

A comparison of the occupational structures revealed by the two fiscal conscriptions appears at first glance to confirm the impression of stability suggested by the limited change in the number of burghers and settlers. The occupational content of these two legal categories seems to have remained remarkably similar, if not outright identical, over the first half of the

⁶⁵⁸ On HISCO, see Marco H.D. van Leeuwen, Ineke Maas, Andrew Miles, “Creating a Historical International Standard Classification of Occupations. An Exercise in Multinational Interdisciplinary Cooperation”, in *Historical Methods*, Vol. 37, Issue 4, 2004, p. 186-197; The version of the HISCO employed for the present coding was released in 2018 by Kees Mandemakers, Rick J. Mourits, Sanne Muurling, Corinne Boter, Ingrid K. van Dijk, Ineke Maas, Bart Van de Putte, Richard L. Zijdemans, Paul Lambert, Marco H.D. van Leeuwen, Frans van Poppel and Andrew Miles, *HSN standardized, HISCO-coded and classified occupational titles, release 2018.01*; the HISCO code tree and more information is also available at <https://historyofwork.iisg.nl/index.php>, accessed May 2020.

century. The following analysis focuses solely on those individuals for whom a clear occupation could be determined and limits the enquiry to those occupational categories which comprised at least roughly 1% of the total number of household heads with a registered occupation. This selection yielded some 25 categories at both temporal markers under consideration, which should be regarded as the resilient core of the urban occupational landscape (*Table 6. Top occupational categories in 1720 and 1750 conscriptions*). It should also be noted that even when occupations were explicitly listed, no status modifiers were provided, giving no indication whether the individual in question was a master, an alderman of a guild, or occupying a lower level within the craft hierarchy. While it may be assumed that all full-rights burghers were guild masters, given the general dependency between acquiring full enfranchisement, property, and progression within the ranks of a guild, this cannot be stated with certainty.

The resulting image, although somewhat artificial in character⁶⁵⁹, comes to confirm already extant qualitative accounts about the history and development of guilds in the first half of the eighteenth century in Hermannstadt. Three of the largest guilds in terms of membership – the shoemakers, tailors, and furriers – constituted political decision-makers in the urban setting, bearing the right to cast a vote each in the election of the upper urban officials. The political enfranchisement of corporate actors also stretched to include the butchers, who, though smaller in numbers, played a key role in the administration of the city.⁶⁶⁰

8. Urban hierarchies: social classification and inequality

In order to discuss hierarchies engendered by the social and economic gradients of the urban fabric beyond the realm of polemical political statements, it is firstly necessary to clarify what potential sources of status or social class one may identify among eighteenth century inhabitants of Hermannstadt, beyond those criteria already noted (legal categories, political-geographical backgrounds, and occupational affiliation).⁶⁶¹ Over recent decades, two essential

⁶⁵⁹ The HISCO coding system leaves open some room for interpretation of individual occupational titles. It can however only be improved by its implementation in varied historical milieus, which should add increasing nuance to its current categories. Moreover, I do not claim that the image reflects the entire occupational composition of the city during the eighteenth century: the occupations of the transients, serfs, etc. are not included in the count. It does however describe the core of the politically and economically enfranchised population, particularly with reference to those individuals incorporated in guilds.

⁶⁶⁰ Herbert, “Das Zunftwesen in Hermannstadt”, p. 453.

⁶⁶¹ The theoretical contours of the two concepts of social status and social class have been the object of an extraordinarily broad strand of historical and sociological literature, generally rooted in Max Weber’s works and their ulterior re-interpretations. Class and status are used differently in different areas and sub-disciplines of social

directions of research have established themselves with regards to the operationalisation of social status and class as useable, harmonizable, and comparable categories of historical analysis. How status and class are conceived of and where they might be derived from are functions of the field in which each approach originated: the first stems from sociology and historical demography, and is rooted in the evaluation of class or status as a function of one's occupation, generally starting from HISCO; the second approach, generally employed in economic history, is based on broad cross-sectional studies of income or wealth-generated hierarchies. Both approaches are informed to various degrees by ongoing debates on the nature of and distinctions between major concepts such as social status, class, layers or strata.⁶⁶² It is not the purpose of the present work to directly intervene in this ongoing debate, which has only sporadically intersected explicitly with the study of historical inequality,⁶⁶³ but merely to summarize the specific assumptions underlying each kind of status assessment. Moreover, unlike grand narratives which pronounce the success or failure of a particular social stratum over time, the grassroots dimensions of status change over time are much more muddy than political discourse might have them. Remarks such as those made by Sigismund Kornis or Albert Huet should be taken as essentially politically-charged exchanges, weapons in the legislative arena, which convey more about the power status-quo at various points in time than about the comparative prestige of different nation-estates. This is emphasized by the fact that the same stances could be reversed between the parties, when the times and context called for it. The seemingly impassable boundaries between nations – as aristocratic vs. urban - could be levelled as easily as they had been erected. By the mid-1770s, when the debate on the introduction of Concivility had begun to gain in sharpness, Hungarian aristocrats at the helm of provincial leadership were quick to point out that there were plenty of Hungarian noblemen who owned houses throughout Hungarian cities as well as in Klausenburg, who “were themselves regarded as burghers, shared in the common burdens, paid the required taxes and submitted themselves to the local magistrate.” The same report then went on to note that

and economic history, and are heavily context dependent. As I only seek to operationalize these concepts in regards to our sources of information – occupation -, I will not dwell on their theoretical underpinnings.

⁶⁶² One of the best summaries on the major theoretical assumption which underlie the modern operationalizations of social status was provided by Jord Hanus, “Taxes & occupation. In search of social class in the sixteenth-century Low Countries”, in *Belgisch Tijdschrift voor Nieuwste Geschiedenis*, Vol. 40, Issue 1, 2010, p. 181-186; See also the introduction in Marco H.D. van Leeuwen and Ineke Maas, *HISCLASS. A Historical International Social Class Scheme*, Leuven: Leuven University Press 2011, p. 11-28;

⁶⁶³ See Jord Hanus, “Real inequality in the early modern Low Countries: the city of 's-Hertogenbosch, 1500-1660”, in *The Economic History Review*, Vol. 66, Issue 3, 2013, p. 733-756 and the more recent study by José-Antonio Espín-Sánchez, Salvador Gil-Guirado, Daniel Giraldo-Paez and Christ Vickers, “Labor income inequality in pre-industrial Mediterranean Spain: the city of Murcia in the 18th century”, in *Explorations in Economic History*, Vol. 73, 2019, <https://doi.org/10.1016/j.eeh.2019.05.002>.

“similarly, one also finds noble Saxons, who have their domains in the counties and the districts, and enjoy all noble privileges, such as the Baron of Brukenthal [has] in the District of Fogarasch and the von Rosenfeld family in the County of Upper Alba.”⁶⁶⁴ The salience of these distinctions did not reside in how well they were defended in petitions or during sessions of the Diet.

At the same time, the emphasis on one group’s ability to bear a larger fiscal burden than the other, despite a lower perceived status, signals that these two essential dimensions – status as granted by one’s social-legal background or by one’s economic power – were clearly distinguished by contemporaries. The present section examines precisely the way in which these two dimensions overlapped, how this overlap evolved over time, and what this meant for the urban social fabric and the transmission of wealth.

As the previous sections have amply shown, the works of the 1720 and 1750 conscriptions were by no means easy. Beyond the broad layers of nobility and urban citizenship, rooted in law rather than in individual traits, the conscription commissioners were faced with a cacophony of groups. The solution envisaged was a descriptive approach adapted to each locality’s particular circumstances, which meant that beyond the full-rights propertied burgher group, the most clearly defined component within the Royal Lands, it was difficult to translate legal categories into a spectrum of economic or social status. Without the use of clear yardsticks for status, it is much too easy to fall into the same kind of logic as that employed in the fiscal conscriptions. As shall be seen, even within the bounds of the burgher group there existed a series of implicit social fault lines that were clearly visible in a differentiated tax burden, and which became blatantly obvious in terms of wealth distinctions. While the enquiry has up this point investigated the urban fabric through lenses of its own making, it now turns to external ways of reading it.

The first approach to ascertaining one’s place in the social hierarchy based on extensive historical data is a class-scheme which builds on occupational titles as classified into HISCO, entitled HISCLASS – Historical International Social Class Scheme. It incorporates four other criteria in the assessment of class belonging: the type of work that an individual performed (whether manual or non-manual); the particular skill level involved by the occupation; whether an individual was in a supervisory or a subordinate role; the economic sector in which a

⁶⁶⁴ Schaser, *Denkwürdigkeiten*, Report by Count Kornis submitted to Maria Theresia in 1776, on the possibility of introducing “Concivility of Rights and Privileges”, p. 40.

particular occupation was embedded. The resulting scheme came to contain a number of 13 clearly defined and discrete social classes, ranging from “higher managers” to “unskilled workers” whose economic sector was not clearly stated. These 13 classes are abbreviated into 5 major classes if the prior categorisation yields groups with too few individuals.⁶⁶⁵ For the purposes of this research, I have employed the 5-class version, owing to both its straightforwardness and its widespread dissemination in social history studies over the past two decades.⁶⁶⁶

The present work has also employed another version of this approach, which builds both on HISCO – and therefore on occupational groups and their potential status dimensions – but also, more significantly, on a given individual’s potential social power. Operationalising the Weberian concept, the Social Classification Scheme for Historical Occupations – in short, SOCPO – assumes that social power can be translated as “the potential to influence one’s destiny – or ‘life chances’ – through control of (scarce) resources.”⁶⁶⁷ As opposed to HISCLASS, SOCPO bases its classification on an occupation’s economic and cultural power. Economic power takes into account employment type (self-employment or employment in another’s service), skill level, and authority or command. Additionally, cultural power was employed as a factor because it enabled a more nuanced hierarchy than that revealed by the assessment based on economic power alone, as cultural power was reflective of societal perceptions of an occupation’s status rather than its intrinsic qualities. As the designers of SOCPO have underlined, although “economic and cultural power clearly overlap, not all cultural power can be reduced to economic power.”⁶⁶⁸ The resulting scheme merged economic and cultural power into a five-tiered scheme, managing to craft an operationalised measure of social power that has been validated as a salient factor in studies focusing on social mobility in the nineteenth and twentieth-centuries.⁶⁶⁹ Both HISCLASS and SOCPO directly accommodate

⁶⁶⁵ The complete encoding of occupations encountered in the sources and samples discussed in this work will be available as part of the Probate Database of Transylvania.

⁶⁶⁶ Most studies employing HISCLASS draw on nineteenth and twentieth-century Western or Northern-European milieus, with some notable exceptions, and focus on its potential to uncover and accurately describe social mobility on a large scale. HISCLASS has also been successfully employed in conjunction with historical GIS to reveal patterns of urban social segregation over time – see Mads Linnet Perner, “Segregated behind the walls: residential patterns in pre-industrial Copenhagen”, in *Social History*, Vol. 44, Issue 4, 2019, p. 412-439; On the differences and inter-reliability of these three coding schemes see also Richard Zijdeman, P.S. Lambert, “Measuring social structure in the past. A comparison of historical class schemes and occupational stratification scales on Dutch 19th and 20th century data”, in *Belgisch Tijdschrift voor Nieuwste Geschiedenis*, Vol. 40, Issue 1, p. 111-141.

⁶⁶⁷ Bart van de Putte, Andrew Miles, “A Social Classification Scheme for Historical Occupational Data”, in *Historical Methods*, Vol. 38, Issue 2, 2005, p. 61-92, here p. 63.

⁶⁶⁸ van de Putte, Miles, “A Social Classification Scheme”, p. 67.

⁶⁶⁹ van de Putte, Miles, “A Social Classification Scheme”, p. 75.

so-called ‘pure status titles’, such as nobility or prestige titles, owing to the fact that the HISCO incorporates a ‘status’ variable.

Beyond these two external lenses providing ready-made and fully operationalised conceptual categories which can be directly employed in the analysis of a particular historical social fabric, I have also used two other indicators of status, namely income and tax. This approach towards the study of historical hierarchies currently represents one of the most dynamic sub-fields in economic history, with an ever increasing number of studies published yearly on historical inequality, assessed on the basis of fiscal sources, probate records, or both.⁶⁷⁰ Total income was reported in the 1720 conscription along with taxes, while the 1750 conscription incorporated information on individuals’ tax rates for 1748 and 1749. Unfortunately, the 1720 reporting of total income was a singular occurrence, and not without its issues. The later census only provided information on one’s monetary income from rent or from certain assets as for instance gardens and orchards. The present study does not claim to enter the arena of the study of inequality in the long-term historical perspective in its relationship to economic growth, an arena populated with longstanding debates heavily informed by economic and political theory.⁶⁷¹ Rather, it merely seeks to embed itself within a broader endeavour which aims to clarify the social and economic dimensions of one’s ability to accumulate, earn, and transfer property or more generally speaking, wealth.

The image of legal equality and prosperity conveyed by leading Transylvanian Saxon historians during the second half of the nineteenth century, which more or less directly implied

⁶⁷⁰ Works dealing primarily or consistently with early modern inequality focus either on Northern Europe (particularly Sweden), The Netherlands, Italy (particularly Venice) and Spain. I wish to note only a few of the most recent studies, which had the greatest echoes in literature and also informed the present work, at least at a general level. On Sweden, see Erik Bengtsson et al., “Aristocratic Wealth and Inequality in a Changing Society: Sweden, 1750-1900”, in *Scandinavian Journal of History*, Vol. 44, Issue 1, 2019, p. 27-52; Erik Bengtsson and Patrick Svensson, “The wealth of the Swedish peasant farmer class (1750-1900): composition and distribution”, in *Rural History*, Vol. 30, 2019, p. 129-145; On Italy, see Guido Alfani, Matteo di Tulli, *The Lion’s Share: Inequality and the Rise of the Fiscal State in Preindustrial Europe*, Cambridge: Cambridge University Press, 2019; On the Netherlands, see Guido Alfani, Wouter Ryckbosch, “Growing apart in early modern Europe? A comparison of inequality trends in Italy and the Low Countries, 1500-1800”, in *Explorations in Economic History*, Vol. 62, 2016, p. 143-153; Wouter Ryckbosch, “Economic inequality and growth before the industrial revolution: the case of the Low Countries (14th-19th centuries)”, in *European Review of Economic History*, Vol. 20, Issue 1, 2016, p. 1-22; On Spain, see Esteban A. Nicolini, Fernando Ramos Palencia, “Comparing Income and Wealth Inequalities in Pre-Industrial Economies: Lessons from 18th-Century Spain”, in *Working Papers in History & Economic Institutions*, no. 95, March 2016, p. 1-42. Other relevant studies, whose findings or approaches will be employed in the present work – if not necessarily the present chapter – will be mentioned at the appropriate point.

⁶⁷¹ Perhaps one of the most sonorous names in the debate is that of French economist Thomas Piketty, author of *Capital in the Twenty-First Century*, Cambridge, Mass & London, England: The Belknap Press of Harvard University Press, 2014 and more recently, *Capital and Ideology*, Cambridge, Mass & London, England: The Belknap Press of Harvard University Press, 2020 (both works translated by Arthur Goldhammer).

a blanket social and economic equality, had a wealth of historical material to draw on. As the same Albert Huet had added in the late sixteenth century, after praising his nation of shoemakers and furriers, work – and especially manual work – had come directly from God:

“Did not God himself command us to work? In the sweat of your brow must you eat your bread, it is written. Even princes, emperors, and kings did not shame themselves from working with their hands. The sultan Soliman learned to make pipes; the Roman Emperor Maximilian was a goldsmith, and the Apostle Paul was a carpetmaker.”⁶⁷²

While marshalling all relevant arguments to authority he saw as appropriate to the context, Huet had underlined not only the necessity of manual labour, as the basis on which Saxon prosperity flourished, but also what should have been its perceived prestige. If kings and emperors had not shied away from physical labour, then why should craftsmen be regarded as second-rate citizens, and the source of their earnings mocked?⁶⁷³

It is therefore important to examine class and status in a strongly estate-based political system such as that of eighteenth-century Transylvania, even if merely to clarify some of the assumptions underpinning much of national(ist) historiographies of the nineteenth and early twentieth-century. Clearly assessing and describing the social and economic contents of Hermannstadt’s citizen and settler groups as part of the Transylvanian Saxon nation-estate in a transparent and comparable way is the first key to alleviating the uniformizing impact of the two grand narratives which often figure in historiography. The first of these tends to implicitly equate “nation” with a particular class content, emphasizing imagined communities of proto-democracy where any elites were merely “*primi inter pares*” and had nothing more than the common well-being on their agenda, shouldering the burdens equally with those in the broader ‘national’ group; the second tends to stress precisely the emergence and exemplary character of elites among a particular nation (or quasi-national group) as a sign of that nation’s overall modernisation. In the latter case, the exemplariness of eighteenth and nineteenth-century elites grows into one of the main tenets of post 1848 national emancipation.⁶⁷⁴

⁶⁷² Teutsch, *Geschichte der Siebenbürger Sachsen für das sächsische Volk*, p. 92: “Oder hat nicht Gott selbst zu arbeiten befohlen? Im Schweiß deines Angesichts sollst du dein Brod essen steht es geschrieben. Sogar Fürsten, Kaiser, und Könige haben sich des Handwerks nicht geschämt. Sultan Soliman hat Pfeile machen können; Maximilian der römische Kaiser war Goldschmied und der Apostel Paulus ist ein Teppichmacher gewesen.”

⁶⁷³ It should be noted that Huet’s statements came at a time of political instability, after the Saxon cities had been repeatedly plundered by various aristocratic factions.

⁶⁷⁴ Nineteenth-century Transylvanian Saxon historiography tends to err on the side of equality and early democracy, while Romanian historiography pursues both lines of teleological reasoning: on the one hand, it emphasizes proto-democratic practices emergent in the overwhelmingly peasant milieus inhabited by Romanian peasants; on the other hand, there is a strong current in Romanian historical works that transforms the study of the eighteenth and nineteenth centuries political and cultural elites into a quasi-hagiography.

The present section confronts precisely the source of such discourse, by examining social stratification in a clearly definable manner, and superimposing it on hierarchies created by income and tax rates. Each superimposition will be accompanied by closer inquiries into the occupational content of the ‘social classes’ distinguished by the HISCLASS and SOCPO schemes. This will serve to show the specificities of these two class schemes, their interoperability, as well as the degree to which they managed to capture the qualitative aspects of the social hierarchies present within the Transylvanian Saxon urban milieu. Given that the enquiry maintains the same working sample of burghers and settlers from the 1720 and 1750 censuses, I have firstly tackled the overlap between these two categories and the five major classes present in HISCLASS (*Table 4*).

By overlaying the two main legal categories present in the city with the HISCLASS scheme, the most commonly used method to operationalise social class, a striking image of stability is revealed. Stability remained the keyword at several levels: on the one hand, the class composition of the two legal groups did not seem to have experienced any radical transformations during the first half of the century; on the other hand, the relative balance between the internal compositions of each group over time suggests that the occupational stratification and its ensuing class differentiation were under the control of the urban authorities.

Table 4. Legal categories and social classes (HISCLASS 5), 1720 and 1750

1720						
HISCLASS 5	Burgher		Settler		Total	
	N	%	N	%	N	%
Elite	53	92.98	4	7.02	57	100
Lower middle class	28	90.32	3	9.68	31	100
Skilled workers	773	73.13	284	26.87	1057	100
Unskilled workers and farm workers	14	56	11	44	25	100
No code in HISCLASS	272	72.73	102	27.27	374	100
Total	1140	73.83	404	26.17	1544	100
1750						
HISCLASS 5	Burgher		Settler		Total	
	N	%	N	%	N	%
Elite	26	100	0	0	26	100
Lower middle class	32	76.19	10	23.81	42	100
Skilled workers	727	73.58	261	26.42	988	100
Unskilled workers and farm workers	26	40	39	60	65	100
No code in HISCLASS	244	60.85	157	39.15	401	100
Total	1055	69.32	467	30.68	1522	100

Source: author's calculations, Probate Database of Transylvania.

The stability of class composition within each legal category is evidenced for instance by the 'elite' and 'lower middle class' classes, which tended to remain the purchase of the full-rights citizens at both points in time. The appearance of settlers among the elite category owed to the listing in the 1720 census of 3 surgeons ('Chirurgus') and one individual who occupied the office of 'procurator'.⁶⁷⁵ As becoming a surgeon required a lengthy period of training, while providing a slow return in terms of economic status compared to other early liberal career pathways, it was not inconceivable that these individuals had not yet attained a position in which they could purchase or gain a piece of property through marriage in the city.⁶⁷⁶ At least

⁶⁷⁵ As has been shown in the previous chapter, on the development of the urban administration, the 'procurator' could be an outside agent under the employ of a specific individual or group, who was tasked with representing its interests in a certain milieu. Four individuals were listed as 'procurator' in the 1720 census, and all were at least well-off in terms of income.

⁶⁷⁶ There exists an extremely prolific strand of literature focused on the differentiation and professionalisation of medical trades, and the accompanying increase in the respectability of surgeons towards the end of the eighteenth century. The material and financial dimensions of this process are comparatively less well-researched, owing to various documentary obstacles which prevent the reconstitution of physicians' finances. For a recent and comprehensive summary of both issues, see Philipp Klaas, Hubert Steinke, and Alois Unterkircher, "Daily Business: The Organization and Finances of Doctors' Practices", in Martin Dinges et al., *Medical Practice, 1600-1900. Physicians and Their Patients*, Leiden, Boston: Brill, Rodopi, 2016, p. 88-91. The fact that HISCLASS places surgeons ('chirurgus') in the 'elite' class is a consequence of the fact that it primarily draws on the status dimensions of occupational groups which were well-entrenched during the nineteenth century.

half of the enfranchisement requests involving surgeons between 1720 and 1800 were made by unpropertied individuals.⁶⁷⁷ Of the three individuals listed in 1720, at least one – a native of Hermannstadt – seems to have obtained full citizenship in by mid-century. Several surgeons of likely foreign provenance even appeared among the ranks of the transients ('vagi') in the first census, but did not seem to have been hindered in their activity by their disenfranchisement: on the contrary, some reported incomes which placed them in the uppermost 10% of earners for the city.⁶⁷⁸

The drop in the number of elite individuals from 1720 and 1750 owes to both shifts in registration practices and the gradual disappearance of the clergy from the midst of urban homeowners. On the one hand, while in 1720 the city's mayor and the Speaker for the Great Council were both listed as regular taxpayers, the later survey no longer recorded individuals who were employed in the upper ranks of the urban administration as such, but rather omitted their occupational titles altogether. Thus, they were consigned to the ranks of those for whom no occupational title and no class could be discerned ('no code'). The likely members of the local patriciate were therefore erased from the class hierarchy, at least in terms of explicit occupational status. As the comparison of the 1751 municipal payroll with the 1750 conscription showed, some of the members of the Small Council went entirely unlisted in the fiscal record, despite the fact that they presumably owned houses in the city. Despite the blurring of ranks occasioned by officeholding, only a minority of individuals occupied positions at the uppermost level of leadership, compared to the broad majority of craftsmen in the lower middle and skilled workers classes. Thus, their exclusion – or the partial recording of their earnings – did not likely skew the image of the city's occupational distribution to a considerable extent.

One of the local pharmacists, several members of the local nobility (both male or female), as well as several individuals who served as Royal Judges in the neighbouring 'filial' seats remained comprised in the elite and burgher categories from one census to the other. Although Lutheran pastors from the neighbouring villages who kept homes in the city experienced a drop in absolute numbers between 1720 and 1750, their share within the elite went from roughly half (29 of 57) to almost three quarters (19 of 26 elite individuals).

⁶⁷⁷ Between 1720 and 1800, some 24 requests for enfranchisement of any kind were made by individuals who listed their occupations as either 'Chirurgus', 'Wundartzt' or 'Chirurgiae et Medicinae Practicus'. At least 12 of these requests remained as 'impossissioniert' or 'Sedler'.

⁶⁷⁸ While I do not aim to discuss the transient group as such, owing to its increased mobility, I will reference it when it helps shed light on patterns evidenced by the two major legal categories. Of the surgeons listed as 'vagi' in 1720, Christian Mayer, Johann Renigler, Ludvig Kok, Casper Krumpholz, and Johan Ignatius all reported an income of over 100 Hungarian Florin.

Other noticeable changes should be taken with a grain of salt, owing to the low numbers in each cross-sectional category: the increase in the share of settlers whose occupations placed them in the lower middle class, though important percentage-wise, does not necessarily signal a change in the category's composition. The majority of individuals who were part of the lower middle class were the so-called 'working proprietors', wholesale or retail merchants of native provenance.⁶⁷⁹ In 1720, this group also included those who were employed by the city in various positions of differing level and prestige, such as Daniel Klokner, designated as 'Portarius', Petrus Binder, who served as 'Secretarius civitatis', and Michael Reger, who was listed as 'Custos silvarum'. In 1750, several other new occupational titles were added to the lower middle class group: several sextons and organ players, a typographer and a correspondence clerk whose place of employment was not clearly stated.

The hard nucleus of both legal categories, whose overall share in the social hierarchy remained strongly resilient over time, were the skilled workers. This category included the great majority of guild-incorporated craftsmen, regardless of trade. A notable difference in registration from one census to the other occurred in the listing of women's occupational titles: in the first conscription, widows who worked were explicitly recorded as exercising a particular trade; in the latter census, although the regulations permitting widows of guild masters to continue in their husbands' trade for a period of time remained valid, their occupational titles were no longer recorded.⁶⁸⁰ This is visible for instance in the case of bakers: while in 1720 some 17 female bakers were recorded as part of the skilled workers with settled status, only five of whom were designated as widows, in 1750 none of the women recorded bore any occupational titles.

Another notable change is constituted by the total increase in the number of unskilled workers, accompanied by the rise in the share of settled unskilled workers as opposed to completely enfranchised individuals in this class (from 44% to 60% in 1750).⁶⁸¹ This category, located at the periphery of the social hierarchy, comprised in 1720 mostly day-labourers and producers of various small items, such as combs (pectinarius), along with individuals whose occupational status was not entirely discernible ('cribrarius'). Three decades later, day-labourers, comb and button-makers formed the core of this category. The majority of those

⁶⁷⁹ Greek Merchants were recorded separately both in 1720 and in 1750. For 1720, no information pertaining to their income or taxes was included, but only a nominal list.

⁶⁸⁰ Herbert, "Das Zunftwesen in Hermannstadt", p. 496, 503-504, 536 mentions several guilds which allowed guild masters' widows to practice their deceased husbands' craft for a specified period of time, generally ranging between six months and a year.

⁶⁸¹ The table uses the complete HISCLASS titles for each category – i.e. 'unskilled workers and farm workers' – even if the economic sector in which work was performed was not agricultural.

whose occupation was listed as ‘day-labourer’ (‘mercenarius’) in 1750 were unpropertied (33 out of 47), while for the other occupational groups in the unskilled class the balance between the completely and partially enfranchised leans more towards the burgher group. This was not unexpected, as day-labourers who figured in the city’s burgher rolls between 1720 and 1800 were overwhelmingly recruited from outside the city’s boundaries, most hailing from various villages in the Seat of Hermannstadt. However, it does seem that a dearth of employment opportunity or other local-level circumstances had driven individuals without discernible skills to wander from even further within the Royal Lands. In at least 25 settlement requests, individuals who gave their occupation as ‘mercenarius’ hailed from the Transylvanian Saxon seats of Reps and Schäsburg, which were much nearer to the urban centre of Kronstadt than to the provincial capital. A very slight minority of individuals who hired themselves out in this capacity managed to attain full burgher status by 1800: 13 out of 93 franchise requests. However, the more general robustness of this occupational group – and therefore of the class into which it is assigned – should also be taken into consideration. ‘Day-labourer’ could have been temporarily assumed as a title – and an occupation - for lack of other more skilled opportunities, as in the case of those hailing from rural backgrounds who wished to find a place for themselves in the more regulated confines of the urban economy. It could also come as a more general and temporary to label designate those whose livelihoods had suffered disruption, and who had therefore needed to resort to the plain manual labour to support themselves. This was evidenced for instance by the case of Matthias Etter, who had managed to purchase the full burgher franchise in 1771 for 2.40 Hungarian Florin: an Austrian Protestant exile, Etter was one of the very few who made use of the provision allowing Transmigrants to purchase enfranchisement at native-level rates, despite describing himself as a ‘Tagelöhner’.⁶⁸²

There are a number of issues inherent in the standardisation of occupational titles as listed in the census into HISCLASS. Because status modifiers for each occupation (i.e. indications as to whether an individual was a master, an apprentice, or a journeyman when working as part of a guild) are used in the transformation of HISCO to HISCLASS to rank an individual higher or lower on the social scale, their absence in the censuses might be assumed to be problematic. Thus, an individual who was listed as master tailor was placed into the lower middle class by virtue of his supervisory role, while a tailor without any status clarifications remained part of the skilled workers class. Therefore, the stark divisions between social classes implied by HISCLASS should not be regarded as a faithful reproduction of the hierarchies

⁶⁸² SJANS, *Magistrate - Meeting protocols*, register no. 231 (1765-1809), p. 31.

present in the urban environment. At the same time, as an increasing number of studies have shown, this does not negate its salience as a potential means of structuring and ordering urban and early modern societies.⁶⁸³ Even within the confines of our present sample based on the two fiscal censuses, patterns which have already been noted in much broader studies of the historical evolution of class stratification are visible. For instance, the increase in the number of and share of unskilled workers between 1720 and 1750 corresponds to a similar trend observed for England between the mid sixteenth and mid-nineteenth century. I assume that when those individuals living in the suburbs are included into the analysis, the rise in the share and numbers of unskilled workers will be even more evident. Moreover, the increase in the number and share of labourers among the unskilled group was also due, as in the English case, to migrants rather than to natives of Hermannstadt.⁶⁸⁴

Criticism of HISCLASS as applied to pre-industrial areas has drawn attention to the fact that its allocation of occupational categories does not sufficiently take into consideration other, more immaterial criteria, such as an occupation's social prestige at local level or how high the costs of practicing a particular trade were.⁶⁸⁵ For this purpose, other class schemes which devote closer attention to the matter of the cultural capital held by various occupations and their economic potential beyond skill level have been devised. It is worthwhile to compare the two class schemes as applied to the occupations reported in the 1720 and 1750 censuses (*Table 5*).

⁶⁸³ See for instance Linnet Perner, "Segregated behind the walls" or Espín-Sánchez, Gil-Guirado, Giraldo-Paez, Vickers, "Labor income inequality in pre-industrial Mediterranean Spain".

⁶⁸⁴ Alexandra M. de Pleijit, Jacob L. Weisdorf, "Human capital formation from occupations: the 'deskilling hypothesis' revisited", in *Cliometrica*, Vol. 11, Issue 1, 2017, p. 18.

⁶⁸⁵ Margareth Lanzinger, "Homogamy in a Society Oriented Towards Stability: A Micro-study of a South-Tyrolean Market Town, 1700-1900", in *International Review of Social History*, Vol. 50, Supplement 13: Marriage Choices and Class Boundaries: Social Endogamy in History, 2005, p. 140.

Table 5. Social classes in Hermannstadt, by HISCLASS 5 and SOCPO, 1720 and 1750

HISCLASS 5	1720		1750	
	N	%	N	%
Elite	57	3.69	26	1.71
Lower middle class	31	2.01	42	2.76
Skilled workers	1057	68.46	988	64.91
Unskilled workers and farm workers	25	1.62	65	4.27
No code in HISCLASS	374	24.22	401	26.35
Total	1544	100	1522	100

SOCPO	1720		1750	
	N	%	N	%
Elite	51	3.30	24	1.58
Middle class	65	4.20	63	4.14
Skilled workers	727	47.08	707	46.45
Semi-skilled workers	314	20.34	278	18.27
Unskilled workers	14	0.91	49	3.22
No code in SOCPO	373	24.16	401	26.35
Total	1544	100	1522	100

Source: author's calculations, Probate Database of Transylvania.

The first major difference in the yardsticks for status measurement used by the two class schemes is visible in the case of the middle class. SOCPO's middle class incorporates a considerable number of individuals who had been classified in HISCLASS as "skilled workers" or "elite". For instance, goldsmiths ("aurifaber"), watch and clockmakers ("horologus") and printers ("typographus"), who were previously included in the "skilled workers" class according to the HISCLASS criteria, were moved up into the "middle class" in SOCPO. Moreover, SOCPO differentiated between individuals designated as "pastor" (full ministers of religion) and those who bore the occupational title of "diaconus", placing the latter on a lower rung of the scale, rather than the highest level of the "elite" because they were a subordinate category within the ecclesiastical field. SOCPO also appeared to have been more sensitive to the factors that went into deciding a particular occupation's skill level: the work performed by "skilled workers" required "a significant period of dedicated training or education", possibly involved "conceptual ability, dexterity, or developed social skills", and entailed "a range of complicated tasks"; on the other hand, the work done by "semi-skilled workers" required one to be proficient in a "limited number of fairly straightforward tasks" and "rudimentary on-the-

job training”.⁶⁸⁶ Carters or wagoners (“auriga”), wax candlemakers (“candela cerevisium fusor”), glovemakers (“chyrotecarius”), cloth shearers (“panni tonsor”, “tonsor”) and several types of weavers (“pannifex”, “panni grysei textor”, “textor”, “textor panni coactilis”) were all reclassified as “semi-skilled” rather than “skilled”. Thus, a large share of skilled workers moved either upwards or downwards on the class scale, resulting in a seemingly more balanced distribution, without however completely overturning the social hierarchy.

What is more, the SOCPO classification as applied to the 1720 and 1750 conscriptions comes to confirm and strengthen some of the tendencies already identified in the implementation of the previous scheme. The share of unskilled workers rises more than threefold, while the skilled and semi-skilled workers continue to constitute around 65 - 67% of all taxpaying household heads in the city proper. Changes between the middle class and skilled workers over time should however be assessed critically, as for instance the 1750 census does not list any private tutors for the daughters of well-to-do families (“filiarum instructor”, “instructor filiarum”) who were recorded in 1720, despite the fact the continued existence of such individuals in the urban fold can still be attested to by appealing to other sources. It is not impossible that private teachers, who were not always very well paid, had moved in the interim to the city’s suburbs in search of lower rents, which would account for their disappearance from this sample.⁶⁸⁷ The burgher rolls come to support this possibility, as only 9 instances of enfranchisement of individuals who were broadly classified as working in the educational field were recorded between 1720 and 1800.⁶⁸⁸ It appears that over time, private tutors could no longer accede to burgher status as easy as their earlier counterparts had: between the 1730s and 1750s, 2 out of 3 private teachers who acceded to the political community of Hermannstadt remained settlers. Between 1757 and 1784, no person who performed such tasks managed to become enfranchised. As a description of the city published in the *Siebenbürger Zeitung* over the course of 1784 noted, the market for the education of young elite women had grown, rather than diminished: the 7 individuals who devoted their time to the instruction of the girls provided this service within their own cramped residences, “where often 40, 50 or even 60 or more children” gathered in one room. According to the anonymous author, despite the obvious need to cater to female education, the same teachers “lived so inadequately, that they sometimes even lacked their daily bread”. It is therefore not unlikely that teachers had all but vanished

⁶⁸⁶ Putte, Miles, “A Social Classification Scheme for Historical Occupations”, p. 68.

⁶⁸⁷ “Fortsetzung der Topographie von Hermannstadt”, in *Siebenbürger Zeitung*, Num. 69, Hermannstadt der 26ten August 1784, p. 552 (copy from the Brukenthal Library in Sibiu).

⁶⁸⁸ The German occupational titles employed in the burgher rolls do not leave any room for doubt as to the individuals’ occupation: “Mägdel Informator”, “Mädchen Instructor”, “Mädel Perceptor”, “Medt-Lehrer”.

from the ranks of the citizens and the city walls between 1720 and 1750, only recovering slightly by 1784.

Urban hierarchies were thus in flux from a number of perspectives, despite the impression of stability provided by overlay of legal and class categories. These underlying tendencies can however only be partially captured, as sources in which both social class (derived from occupational status) and an individual's economic situation figure simultaneously are rare occurrences in the fiscal landscape. For this reason, the two approaches – applying class schemes vs. measuring income and tax distributions – very rarely intersect.⁶⁸⁹ Capitalizing on the individual-level information on total earnings provided by the 1720 census for Hermannstadt, I have reconstructed the income distribution for the city's burgher and settler inhabitants from several perspectives.

A first way of examining the distribution of income for the urban enfranchised taxpayers in Hermannstadt involves ordering the population in ascending order by income and matching cumulative population shares to their corresponding income shares (*Table 6*). The same information reported in the table can also be presented in the form of a Lorenz curve, as in *Figure 3*.

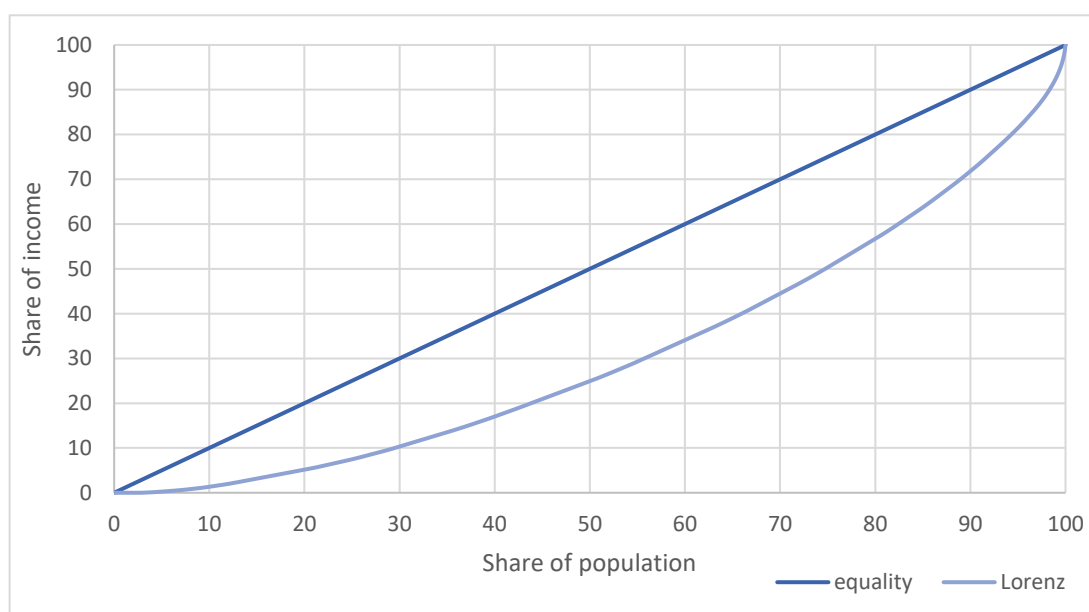
⁶⁸⁹ Hanus, "Taxes & occupation" represents one of the few exceptions. Even the recent inquiry into wealth and income inequality in early modern Stockholm by Bengtsson, Olsson and Svensson uses for instance 7 self-defined social classes instead of any international class scheme (the nobility, higher civil and military servants, merchants, artisans and middle class, soldiers, workers and lower civil servants, etc.). See "Mercantilist Inequality: Wealth and Poverty in Stockholm 1650-1750.", in *Lund Papers in Economic History. General Issues*, No. 210, 2019, p. 11.

Table 6. Cumulative income distribution per taxpayer shares, 1720 census

Cumulative % of taxpayers	Cumulative % of income
10	4.81
20	5.16
30	10.36
40	17
50	24.93
60	34.12
70	44.5
80	56.78
90	71.86

Source: author's calculations, Probate Database of Transylvania.

Figure 3. Lorenz curve of income distribution for urban taxpayers in Hermannstadt 1720



Source: author's calculations, Probate Database of Transylvania.

Both approaches to depicting and discussing inequality in historical perspective are employed in economic history.⁶⁹⁰ For the purposes of the present endeavour, a more in-depth

⁶⁹⁰ Some studies of historical economic inequality use income or wealth distribution represented in percentiles, without necessarily taking further steps to calculate various inequality measures. For the emphasis on discrete and clear measurements of inequality that emphasize its multiple origins, see for instance the discussion in Piketty, *Capital in the twenty-first century*, p. 243. Nevertheless, the current normative presentation seems to rely heavily

or synthetic perspective would be superfluous, as no data that could allow the comparison of income inequality across time currently exists, later fiscal records providing only information on individual tax rates. Nevertheless, it is worthwhile to examine the matter of distribution somewhat more closely, in both forms. *Figure 3* depicts the share of income (Y axis) earned by each share of individuals in the sample (X axis), by means of a Lorenz curve. In a perfectly equal distribution of income, each share of individuals would earn a proportional share of income: the poorest 25% would derive 25% of the total income, the first half would derive half, etc. The closer the ‘Lorenz’ line would be to the equality line, the more equal the distribution of income; the further away the Lorenz curve from the equality line, the more unequal the distribution. The more equal the distribution, the closer the resulting Gini coefficient to 0; conversely, the more imbalanced the distribution, the closer the Gini would be to 1.⁶⁹¹ At first glance, the distribution of income in early eighteenth-century Hermannstadt seems to confirm the overwhelming impression of equality suggested by qualitative sources. Comparative surveys from other areas and time periods can help put this synthetic measure into perspective. The Gini coefficient derived from the income distribution is 0.37, and ranks Hermannstadt as a much more ‘equal’ society in terms of earnings than many other pre-industrial European urban areas: the Gini coefficient for income had exceeded 0.60 around the beginning of the eighteenth century in Antwerp, Brugge, Gent, Aalst and several other cities in the Southern Low Countries.⁶⁹² Similarly, income-derived Gini for select locations in Portugal in 1700-1725 ranged between 0.47 and 0.66 (in Porto).⁶⁹³ Wealth distributions for early modern urban environments showed even greater inequality: around the beginning of the eighteenth century, in the “profoundly unequal” Florentine state, 80% of the population held between 7 and 9% of the total wealth, while the poorest 30% owned on average less than 1% of the total wealth. The holdings of the richest 1% accounted for 17 to 25% of the overall wealth reported.⁶⁹⁴ In 1715 Stockholm, the richest 1% owned a share of 48.4% of all assets.⁶⁹⁵

on standardized inequality measures in the form of indexes or coefficients, likely in order to facilitate transnational and long-term comparisons.

⁶⁹¹ A very clear and synthetic overview of the main measures of inequality in layman’s terms is provided in Fernando G. de Maio, “Income Inequality measures”, in *Journal of Epidemiological Health*, Vol. 61, 2007, p. 849-852.

⁶⁹² Wouter Ryckbosch, “Economic inequality and growth before the industrial revolution: the case of the Low Countries (fourteenth to nineteenth centuries)”, in *European Review of Economic History*, Vol. 20, Issue 1, 2016, p. 8.

⁶⁹³ Jaime Reis, “Deviant behaviour? Inequality in Portugal 1565–1770”, in *Cliometrica*, Vol. 11, Issue 3, 2017, table 3, p. 308.

⁶⁹⁴ See for instance the figures reported by Guido Alfani and Francesco Ammannati, “Long-term trends in economic inequality: the case of the Florentine state”, in *Economic History Review*, Vol. 70, Issue 4, p. 1093, table 4.

⁶⁹⁵ Bengtsson, Olsson and Svensson, “Mercantilist Inequality: Wealth and Poverty in Stockholm”, p. 11.

At this point, it should be again emphasized that unlike the figures reported for other European areas, the Gini coefficient derived for Hermannstadt in 1720 only takes into consideration the upper two legal strata of the community, namely the burghers and the settlers. These represented almost 80% of the whole taxpayer community as listed in the fiscal census (2012 households in total).⁶⁹⁶ The final sample of 1544 taxpayers was reached by eliminating two other categories: 37 taxpayers who were not designated as individuals, but rather in the form of various collective entities ('X family', other Saxon cities with holdings in the capital, urban institutions), as well as 14 taxpayers for whom neither gender, occupational status, nor civil status could be determined.⁶⁹⁷ Making up roughly two third of all taxpayers listed in the census, the sample group was however responsible for accruing over 85% of the total income reported for the city.⁶⁹⁸ Female household heads, the nobility, the clergy, or household heads without a clearly stated occupation but for whom gender was known were not excluded.⁶⁹⁹

While the institutional mechanisms behind this distribution of income still require elucidation, by comparing the range of incomes and to that of taxes paid, it is possible to provide further insight into the salience of both indicators. One's reported earnings and one's taxes did not always perfectly align, while wealth, provided in the census in the form of various categories of income-producing assets, was still imperfectly captured.

⁶⁹⁶ Those taxpayers classified as transients or "vagi" represented 11% of all household heads (N = 206), while the "villici" who were listed separately accounted for another 10.48% (N = 211). In total, 2012 taxpayers/household heads were recorded for Hermannstadt.

⁶⁹⁷ The complete data for the city will be made available through the Probate Database of Transylvania.

⁶⁹⁸ The whole income reported in the census, for both the urban inhabitants and the 'villici', amounted to 113.501 Hungarian Florin, with 109.686 Florin earned by the burghers, the settlers, and the transients ('vagi'). The individuals in the sample earned a total of 96.671 Hungarian Florin. Of the excluded positions, 17 reported 0 income, and 20 reported incomes ranging between 11 and 120 Florin. If they were added to the sample, then the share of income derived by first two legal groups would rise by less than 1%. Those who reported 0 income were included in the sample if they fulfilled the criteria for legal status and included information on at least one of the following: civil status, gender (not unclear), or occupational data.

⁶⁹⁹ Other studies of eighteenth-century income inequality exclude these groups from the sample outright, especially when income from labour is the primary variable being examined. See for instance José-Antonio Espín-Sánchez, Salvador Gil-Guirado, Daniel Giraldo-Paez and Christ Vickers, "Labor income inequality in pre-industrial Mediterranean Spain: the city of Murcia in the 18th century", in *Explorations in Economic History*, Vol. 73, 2019, doi: <https://doi.org/10.1016/j.eeh.2019.05.002>.

Table 7. Income and tax distribution measures in Hermannstadt, 1720*

	Income	Contribution	Contribution's % of income
Mean	62.6	15.4	24.6
Median	50	13	26.0
Std. Dev	59.6	14.5	24.3
Minimum	0	0	
Maximum	1120	117	10.4
10th percentile	20	1.63	8.2
20th percentile	25	3.25	13.0
30th percentile	40	6.5	16.3
40th percentile	48	6.5	13.5
50th percentile	50	13	26.0
60th percentile	60	13	21.7
70th percentile	70	19.5	27.9
80th percentile	80	26	32.5
90th percentile	110	39	35.5
99th percentile	286	65	22.7

Source: author's calculations, Probate Database of Transylvania

*All currency values are provided in Hungarian Florin. When these were given in Rhenish Florin, the corresponding Hungarian Florin value was computed.

The distribution of income and that of the tax – contribution - seem to follow broadly similar pathways. The mean income amounted to a rather high 62.6 Hungarian Florin, while the mean contribution to 15.4 Hungarian Florin. While the median values are relatively close to the means in both cases, meaning that half of the taxpayers had earned 50 Florin and paid 13 Florin (26% of income), the high values of the standard deviations compared to the means suggests that there was considerable variation within the sample. At the same time, it is clear that reported incomes were not the primary factor in setting tax rates for all categories of taxpayers, as the ratio between the tax paid and income earned showed: the poorest 10% of individuals paid a tax worth only 8% of their incomes, while the richest 10% paid up to 35% of their reported earnings. However, in the great majority of cases individuals paid a tax which ranged between 13 and 27% of their reported incomes. Thus, external circumstances seem to have played an important part in determining one's tax rate at individual level, both for the very poor and for the very well-off. This does not deviate from the norm, as similar fiscal censuses provide more reliable data on households where income was primarily derived from labour, rather than for those households located in the uppermost percentiles, where sources of

earnings were often extensive and unclear.⁷⁰⁰ The investigation turns thus to the examination of these particular cases, in order to shed light further light into how well one's economic condition as assessed by income aligned with the burdens one shouldered in the community through direct taxation.

Even within the group who ranked in the 90th percentile of income, inconsistencies between reported earnings and tax rates was clearly visible: several individuals who earned well over 110 Hungarian Florin (an average of 232 Florin) paid zero tax; at the other end of the spectrum, those who paid the highest tax values, ranging between 76 and 117 Florin, averaged an income of 292 Florin. The highest earner who paid the lowest tax (0) was a certain individual by name of 'Kotsi', who was fully enfranchised and designated as 'Doctor et Medicus Civitatis' – thus, a doctor in medicine rather than an unlicensed surgeon, and more importantly, occupying an official position as physician to the city. Samuel Kotzi (also Kozi, Coci), had been in this office since 1704, and had married into the urban elite in 1705 by wedding the widow of the Lutheran pastor of Gross-Scheuern.⁷⁰¹ Kotsi had reported to the conscription commission a yearly income of 472 Florin, and was bound to pay no tax. Functionally, he was exempt from taxation as a consequence of his work in the service of the city, although he was still included as a taxpayer in the census.

Further dispelling the notion of perfect congruence between legal status, economic standing, and property ownership is the fact that 4 out of 7 individuals in the well-earning group who paid no tax were settlers, rather than burghers, and thus unpropertied. On the opposite site of the spectrum, all 9 individuals who paid over 76 Hungarian Florin in taxes were burghers: while six of them paid over half of their reported income in taxes, the remaining three managed to accrue earnings so substantial that they needed less than a quarter to cover their yearly contribution.⁷⁰² The disparity between income and taxes at the highest level was therefore owed not only to those who were employed in the service of the city and thus exempted, a category that was resilient for much of the eighteenth century. Rather, it signalled the fact that the reported income was not the single factor going into the assessment of tax rates, and that income-producing assets whose output was not explicitly quantified in cash sums and included in the 'total income' rubric played an important part at this level of the urban economic scale.

⁷⁰⁰ See Nicolini, Palencia, "Comparing Income and Wealth Inequalities", p. 2-3.

⁷⁰¹ Herbert, "Der innere und äussere Rath Hermannstadts", p. 462.

⁷⁰² The top earners who were also top tax payers were Wolfgang Vielandt, with an estimated income of 800 Florin, Joannes Gunthard (405 Florin), and Josephus Huthmacher, who reported an income of 478 Florin. Vielandt was a merchant, Gunthard a cloth weaver, and Huthmacher, unsurprisingly, a hatmaker ('pileo').

By contrast, the situation was much clearer in the case of those who reported little or no income, and paid very little tax or no tax. Status derived either from occupational titles or from ‘pure’ social hierarchy was behind many of the tax exemptions: the only individual explicitly referred to as ‘nobilis’ in the census, Jacobus Abrahami, in fact Jacob Abraham von Ehrenburg, was listed as having no income and paying no tax. The same group included the Lutheran parish priest who had served the city during the times of plague, the last wave of which had hit only a few years before, along with two widows. Jacob Abraham von Ehrenburg’s case deserves closer attention: a scion of a local patrician family, he had begun his career much like Michael Conrad von Heydendorff, as correspondence clerk in the service of the provincial institutional framework. By 1719 he had ascended to the position of secretary to the mayor’s office, and in 1722 he had been appointed as vice-notary. According to Heinrich Herbert’s work on the administrative and political elite of the city, Abraham von Ehrenburg appeared to have been ennobled in 1727, after which he renounced his position in the urban administration in order to seek more profitable employment in the upper ranks of the provincial administration. If the census is to be taken at face value, it is likely that Abraham had been already ennobled by the time the capital’s taxpayers were conscribed in 1721-1722.⁷⁰³ Civil status also seemed to be a decisive criterion employed in setting tax rates for those with reported low incomes: more than half of the those who earned less than 20 Florin and paid less than 3.25 Florin were widows. However, widowhood did not equate low income as well as low tax rates for all women, as ‘pure’ status superseded gender: three widows who were recorded with prestige titles such as ‘Domina’ or ‘Frau’ paid between 26 and 39 Florin despite having no listed income. Finally, beyond occupational prestige, the fact that one’s main place of activity was located outside the boundaries of the city seemed to have been decisive in influencing the income/tax ratio. This is most evident in the case of the parish priests who serviced the village communities beyond the city walls but nevertheless maintained a house, if not an entire household, in the city. Among the 15 parish priests who fit this description, the value of the contribution always exceeded that of the reported income, ranging between 13 and 52 Florin. It is therefore likely that the bulk of their taxable wealth was not monetized, but rather consisted of land, urban and rural real estate, and other assets, many of which were located outside the walls of the city.⁷⁰⁴

⁷⁰³ Herbert, “Der innere und äussere Rath Hermannstadts”, p. 441.

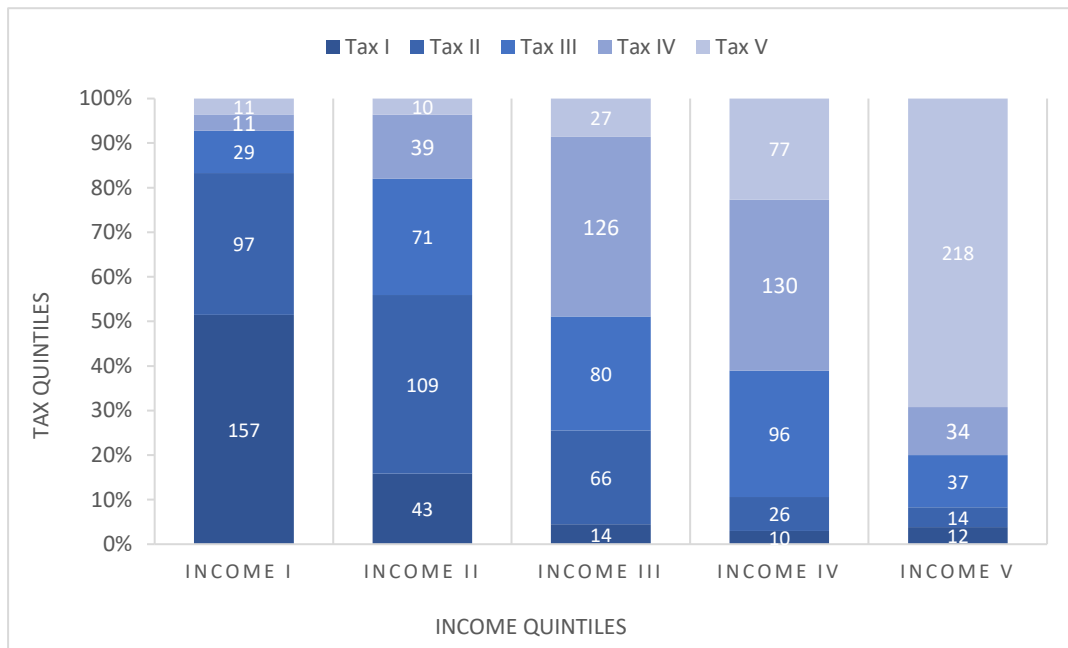
⁷⁰⁴ For a list of all types of assets recorded in the 1720 and 1750 fiscal conscriptions see the respective editions by Schuller, “Zwei Konskriptionen”, and Gyémánt et al., *Conscriptia fiscală*, tome 1, volume 1, p. VII-X.

At the same time, the impression of heterogeneity lent by the examination of individual or extreme cases should not obscure the fact that tax and income were congruent to a great extent, forming a gradient which flowed in the same direction: the highest reported earners in the conscription generally also shouldered the highest taxes. Therefore, contribution rates can be regarded as at least a partial proxy for one's income prior even prior to the reforms of the 1770s, but should be taken with a grain of salt in the case of those located on the extremes of the social gradient: the nobility, those in the employ of the urban administration, the clergy, and the widows from each of these groups. Around mid-century, the yearly wages accrued by those in the urban administration, as the previous chapter noted, were between two and twenty times the worth of the 90th percentile value of 110, with lesser senators earning between 200 and 300 Rhenish Florin (240 to 360 Hungarian Florin), senior senators earning between some 400 Rhenish Florin (480 H. fl) if they did not occupy other by-offices. The mayor earned some 2000 Rhenish Florin (2400 Hungarian Florin) from the allodial treasury alone, which would have accounted for over 2% of all income reported by the city's inhabitants in 1720.

In order to ascertain the broader patterns of income and tax rates, the 20th, 40th, 60th, and 80th percentiles for each variable were overlaid (*Figure 4*). Five groups of equal spread were thus discerned. As the crosstabulation of the income (X axis) and tax gradients (Y axis) shows, more than half of individuals whose income placed them in the uppermost 20% also paid a correspondent tax. Of the remaining half, only 10% paid a reduced tax that situated them in the lowermost 20% of taxpayers. Tax cuts that would have enabled individuals to reach the fifth quintile and the lowest level of tax payment were applied sparingly across income groups. Several points of fracture are also visible beyond the uppermost layer of the hierarchy, between the second and third groups, as well as between the third and fourth groups. More than three-thirds of those placed in the second highest income group (at 60th percentile, who earned 60 Florin) were included in the first three tax quintiles, as opposed to only half of those whose income placed them in the third highest income group (Income III). This suggests that other assets contributing to tax rates but not to monetary income were more likely to be held by those in the second income group rather than by those in the third group, given that the third group

capped its income at 60 Florin and the second group at 48 Florin, while corresponding tax rates at least halved.

Figure 4. Income and tax quintiles, 1720



Source: author's calculations, Probate Database of Transylvania.

Although the transition between the tax gradients of the third and fourth income quintile is less striking, it nevertheless witnesses a twofold increase in the share of those who paid a tax of less than 3.25 Florin to the detriment of the group paying between 26 and 13 Florins. Individuals' economic potential as expressed by tax rates then drops sharply in the fifth income quintile, with more than 70% of household heads in this group paying less than 3.25 Florin. Mid-level taxpayers (in the 60th percentile) maintain their share of roughly 30% within the second, third, and fourth income groups, and thus comprise the most stable category. Given the limited variation in the middle of the income hierarchy, as shown by the Lorenz curve as well as the measures of spread in *Table 6*, it may be argued that a large share of individuals within the urban environment earned similar incomes and paid roughly proportional taxes. This image suggests that the income reported for those who by virtue of various other extra-economic attributes were placed at the extremes was not entirely divorced from tax rates, despite the presence of variation in both the uppermost and lowermost groups. A closer examination reveals that this was not necessarily the case, and that the relationship between income and tax rate fluctuated heavily between different social classes, as identified in SOCPO.

The relationship between income and tax was far from linear for all individuals: for the entire group of taxpayers, the correlation between total income and the contribution was positive, but moderate; for the elite group, no effect was observed. For the skilled workers group, the correlation was clearly positive, and the relationship was significant: the higher the income, the higher the tax. For the no-code group, the tendency tended to fall in line with that revealed for the entire taxpayer corps – a moderate and positive relationship.⁷⁰⁵ Owing to these apparent interactions, it is worthwhile to explore the relationship between various types of income, status, and class more closely.

In order to examine how social status, income, and tax rates interacted, it is necessary to briefly return to the sources of income recorded in the 1720 conscription. The instructions received by the conscription commission showed that a general awareness of differentiated sources of income according to taxpayers' legal status existed:

“Because the wealth of the inhabitants of the Hungarian and Saxon cities consists to a great extent neither in agriculture nor in cash money, but rather in wares and crafts, the gentlemen investigators should also carefully examine and record those assets, benefices, and capitals that are not land-based...”⁷⁰⁶

Furthermore, the commissioners were explicitly advised to record yearly income for all such inhabitants who “maintained themselves only with manufacturing, trade, and manual labour”.⁷⁰⁷ Beyond these two instructions, separate directions were given as to the concrete registration of income sources and assets in Klausenburg, within the Szekler lands, and in Hermannstadt. Most of these emphasized the general economic profile of a particular settlement – or area – rather than focusing on the situations one would encounter at grassroots level, among the taxpaying corps. What is more, the resulting conscription tables did not entirely mesh with the instruction received, as certain types of information – such as the income derived from capital lending – were only reported in aggregate form and disappeared from individual-level records entirely. Finally, while one version of the conscription rubrics claimed that income should be reported in Rhenish Florin, the final tables explicitly employed

⁷⁰⁵ Pearson correlation tests yielded the following results: for the entire group: (R = 0.496, with p <0.001); elite - (R = -0.107, p <0.453); (R = 0.631, p <0.001); no-code group (R = 0.466, p <0.001).

⁷⁰⁶ Schuller, “Zwei Konskriptionen”, p. 100-101: “Weilen die Haabschaften der Hungarischen und Sachsichschen Städten Inwohner gutten Theil weder in Ackerbau noch baaren Geld, sondern in Kauffmanschafft und Handtwert bestehen, als sollen die Herren Investigatores nicht allein deren inner sondern auch außer Landts bestehendes Vermögen, Gnüß und Capitalien, auch wie hoch solches estrecken.”

⁷⁰⁷ Schuller, “Zwei Konskriptionen”, p. 102: “... so weder Bauern noch Leuth, welche nur mit Manufacturen Handelschaft und der Handarbeit sich erhalten, wie weit das Gelde sich jährlich erstrecken...”

Hungarian Florin.⁷⁰⁸ The present account is therefore based on the sources of income as they were reported in the conscription tables.

A taxpayer – and head of household – could derive income either from performing various remunerated activities, or from owning certain types of assets, which presumably provided rents or sellable products. Not all assets and activities were equally represented throughout the burgher and settler groups. The overwhelming majority of individuals (90.95%) in the entire 1720 sample reported income from manufacturing (‘*manufacturea ars, quot fl. Hung. importat?*’), followed by income from agricultural rents (14.96%), wine-making and beer-brewing (13.03%), renting of real estate in the city (5.78%), spirits-brewing (0.64%), orchards, farms, or ponds (2.44%), and finally income from ovens (1.86%). All of these sums were then added together in a single column (‘*quot fl. Hung. reditus percipit in genere?*’). Thus, most taxpayers derived income from one source only, namely manufacturing.⁷⁰⁹ This source of income also accounted for over 86% of total earnings reported by the joint burgher and settler group. Thus, the fiscal conscription of 1720 can be regarded as a relatively reliable source for labour-derived income. This is a significant point, given that broad tax surveys which provide information on the income derived from various forms of labour are a relatively scarce resource, compared to records which list the taxes incurred by one’s land or real estate (and thus, wealth).⁷¹⁰ What is more, such surveys of income and wealth are often idiosyncratic in recording various categories of taxpayers such as the nobility, women, or the clergy, or only focus on a certain type of income and exclude other assets.⁷¹¹ The 1720 census does not seem to exclude any of these categories, although the calculations behind the tax rates imputed to certain groups are not precisely transparent.

However, one of the major deficiencies of the 1720 census is the fact that it does not register income derived from capital. This is not untypical for such sources, seeing as fiscal records that provide information on capital returns are a relatively modern appearance, a fact evidenced by inquiries which focus on this type of income as a major driving force behind inequality.⁷¹² The exclusion of capital returns at individual level forms a blatant gap within the

⁷⁰⁸ Schuller, “Zwei Konskriptionen”, p. 105-116.

⁷⁰⁹ Neither the transients (‘*vagi*’), nor the ‘*villici*’ had a column for total income. Some of the ‘*vagi*’ group nevertheless reported income from manufacturing.

⁷¹⁰ For instance, the *estimi* employed in the analysis of long-term inequality in the Venetian state belong to the latter category. For the various types of direct taxation in the region throughout the medieval and early modern periods, see Alfani, Di Tullio, *The Lion’s share*, p. 18-34.

⁷¹¹ Espín-Sánchez et al., “Labor income inequality”, p. 5-7.

⁷¹² Most studies aiming to reconstruct inequality based on capital returns vs. labour returns as the two major sides of national-level income focus primarily on the past two centuries. See for instance Piketty, *Capital in the Twenty-first Century*, p. 237-243; Anthony B. Atkinson, Thomas Piketty, and Emmanuel Saez, “Top Incomes in the Long

1720 census, as evidenced by its inclusion in the aggregate results of the conscription: mutual debts – both passive and active – between private persons within the city, at either 6% or 10% yearly interest, amounted to 99.008 Hungarian Florin, more than the entire yearly income reported by the city’s inhabitants. Almost 1.800 Hungarian Florin had been lent to Greek merchants or other foreigners, while private individuals of German provenance and other foreigners had incurred debts amounting to 13.675 Hungarian Florin.⁷¹³ Significant sums accrued yearly in the hands of those who constituted the principal nodes in this network of credit, while other groups tended to fill the bulk of the debtors’ ranks. For unknown reasons, likely owing to the sheer magnitude of the network of credit linking the city and the province, lent capital and its returns were not listed as a source of income, and therefore skewed the overall distribution towards a more balanced image.

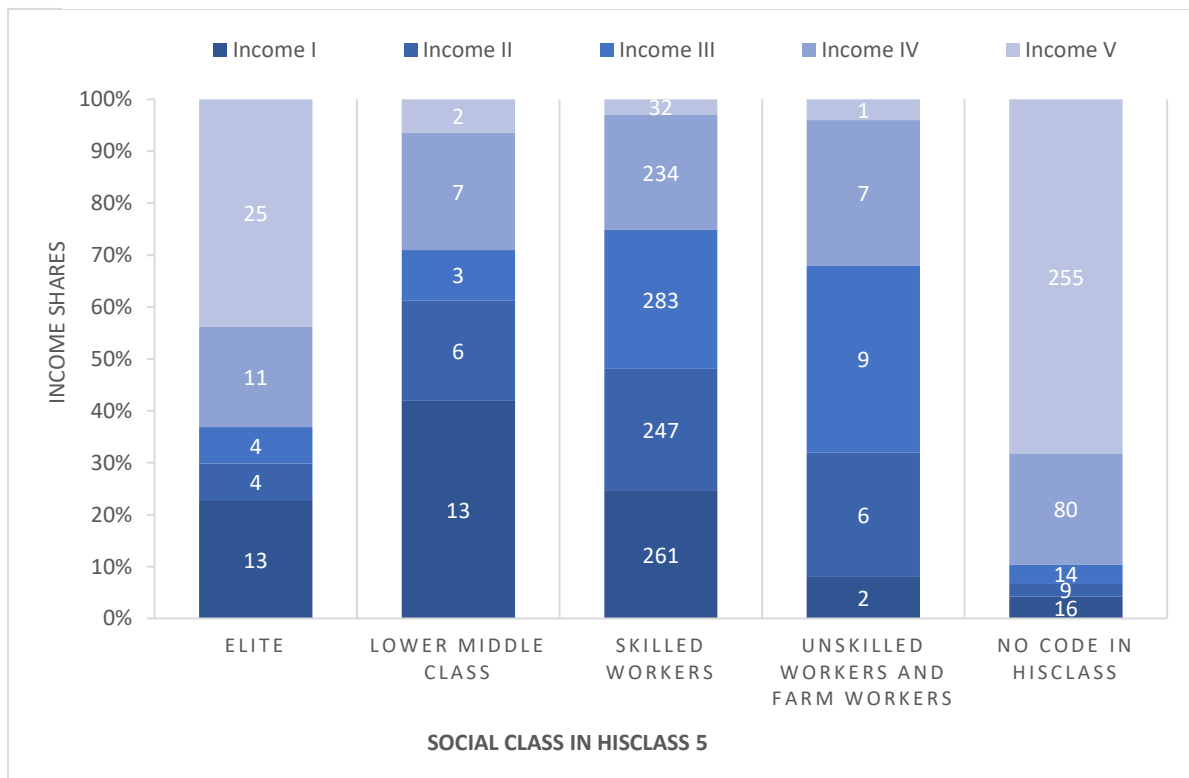
Figures 5 and 6 shows how social status as measured by the two class schemes interacted with total income reported in 1720. Both social class schemes were used in order to assess to what extent the methodological assumptions which underpinned them influenced the apparent relationship between economic status – income – and class – occupation. Both distributions suggest that social class as defined by occupational titles was not strongly correlated to income for those in the elite category as well as those for whom no occupational title was known. In both classifications, a high share of taxpayers in the elite and ‘no code’ (around 60% for the ‘no code’ and almost half of the ‘elite’) paid within the lowest quintile of taxes, that is, under 3.25 Hungarian Florin. The clear income/tax gradient displayed in *Figure 2* is no longer apparent. Instead, the same influence of status – in the form of employment in the administration or in the church, or inclusion in the nobility – is apparent, and works to fragment the elite into privileged and non-privileged taxpayers.

Run of History”, in *Journal of Economic Literature*, Vol. 49, Issue 1, 2011, pp. 1-71. Alfani, Di Tullio, *The Lion’s share*, p. 144, state that “admittedly, preindustrial times were not Piketty’s main focus” given that “the information we have about preindustrial growth rates of national income (g) ... is still very hypothetical and of very varying quality” and that “the situation is even worse for rates of return to capital.”

⁷¹³ Schuller, “Zwei Konskriptionen”, p. 459.

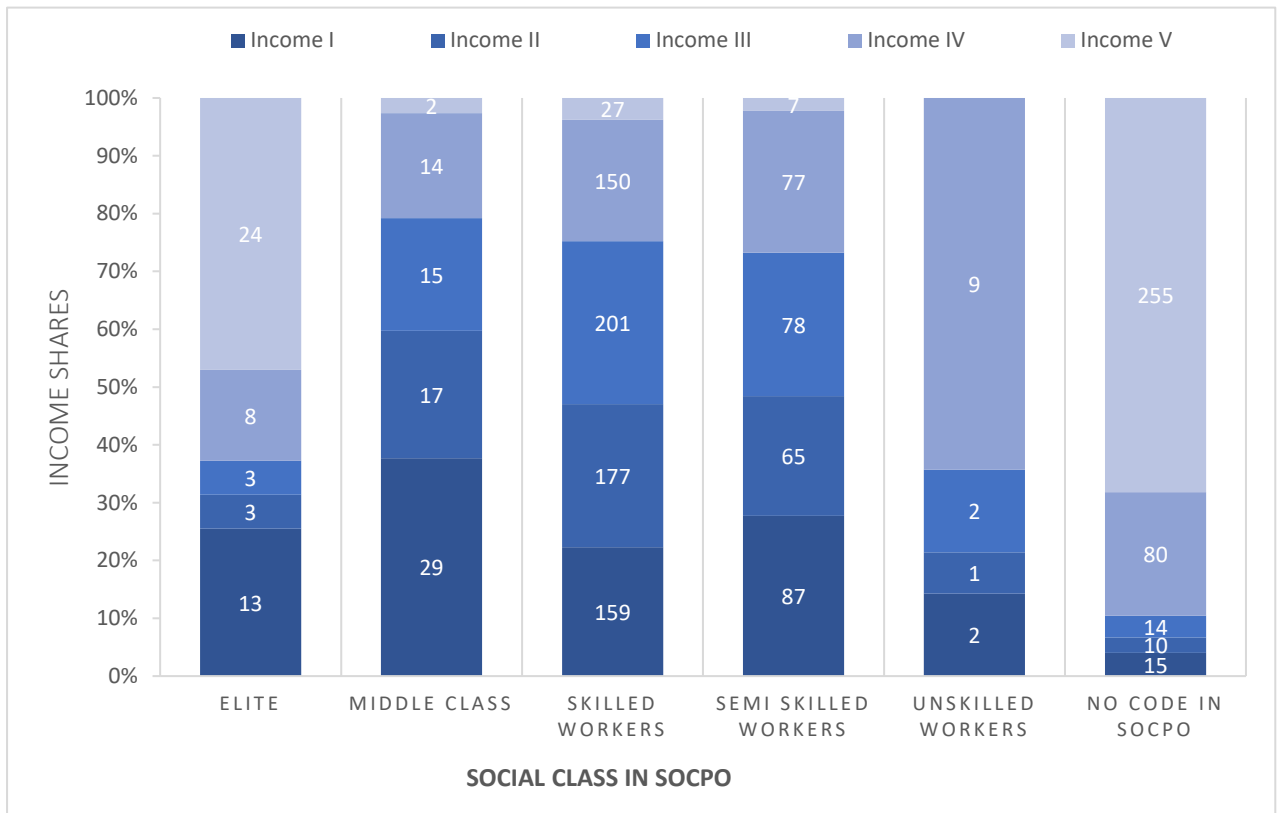
What is more, it appears that an occupation's skill level was not decisive in determining one's income level: from the middle class to the semi-skilled workers, the balance in the shares of those earning an income between the 1st and 3rd brackets remained highly similar. Those who were skilled were not necessarily more well-off in economic terms, and no skill premium can be evidenced from this perspective. The SOCPO distribution appears to be more balanced than the HISCLASS classification, with slighter differences between the middle class – skilled workers and semi-skilled workers groups, who formed the core of the sample. Nevertheless, the differences are not substantial, at least in the sample taken into consideration.

Figure 5. Social class and income distribution, HISCLASS 5 - 1720 census



Source: author's calculations, Probate Database of Transylvania.

Figure 6. Social class and income distribution, SOCPO - 1720 census



Source: author's calculation, Probate Database of Transylvania.

The main conclusion that can be drawn at this intermediary stage is that both class schemes however seem to be sensitive to labour income, which was derived primarily by those taxpayers who were neither part of the elite nor without a listed occupation. For the latter groups, income sources were likely more heterogeneous than the conscription could account for, and only included labour to a partial extent. Thus, heterogeneity in income sources demands closer attention when it comes to the extremes of the social spectrum: the elite and those for whom no occupation is listed. Nevertheless, the intra-group gradients of income present within the other groups should underline the fact that social class as measured by occupational category was not entirely coequal with a certain income or tax bracket. One should not assume that high earners were always well-off in status terms, as well as the corollary: those who entered the middle class or lower middle class (in HISCLASS variant) by virtue of their occupations were not necessarily ranked among the top earners, although some were top tax payers. I therefore proceed by cursorily examining how the relationship between

different sources of income, levels of taxation, social class and occupation evolved between 1720 and 1750, in order to see how much had changed after the actual advent of the provincial administration.

In 1720, the tax rates of individuals in the elite category did not seem to entirely mesh with their incomes, as shown by the previous analyses. Despite the existence of a progressively higher tax rate on income, ranging from 13% at the lowest quintile of earnings to 35% in the best economic category according to total reported incomes, it did not follow that equity in a modern sense obtained in the relation between income – broadly designated – and one's dues. As Alfani and Di Tullio have pointed out, the premodern version of fiscal equity acknowledged the intrinsically hierarchical nature of society, wherein the rich paid more in taxes, but proportionally less than those who worked for their livelihoods.⁷¹⁴ The notion of equality only began to figure in political and philosophical discourse as a state to be achieved between individuals rather than between things, well after the entry of natural law onto the European legal scene. Even during the latter half of the eighteenth century, the claim to equality, rather than to what was regarded as fair – equity – was far from widely-disseminated in the political and philosophical domains.⁷¹⁵ In Hermannstadt's case, the legal and power hierarchy came with economic privileges, which attached themselves to the high-level political office holding in the urban and national milieu. It followed from this that the exemption of entire categories of assets – such as noble-owned land or capital returns – was likely regarded as legitimate within the national boundaries, just as the primacy of labour-income taxation was assumed to be fair. It was outside the Royal Lands and the Saxon Patriciate-cum-nobility that equity was challenged, and even there, the balance one wanted to achieve was one between estates, rather than individuals.

Inequality manifested in various ways, even in regards to income, as certain types of income were concentrated primarily in the hands of the elite. This suggests that the assets on the basis of which these earnings accrued also tended to be concentrated in the same direction. The clearest example is provided by rental income derived from urban housing, one of the most revealing types of earnings in terms of social status. In 1720, according to the classification of

⁷¹⁴ Alfani, Di Tullio, *The Lion's Share*, p. 14, 147-149.

⁷¹⁵ Based on the wide-ranging inquiry by Guido Alfani and Roberta Frigeni, "Inequality (Un)perceived: The Emergence of a Discourse on Economic Inequality from the Middle Ages to the Age of Revolution", in *Journal of European Economic History*, Vol. 45, Issue 1, p. 21-66.

individuals by social power (SOCPO), those in the elite category represented 3.30% of all registered taxpayers. They nevertheless accrued over 18% of all income from renting houses in the city, 11% of land rents, and over 6% of income derived from orchards, ponds, etc.

Moreover, sources of income beyond manufacturing could also be gender-dependent, in addition to status or class dependent. Female widows without a listed occupation and therefore without a class code derived over 30% of all income from house rents in 1720. Widows also earned 25% of all income from brewing, and some 30% of income from orchards, small-scale farms, and ponds. Although very few semi-skilled individuals likely had space to rent out, those who derived this kind of earning were well-off independently, as their manufacturing income alone placed them above the city average of 50 Florin. The elite, the middle class, and those without an occupation, the majority of whom were widows, controlled over 66% of the rental income in the city in 1720, while comprising slightly over 2.67% of the whole sample of taxpayers.

Table 8. Rental incomes in Hermannstadt, 1720 and 1750⁷¹⁶

SOCPO category	Rental income			
	1720		1750	
	Sum Value	%	Sum Value	%
Elite	786	18.39	2007	12.24
Middle class	730	17.08	2179.6	13.30
Skilled workers	950	22.22	4051	24.71
Semi-skilled workers	422	9.87	1349	8.23
Unskilled workers	60	1.40	18	0.11
No code in SOCPO	1327	31.04	6787.8	41.41
Total rental income	4275	100	16392.4	100

Source: author's calculations, Probate Database of Transylvania.

The class-dependence of certain types of income remained resilient over the course of the century, even as the total earnings rose. Further attesting to the importance of the institutional setting in determining earning potential for certain categories of taxpayers, rental incomes derived by the propertied citizens of Hermannstadt increased almost fourfold between

⁷¹⁶ All incomes and taxes were reported in Rhenish Florin in 1750 and in Hungarian Florin in 1720. I converted the Rhenish Florin sums to Hungarian Florin, at the given rate of 1.2. H. Fl = 1 R Fl.

1720 and 1750 (*Table 8*.) Although most categories seemed to have profited from this development, if one examines the relative share that each class held within overall distribution of the sample (*Table 5*), then it is apparent that those who stood to earn the most, relative to their size in the urban milieu, were the members of the elite, the middle class, and those without an occupational title listed.

Although it is clear that skilled and semi-skilled workers also opened up their homes to well-paying guests – or were pressed into being landlords for common soldiers, a much more frequent occurrence – the most lucrative business in this regard went to the same groups as three decades before. The elite, who constituted a mere 1.5% of the total taxpaying households – if only individuals with explicit occupational titles were taken into consideration – accrued over 12% of all rental income around mid-century. Likewise, among those for whom employment status was unknown, widows earned some 3159 Florin from renting out space to newcomers. The list of widows who rented off part of their property in the city in 1750 reads out as a who's-who of local notabilities: close to all widows whose former spouses had been part of the leading urban or provincial administration charged rents of over 100 Florins yearly.⁷¹⁷ Another sizeable group of widowed female landlords (30 out of 78) were paid by their lodgers between 30 and 81 Florins yearly, an income that would have placed a skilled worker at a respectable economic position three decades earlier.⁷¹⁸

House rents were a highly unequally-distributed resource even among those who managed to profit from the residential space they did not use: in 1750, over 40% of income from rents (higher than 100 Florin/year) was concentrated in the hands of only 33 individuals. Merchants, the Saxon nobility, clergymen and those in the urban administration were again well represented among the group. Kinship ties existed between the majority of individuals who controlled the upper layer of housing in the city, doubled by shared administrative affiliation, mainly concentrated in the Great Council rather than the Magistrate.

House rents likely constituted the second-most important source of earnings after labour income, and were highly concentrated not only within the hands of the elite, but also within the boundaries of the Saxon lands, and particularly in the capital. In 1750, Hermannstadt's urban inhabitants reported 66.8% of all province-wide rental income, while

⁷¹⁷ This category includes women whose surnames point to some of the most influential families in Hermannstadt – and indeed, the entire Saxon milieu: Agnetha ab Hermannsfeld, Barbara Kissling, Susanna Frankenstein, Anna Maria Leonhardt, Maria Baußern (former spouse of Simon Baußern, Saxon bailiff), Justina ab Herbertsheim, and Elisabetha Wayda (former spouse of Michael Wayda, recently deceased in Vienna, under the employ of the Transylvanian Chancellery).

⁷¹⁸ This group also included widows whose spouses had been involved in either the provincial or the urban national administration: Agnetha Reissenfels, Maria Wieland, Maria Regina Vette, Agnetha Vest, or Catharina Seraphin.

the propertied homeowners in Kronstadt, who placed second on this hierarchy, earned another 20.2% of all rental sums.⁷¹⁹ Behind this situation was, undoubtedly, the tie between accession to the burgher franchise and property ownership. While the Greek and Armenian merchants might have managed to concentrate a significant amount of capital over the course of the eighteenth century – though not coming close to monopolising the market –, even after 1781, they could not hope to rival the Saxon ‘democratic aristocracy’ in terms of urban housing ownership and rental incomes. The sharpness of the political rhetoric used to defend the national monopoly over urban real estate should also be regarded from the perspective of personal interest. Some of the most vocal advocates of the “exclusive property rights” of the Saxons earned respectable sums from this practice. Both Samuel von Brukenthal and his elder brother Michael, a Royal Judge of the Saxon Seat of Leschkirch/Nocrich, rented out residential space in the city, charging their tenants some 210 Hungarian Florin yearly. Samuel von Brukenthal was a mid-level legal clerk in the urban administration at the time of the conscription (*judicial secretär*), an occupational title that was not listed explicitly, further supporting the idea that many of those without occupations were in fact part of the service of the city. He had only received a piece of real estate in the city sometime prior to his marriage in 1745, from his father in law, the Senator Daniel von Klockner, which had enabled him to become fully enfranchised and very shortly thereafter to enter the ranks of the Great Council.⁷²⁰ That personal pecuniary interests sometimes closely meshed with the defence of political collective interests should not be discounted.

At the mid-century mark, the third source of earnings which did not stem from manufacturing activity were those derived from the ownership of orchards, gardens, and the so-called “Mayerhofen”, small-scale cultivable plots that were inhabited by cottars but owned by citizens. In 1720, 2.46% of individuals in the entire sample (N = 38) had reported any earnings from gardens, orchards, and “Mayerhofen”, to the sum of 320 Florin. By 1750, this share had risen to 3.94% (N = 60), and the reported income to 741 Florin. In both conscriptions, these earnings were primarily concentrated in the hands of the same individuals who tended to control the housing rental market. Generally, the earnings provided by cottars who worked these assets to their urban landlords were relatively small. In 1720, some 80% of taxpayers who earned this type of income received between 2 and 12 Florin, with a maximum value of 50 Florin reported in this category. The remaining 7 persons derived 43% of all income in this

⁷¹⁹ Gyémánt et al., *Conscriptia*, vol II, part I, p. 521-522 (table 52). Bistritz, Mediasch, and Schäsburg accounted for another 5.4 % of all rental income derived in the province.

⁷²⁰ Schaser, *Denwürdigkeiten*, p. 4.

category. Three decades later, 70% of all individuals who reported this type of income received between 2 and 10 Hungarian Florin, while the earnings of the remaining 30% of individuals accounted for roughly 70% of all income in this category.

Unsurprisingly, there was considerable overlap between the highest earners within both groups: those who rented out living space in the city also tended to have gardens and orchards in the suburbs. In 1720, those who earned both types of income were, in the great majority, part of the uppermost quintile of total income (over 110 Florin/year). In some cases, even though individuals reported no income from manufacturing – an untypical situation – their combined income from house rents, orchards, and gardens was enough to place them among the 80th percentile in terms of total earnings. At the mid-century mark, almost half of those who earned at least 100 Hungarian Florin from renting out houses also reported earnings from orchards and gardens. Nevertheless, the values of house rents and income derived from orchards and gardens were only weakly correlated among this dual-earner group.⁷²¹

Having assessed the palette of main income sources at both temporal markers, I turn to the evolution of tax rates between 1720 and mid-century, in order to see whether and how much the relationship between social class and the bearing of the fiscal burden had changed prior to the reforms implemented by Buccow and Brukenthal. As has already been shown, in 1720 one's total reported earnings and one's taxes were generally aligned when the majority of income was derived from the practice of a particular trade. However, as soon as one climbed up and exited the group where labour was the decisive factor in making a living, this relationship changed. How much one shouldered from the communal pressure began to depend on a series of more immaterial characteristics, which could be subsumed into the notion of 'pure status'. One could be imbued with this quality once they stepped foot into the urban or national administration or through ennoblement. In many cases, the two paths crossed, affecting individuals' status even further. The same kind of disjointed relationship between class and tax could also survive men's death, as their hallowed class positions in the community were transferred to their widows. While well-situated women may have not wielded political power directly, they had every opportunity to capitalize on the material resources they had been left with by well-situated spouses. How did this situation evolve by the mid-century mark?

⁷²¹ The correlation between income from rents and income from orchards was low, and insignificant from a statistical standpoint ($R = 0.276$, $p\text{-value} = 0.30$).

Given that the 1750 fiscal conscription no longer reported total income, but only income from rents and other assets – orchards, etc. –, even more of the already fragmented image from the early eighteenth century is missing. Nevertheless, several shifts in how the collective fiscal burden was borne are observable between 1720 and the late 1740s. First, the skilled workers, who make up the core of the urban enfranchised population, paid a lower share of the contribution relative to both their share in the sample and to the first census: while in 1720 they accounted for roughly 47% of enfranchised taxpayers and paid 55% of the tax, in 1750 they accounted for 46.5% of the same group and paid almost proportionally. This might have been due to a policy decision that affected taxation of labour-derived income, or due to a certain degree of impoverishment of the taxpayer corps, seeing as the occupational structure of the city had remained highly similar over time.

Secondly, by the mid-century, the middle class covered roughly the same share of the tax burden as it had three decades earlier, as did the semi-skilled workers. This points both to the resilience of these categories' occupational content, and to the likely stability of income for these groups. In 1750, the unskilled workers, who had increased more than threefold in percentage points, paid only twice as much as they had in 1720.

Table 9. Tax and social class shares in Hermannstadt - 1720, 1748, 1749

SOCPO	1720		Tax 1720	
	N	%	Sum of tax	%
Elite	51	3.3	1508	6.3
Middle class	65	4.2	1612	6.8
Skilled workers	727	47.08	13277	55.7
Semi-skilled workers	314	20.34	5144	21.6
Unskilled workers	14	0.91	164	0.7
No code in SOCPO	373	24.16	2126	8.9
Total	1544	100	23831	100

SOCPO	1750		Tax 1748		Tax 1749	
	N	%	Sum tax	%	Sum tax	%
Elite	24	1.6	951	3.8	984	3.6
Middle class	63	4.1	1821	7.3	2021	7.5
Skilled workers	707	46.5	11690	47.0	12811	47.4
Semi-skilled workers	278	18.3	5042	20.3	5537	20.5
Unskilled workers	49	3.2	329	1.3	373	1.4
No code in SOCPO	401	26.4	5025	20.2	5318	19.7
Total	1522	100	24858	100	27044	100

Source: author's calculations, Probate Database of Transylvania.

The most significant change which occurred in the distribution of tax rates between social classes as discerned by the SOCPO encoding of occupations was due to the changing composition of the 'no code' group. The elite paid, on average, higher taxes than those in the labour-dependent classes at both temporal markers: their migration under the 'no code' umbrella made this group into a much more important collective taxpayer. This was due to the fact that taxation rates for women, who formed the bulk of the 'no code' group at both temporal markers, had increased significantly: in 1720, female household heads (regardless of civil status) paid 2310 Hungarian Florin, averaging some 6.2 Florin in taxes. The 282 female taxpayers recorded around mid-century constituted somewhat more than two thirds of the 'no code' group, and paid 2995 Florin in 1748, a sum which increased to 3136 Florin in 1749. Thus, around mid-century, female household heads regardless of social class paid on average a little over 10 Hungarian Florin in taxes, almost double what they had been expected to shoulder in the early eighteenth century. Both the members of the elite who absconded behind the lack of an occupational title and the widows had managed to almost double the fiscal yield of the 'no code' group. The only thing these two groups might have had in common was the ownership of real estate in the city and capital entrepreneurship, both resources which had considerably risen in productivity with the advent of the final settlement of the provincial administration in the city in the 1730s. It is likely that widows, as a whole, did not earn more out of their labour, as their former husbands who had been engaged in skilled, semi-skilled, or unskilled labour paid much the same sum of taxes, which in 1720 had been very consistent with income. Thus, it was not labour that justified the increase in tax rates, but rather the very specific economic and social circumstances that had led to residential space in the city being a

very costly resource. This, in turn, had not only made many widows with space to rent out higher-yield taxpayers, compared to other categories, but also likely sources of cash in times when currency was scarce: 15.8% of public loans contracted by the Seat of Hermannstadt between 1681 and 1750 had come from widows, to a considerable sum of 9187 Rhenish Florin and 30 kr. Widows had lent more money in order to settle public needs than all Armenian or Greek merchants throughout the province.⁷²² As the following chapters will show, many of these tendencies would only be exacerbated over the course of the century, which actively contributed to the further division of the social fabric.

Conclusions

The present section aimed to allow the reader to come to grasp with the main dimensions of individual and collective identity in Transylvania and more particularly, in Hermannstadt, from a social and economic perspective, over the course of the first half of the eighteenth century. The image it painted took into account the broad narratives concerning the social and occupational content of the nation-estates in the province and the legal grounding of status, while also seeking to operationalise social class beyond discursive tropes predicated on conflictual situations.

It also sought to alleviate the levelling force of broad brush-stroke narratives peddled by various actors and backed by various agendas, by examining how legal status, social class as determined by occupation, income and fiscal burdens interacted. On the one hand, it confirmed tendencies that were already visible in the sixteenth and seventeenth century, and which had been suggested by the enquiry into the urban and national administration in the previous chapter. The blurry category of the urban patriciate, which made only scant appearances throughout fiscal sources over the course of the century, earned much more than the overwhelming majority of the urban citizen group. This effect reverberated to those related to the patriciate, who bridged the gap between this intangible elite and urban inhabitants who by virtue of their occupational status were ranked as members of the elite. As opposed to the nobility, the Transylvanian Saxon patriciate constituted both a blurrier group in legal terms, and a more concentrated one, in terms of its asset ownership and income-earning possibilities. The stability enacted and maintained consciously through the restrictions imposed on the burgher franchise likely represented one of the main factors that had allowed this intangible

⁷²² Gyémánt et al., *Conscriptia*, vol II, part III, table 59, p. 533-534.

elite to maintain itself at the helm of the city and the nation. The burgher franchise gradually developed into a mechanism of maintaining control over the content of the political core of the community, which could be used as an instrument in the struggle to maintain the privileged inflections of urban autonomies against the attempts of the provincial and imperial actors to curtail them.

Beyond the intangible elite, the urban social fabric remained at first glance immobile, highly stable throughout the century, an expression of the harmony and concord which early modern chroniclers would have taken for prosperity. While occupational stratification did occur within the citizen and potential citizen (settler) groups, it was considerably less visible than in the suburbs, when the social fabric frayed at the edges. Suburbs were, to an extent, outside the direct control of the Small Council, and sometimes grew with inhabitants whose trades were in direct infringement of guild privileges and statutes, which worked in tandem with the burgher franchise to uphold clarity in the occupational milieu.

Narratives of a ‘giant urban community’ were not far off the mark if one kept the examination to the burgher group but crumbled as soon as one stepped out of the city. Even the relatively equal income distribution recorded in 1720, which was more the result of an artifice of sampling and exclusion of the highest earners from the taxed and taxable group rather than reflective of an economically equal urban population, showed inequality could manifest in unexpected ways. Labouring men – and their widows – were clearly separated from those for whom earnings accrued from other sources, which generally had more to do with privilege than educational attainment.

Regarded from a longer-term perspective, the 1781 Edict of Concivility, which had granted non-indigenous individuals, regardless of legal status, an equal space of ‘civic’ action, thus allowing the purchase of real estate, had barely made a dent in the urban fabric. The changes it had elicited remained mired at a symbolic level, as most individuals who purchased the franchise at high costs had already been part of the city networks of credit and power well before they had sought to buy their own real estate. Hermannstadt’s claim to distinctiveness as rooted in the resilience of its urban taxpayer group, had elided the constant, steady, and considerable stream of both non-Transylvanian émigrés and rural migrants from the villages neighbouring the capital. The rise of the provincial and national capital owed much to both of these groups, who supplied both specialised skill – sometimes of the highest level, desirable for upper office-holding – and manual labour, of the lowest degree of specialisation.

Finally, the present chapter has shown that there is not one narrative that can be presented for the city, but rather several, depending on one’s perspective. Though artificially

banded together under the label of ‘urban citizens’, individuals had a rich variety of occupational and geographical backgrounds. Not all of those who were supposed to melt away into the fold of the nation did so in a way that was successful, or even marginally prosperous. At the same time, while many managed to establish themselves relatively well, entering into one of the urban guilds and earning a modest but satisfactory living, others had their way paved out for them, speeding through obstacles such as the acquiring of the burgher franchise, and perpetuating their position and that of their families by owning and accruing property and controlling access to cash flows, the two decisive factors for economic status attainment. The following chapters will extensively discuss how these factors interacted in the testamentary transmission of property over the course of the century.

Part IV. The Legal Framework

Introduction

This section provides a survey of the Transylvanian Saxon legal ecosystem of inheritance and succession, as one of the constitutive elements in the process of wealth devolution in eighteenth century Hermannstadt.⁷²³ Over the course of early modernity and the eighteenth century, a varied set of instruments which allowed individuals or couples to chart diverging pathways of devolution developed in interaction with local social and economic circumstances and political impetuses. The functionalities, limits, advantages and disadvantages of these instruments can only be gleaned when they are reintegrated into a broader, shared perspective. Last wills and testament were merely one potential choice available within this interconnected system.

For the Transylvanian Saxons – or better said, the Royal Lands – the broadest contours of this legal ecosystem of property rights and devolution had been drawn by the founding privileges of the thirteenth century. As previous chapters have emphasized, the Saxons' rights and privileges were exerted within the boundaries of their own territory, which thus received a special jurisdictional status. Thus, jurisdiction functioned as a “form of written law” before the actual codification of custom.⁷²⁴ As far as the representatives of the Transylvanian Saxon *natio* were concerned, privilege had seeped through from the group of “guests” to the very lands they inhabited, thus adding judicial autonomy to the palette of administrative and economic prerogatives these settlements wielded. Settlements' right to elect their own judges was a characteristic feature of the regime of self-governance instituted by royal charters in East-Central Europe during the wide-ranging and variegated process of the *Ostsiedlung*.⁷²⁵

⁷²³ Several conceptual descriptors have been proposed for the combination of sources of law encountered at local level in various European milieus over the medieval and early modern periods, each privileging a particular aspect: the use of ‘legal system’ involved ‘a more or less fixed delimitation’, while the ‘legal culture’ acknowledged the increased ‘ambivalence’ of geographical, political or cultural boundaries when it came to law. See Harriet Rudolph, “Rechtskultur in der Frühen Neuzeit. Perspektiven und Erkenntnisspotentiale eines eines modischen Begriffs”, *Historische Zeitschrift*, Vol. 278, 2004, p. 347-374. Other more organic metaphors, such as that of the legal ‘patchwork’, were foremost employed in the context of research on legally pluralist milieus and imperial contexts, while the excessive complexity engendered by the long-term survival of customary (unwritten) opened the avenue for using ‘kaleidoscope’ or ‘mosaic’ as descriptors for the legal framework. For ‘mosaic’ as applied to early modern Hungary, see Martyn Rady, *Customary Law in Hungary. Courts, Texts and the Tripartitum*, Oxford: Oxford University Press, 2015, p. 7, 107.

⁷²⁴ Günther H. Tontsch, “Statutargesetzgebung und Gerichtsbarkeit als Kernbefugnisse der Sächsischen Nationsuniversität”, in Kessler (ed.), *Gruppenautonomie in Siebenbürgen*, p. 35-36.

⁷²⁵ Full judicial autonomy entailed not only the community's privilege to elect its own judge, but also, in the case of royal town charters, the ability to pronounce justice in ‘major criminal offences’. See Szende, ‘Iure Theutonico?’, p. 372.

Thus, the foundational and oldest layer of law comprised the customs which the settlers had brought with them and the charters they had received, which confirmed the validity of these customs within the jurisdiction created thereby. Two other strata were either added to this layer: the first was German law, in the form of adaptations from several sources circulating in East-Central European urban milieus; the second was Roman law, which erupted during the process of legal codification of customary law during the sixteenth century.⁷²⁶ These three legal strands entwined into a common thread toward the early 1580s, assembling the cornerstones of civil law for the Royal Lands, foundations which would remain staunch over the following centuries, despite limited changes and additions. The Transylvanian Saxon milieu therefore provides a uniquely revealing setting for the study of property devolution and testamentary practice, owing to the long-term continuity of the legal setting regulating these issues. Consequently, the present chapter disentangles these three threads – customary law, German law, and Roman law –, by first chronicling in broad brushstrokes the process of legal codification which had resulted in the establishment of a common legal framework for the Royal Lands. Within this framework, it also explicitly engages with the issue of legal pluralism in the province, highlighting the constant and often contentious process through which the Transylvanian Saxon municipal law managed to supersede other sources of law in the urban milieu.

Having charted these coordinates, the chapter then delves into the closely connected topics of (urban) property ownership, marital property regimes, and inheritance legislation, balancing this account with an overview of the legal bases for disposing of one's wealth through a last will or testament. It then examines the scope of testamentary law within the broader landscape of inheritance and succession, also engaging in comparisons to other methods and instruments available for diverting the intestate pathway of property devolution, such as marriage contracts.

The chapter also delves into the actual institutional framework of wealth and property transmission within the Transylvanian Saxon milieu, namely the office of estate divisions, or *Teilamt*. The closest equivalent of the *Teilamt* was the “probate court”, a term which originated with reference to the Anglo-Saxon milieu, where testation events ran in the millions over the

⁷²⁶ On the first stages of the process of codification at a European level, which involved the editing of customary law and its increased harmonization with state-driven legislation through the involvement of the state as prime mover, see Peter van den Berg, *The Politics of European Codification: A History of the Unification of Law in France, Prussia, the Austrian Monarchy and the Netherlands*, Europa Law Publishing, 2007, p. 14-16. The Transylvanian Saxon laws only narrowly fit into this wide-reaching phenomenon, as the state's involvement in their emergence was minimal, if by “state” the rulership of the Transylvanian Principality is understood.

course of the early modern period.⁷²⁷ Nevertheless, the *Teilamt* was not a probate court *sensu stricto*, but had more wide-ranging attributions, functioning as a gatekeeper for most instances of property devolution regardless of the legal pathway pursued, provided that they fulfilled at least one of several conditions. The significance of the *Teilamt* is highlighted by three factors, which will be explicitly approached: first, by its early appearance, shortly before the codification of civil law in the 1580s; secondly, by its overwhelming uniformity throughout the Royal Lands; and thirdly, by its tenure, as the office of probate judge or *Teilherr* was generally awarded to one of the most senior senators on the city council. The final section will therefore summarily chart the evolution of this institution in the Transylvanian capital over the course of the eighteenth century, focusing on its staffing, authority, and relation to the broader urban and national leadership. It will also offer a provisional explanation as to why this particular type of institution took shape within the Transylvanian Saxon milieu, and how its emergence tied into the wider framework of social and economic circumstances of early modern Hermannstadt

However, despite the continuity of legal and institutional frameworks posited above, which allows long-term comparisons and extensive surveys, individuals and events chipped away at the legal foundations of property devolution and inheritance over time. Legal systems received and responded to external “irritants” in different ways⁷²⁸, an issue which should be particularly acknowledged for eighteenth-century Transylvania. Staunch attachment to the Transylvanian Saxon municipal statutes in matters of property ownership, transmission, and entitlement was paralleled by a general process of legal refashioning towards the late eighteenth century, which mirrored and responded to broader political transformations. Both the short-lived reforms of the Josephinian decade and the more consistent changes which occurred following the 1791 Diet entailed a general reconsideration of the place of the Transylvanian Saxon legal tradition within the framework of the state. Despite the fact that inheritance law remained largely unaffected until the mid-nineteenth century, given that the Austrian Civil Code only applied to Transylvania and Hungary from 1853, political and institutional shifts

⁷²⁷ Nigel Goose and Nesta Evans, “Wills as an Historical Source”, in Tom Arkell, Nesta Evans, Nigel Goose (eds.), *When Death Do Us Part. Understanding and Interpreting the Probate Records of Early Modern England*, Oxford: Leopard's Head Press, 2000, p. 38-39, who provide an estimate made by Amy Erickson according to whom up to 2 million last wills and testaments may survive for the Anglo-Saxon milieu between the mid sixteenth and the mid-eighteenth centuries. Other figures provided for the seventeenth century reach almost 800,000 wills.

⁷²⁸ The concept of legal *irritant* acknowledges that change within the legal milieu could come as a reaction to legal transfers from external sources, a reaction that was not necessarily as passive as implied by the notion of ‘legal transfer’. See Heikki Pihlamajamäki, “Europäische Rechtskultur? Rechtskommunikation und grenzüberschreitende Einflüsse in der Frühen Neuzeit”, in *ClioThemis. Revue électronique d'histoire du droit*, Vol. 2, 2009. [<https://www.cliothemis.com/Europaische-Rechtskultur>, accessed 01.06.2020]

reverberated in the practice of estate division. The chapter will therefore also briefly examine the part played by the conundrum of Saxon autonomy within the framework of Habsburg state-building in matters of legislative unification during the late eighteenth century.

9. The *Statuta Iurium Municipalium*: Codification and pluralism

The contours and characteristics of the particular strand of the *Ostsiedlung* which led to the emergence of the province of Hermannstadt (*Hermannstädter Provinz*) were likely the locus of one of the liveliest historiographical debates over the nineteenth and twentieth centuries.⁷²⁹ Although this far-reaching debate also spilled into newer works aiming to revisit the legal foundations of Saxon particularism in the context of the Kingdom of Hungary, it no longer held sway over historical interpretation.⁷³⁰ The general consensus seems to be, at this point, that the German ‘guests’ who settled in what would later become the Seat of Hermannstadt brought with them a series of – ‘more or less detailed’ – customary laws or *consuetudines*, while several different opinions as to the precise content or organic similarity of this legal framework to other legal sources of different traditions.⁷³¹ Most significantly however, the Saxons – in their widest denomination – did not have one single, ‘unitary’ legal basis. This was likely, given the relatively lengthy time span of the settlement process and the varied geographical and social-economic milieus from which the settler groups hailed.⁷³² When the legal customs of the Saxons in the *provincia Cibiniensis* were confirmed in 1224, these customs were not itemized in a similar manner to the settlers’ rights and privileges as they did not concern the relationship between the settlers and the Hungarian King, the charter’s main focus. The Saxons’ rights to elect their own judges and to perform justice - at least at lower

⁷²⁹ On the divisiveness of this issue in Transylvanian Saxon historiography during the late nineteenth century and the ensuing split between older, ‘romantic Saxon historical narrative’ and the ‘dispersed image of Saxon colonization’ see the excellent account by Borbála Zsuzsanna Török, *Exploring Transylvania: Geographies of Knowledge and Entangled Histories in a Multiethnic Province, 1790–1918*, Leiden: Brill, 2016, p. 183-184. Nägler, *Die Ansiedlung der Siebenbürger Sachsen*, Bukarest: Kriterion Verlag, 1979, remains the foremost authority on the subject of the Transylvanian Saxon settlement. On the settlement of the Hermannstadt province, see p. 132-144.

⁷³⁰ Worth mentioning at this point are Moldt, *Deutsche Stadtrechte*, Szende, “‘Iure Theutonico?’”, and Béla Szabó, “Das Zusammentreffen von germanischen Rechtstraditionen und vom transferierten gemeinen Recht im „Eigen-Landrecht“ (1583) der Siebenbürger Sachsen”, in Elémer Balogh (ed.), *Schwabenspiegel-Forschung im Donaugebiet. Konferenzbeiträge in Szeged zur Mittelalterlichen Rechtstransfer Deutscher Spiegel*, Berlin: De Gruyter, 2015, p. 317-338. The current account largely follows Béla Szabó’s analyses.

⁷³¹ Dirk Moldt, “Läßt sich das Rechtsgebiet der Siebenbürger Sachsen einer Stadtrechtsfamilie zuordnen?”, in *Zeitschrift für Siebenbürgische Landeskunde*, Vol. 26, Issue 1, 2004, p. 62-63.

⁷³² Szabó, “Das Zusammentreffen von germanischen Rechtstraditionen”, p. 322-323.

levels - in their own territory were reconfirmed without any in-depth discussion as to the basis on which justice guided itself.⁷³³

The customs of the province of Hermannstadt preserved through the *Andreanum* evolved over time, reflecting a rise in prosperity and economic growth of the Transylvanian Saxon urban centres. The increase of trade, coupled with a lack of legal uniformity in terms of legal procedure – particularly in regards to contracts and bonds – as well as potential external pressures to submit to the “realm’s customs” rather local practice-established usages, worked together in spurring efforts to draft a first written version of Transylvanian Saxon customary law.⁷³⁴ Thus, towards the late fifteenth century, Thomas Altemberger, the longest serving mayor of Hermannstadt (1472-1491), was the first to commit to paper the customary law of the settlers in the *provinciae Cibiniensis*. Altemberger had been educated in Vienna, where he had obtained three successive degree in theology, finally earning a bachelor in canon law in 1459. He then served as procurator or agent of the Hungarian Kingdom at the University of Vienna, a position of high significance, and likely also taught at the same institution.⁷³⁵ Altemberger’s last will and testament from 1485, preserved in the archives of the convent of Koloszmonostor, left an estate which included, among other priceworthy items, the cash sum of 9000 Gold Florin, roughly the contemporary equivalent of nine houses in the center of Hermannstadt.⁷³⁶

The *Codex Altemberger* is widely regarded as the first attempt to establish legal transfers or “norms from external legal milieus” in the practice of civil law in Hermannstadt, and as such, drew on several contemporary wide-spread sources, such as the *Schwabenspiegel*, the *Magdeburger Weichbild*, and the municipal law of Iglau. Altemberger’s codex was extensively used by the Small Council in the practice of justice for many decades, because in attempting to harmonize German municipal law which inspired many collections of municipal legislation in the area, it had also provided a written source for Saxon customs.⁷³⁷ Thus, the *ius scriptum* grew to incorporate the *consuetudo terrae Cybiniensis*, which is surmised to have been a fertile ground for the inclusion of other “not entirely foreign norms” -i.e. the multitude

⁷³³ Moldt, “Läßt sich das Rechtsgebiet”, p. 62; Moldt, *Deutsche Stadtrechte*, p. 47.

⁷³⁴ Szabó, “Das Zusammentreffen von germanischen Rechtstraditionen”, p. 323.

⁷³⁵ On Altemberger’s career and family, see Gustav Gündisch, “Der Hermannstädter Bürgermeister Thomas Altemberger, Leben und Werk”, in *Zeitschrift für Siebenbürgische Landeskunde*, Vol. VI, Issue 2, 1983, p. 137-155, here p. 140-141.

⁷³⁶ Gündisch, “Der Hermannstädter Bürgermeister Thomas Altemberger”, p. 144.

⁷³⁷ Katalin Gönczi, Wieland Carls, *Sächsisch-magdeburgisches Recht in Ungarn und Rumänien. Autonomie und Rechtstransfer im Donau- und Karpatenraum*, Berlin, Boston: De Gruyter, 2013, p. 101; On the contents of Altemberger’s codex, see Friedrich Schuler von Libloy, *Statuta iurium municipalium Saxonum in Transylvania. Das Eigen Landrecht der S. Sachsen bearbeitet nach seiner legalen Ausbildung als Grundriß für akademische Vorlesungen*, Hermannstadt: Joseph Drotleff Verlag, 1853, p. 2-3.

of German *Stadtrechte* which served as inspiration in many other codices of the time. While the extent of the survival of “old Saxon custom” in Altemberger’s work remains unclear, it has been argued that the starkest resilience was likely demonstrated by inheritance law, which could not easily be displaced by foreign transplants.⁷³⁸ Inheritance law was one of the slowest fields to change within the framework of civil law, given that its customary character meant that it had been built on centuries of practice by the time Altemberger undertook his endeavour.⁷³⁹ The transplant of various strands of law however continued long after Altemberger had passed on the mantle as Mayor of Hermannstadt, and did not stop at German municipal law.

Two major developments spurred the evolution of the *ius scriptum* during the first half of the sixteenth century. The first was the appearance of the so-called *Tripartitum*, a work compiled in 1514 by Stefan Werbőczy, a Hungarian lawyer and statesman. The *Tripartitum* was commissioned by the Hungarian royal authority and the Diet as a means to counter the unpredictability of litigation and the lack of clear procedure, both problems which arose from the unwritten character of Hungarian customary law, on the one hand, and its fragmentation, on the other. Both issues also plagued the Saxon milieu. The *Tripartitum* mainly – if not entirely – covered these two issues from the perspective of the nobility, the major stakeholder and intended audience.⁷⁴⁰ Although the Saxon University requested a German translation of the work, this remained a fruitless endeavour: it was only in 1599 that Werbőczy’s compendium was printed in German, in Vienna, while no local, Transylvanian translations ever saw the light of print.⁷⁴¹ Nevertheless, the original work was distributed widely to local courts, where it gradually entrenched itself as one of the main sources employed in justifying judicial decision-making well into the late sixteenth and seventeenth centuries.⁷⁴²

The second driver towards codification in the sixteenth century stemmed from two related issues: on the one hand, over the course of the middle ages, Transylvanian Saxon students increasingly engaged in academic peregrination at Central and Western European universities, pursuing educations in law or theology, the two most resilient pathways of

⁷³⁸ Szabó, “Das Zusammentreffen von germanischen Rechtstraditionen”, p. 324.

⁷³⁹ On the force of custom, see for instance Rady, *Customary Law in Hungary*, p. 9-10, 21. On the slow pace of change in inheritance practice, even when the written law had modified unwritten custom, see Alice Velková, “Inheritance Practice and the Elderly in Central Europe: The Example of Western Bohemia, 1700–1850”, in Silvia Sovič, Pat Thane, and Pier Paolo Viazzo (eds.), *The History of Families and Households. Comparative European Dimensions*, Leiden, Boston: BRILL, 2016, p. 240-242.

⁷⁴⁰ Rady, *Customary Law in Hungary*, p. 15-17.

⁷⁴¹ Rady, *Customary Law in Hungary*, p. 155, note 72.

⁷⁴² Rady, *Customary Law in Hungary*, p. 19, note 31.

educational attainment in East-Central Europe over the *longue durée*;⁷⁴³ on the other hand, starting from the eleventh century, the revival of Roman law meant that Justinian's *Corpus iuris civilis* and *Digests* became the *materia prima* for jurisprudence, owing to an increase of powerful stakeholders who drew on these sources to fundament their claims during litigation. Much of this litigation involved property rights. The successful and wide-ranging advance of Roman law meant the establishment and spread of the *ius commune*, a boundaryless overarching structure onto which particular customary or written non-Roman norms cleaved.⁷⁴⁴ Instead of displacing other medieval strands of law of German origin – the manifold emerging *Stadtrechte* – Roman law was re-evaluated and integrated to differing extents and in different ways to extant laws. However, Transylvanian and Hungarian students served not only as conduits of Roman jurisprudence, but also witnessed and actively participated in disseminating the other transformative ideology of the sixteenth century, namely the Protestant reformation. Thus, spurred from at least four directions, the representatives of the Transylvanian Saxons – by then organized into the University - embarked upon the essential endeavour of harmonizing Altemberger's work with Roman law and drafting a new legal code that could replace any authority the *Tripartitum* might have wielded within the boundaries of the Royal Lands as a *Landrecht*, or a law of the realm.⁷⁴⁵

How did these drivers interact in practice during the process of codification? Since at least the 1540s, the efforts of the Saxon University concentrated in two directions: on the one hand, Roman law was comprehensively received, a feat owed primarily to Johannes Honterus, a dual carrier of both the Reformation and Justinian's legal codices into the Transylvanian Saxon milieu; on the other hand, the University aimed to reach an "ideal form" of the customary law already committed to paper, particularly in regards to contract law.⁷⁴⁶ Thus, within this

⁷⁴³ On the process of academic peregrination from Hungary, see Marta Fata, Gyula Kurucz, Anton Schindling (eds.), *Peregrinatio Hungarica: Studenten aus Ungarn an deutschen und österreichischen Hochschulen vom 16. bis zum 20. Jahrhundert*, Stuttgart: Franz Steiner Verlag, 2006. Szabó, in "Das Zusammentreffen von germanischen Rechtstraditionen", p. 329, note 60, estimates that for each generation, one out of 300-400 individuals among the Transylvanian Saxons engaged in academic peregrination. Theology and law remained the two most frequented fields of study well into the nineteenth century, leading for instance to Victor Karady's famous characterisation of Ancien Régime Hungary as 'a nation of lawyers' in "Une 'nation des juristes': Des usages sociaux de la formation juridique dans l'Hongrie de l'ancien régime", in *Actes de la recherche en sciences sociales*, Vol. 86-87, 1991, p. 106-124.

⁷⁴⁴ Antonio Padoa-Schioppa, *A History of Law in Europe From the Middle Ages to the Twentieth Century*, revised and updated English edition, Cambridge: Cambridge University Press, 2017, p. 72-76.

⁷⁴⁵ Krista Zach, "Humanismus und Renaissance in Siebenbürgen. Über ihre Voraussetzungen und Wege der Entfaltung in einer Randzone (15. - 16. Jahrhundert)", in Joachim Bahlcke, Konrad Gündisch (eds.) *Konfessionelle Pluralität, Stände und Nation. Ausgewählte Abhandlungen zur südosteuropäischen Religions- und Gesellschaftsgeschichte*, Münster: LIT Verlag, 2004, p. 138, notes that the *Tripartitum* was used as basis for pronouncing sentences in the Transylvanian Prince's court, the principality's highest judicial forum; See also Szabó, "Das Zusammentreffen von germanischen Rechtstraditionen", p. 323.

⁷⁴⁶ Szabó, "Das Zusammentreffen von germanischen Rechtstraditionen", p. 325.

context several works emerged in relatively rapid succession. In 1539, primarily concerned with the humanistic and philological aspect of source transmission, Honterus dedicated an excerpted collection from Justinian's works to Johann I. Zápolya, King of Hungary and former Voivode of Transylvania, a first attempt which was well received at court.⁷⁴⁷ A second work which summarized the principles of Roman law more extensively was the *Compendium juris civilis in usum Civitatum ac Sedium Saxonicalium in Transylvania* (1544). The *Compendium* again drew solely on "true sources of old" – Roman law – and contained "not one barbaric word", as one of its prefacers hailed it.⁷⁴⁸ As such, it left aside the major task of codifying Saxon legal traditions, while also reflecting a more general phenomenon: the contradictory nature of the emerging Protestant legal tradition in regards to canon and Roman law bases. Although during the late 1520s and early 1530s, polities which had embraced the Reformation had attempted to do away with all manner of canon law, it became evident that these legal foundations were much too closely entwined with a variety of fields of governance to simply eliminate everything that had belonged to the pre-Reformation church. Charity, education, family and inheritance law were left unregulated in the absence of canon law, and under the governance of secular authorities which had no guidelines as to what they could replace previous canon-law-based regulations with.⁷⁴⁹ By the time Honterus published the *Compendium juris civilis*, most polities which had adhered to the creed of the Reformation had embraced the constitutive character of canon – and therefore, Roman – law for maintaining good order and governance, especially in the urban milieu. Thus, the Reformation also worked to impel the process of legal codification throughout German-speaking milieus, as the need to come to grips with the infrastructural legacy of the Catholic Church meant that a plurality of "legal reformations" took place. The Transylvanian Saxons' integration of the *ius commune* with the extant written or still customary law should therefore also be read in this context.⁷⁵⁰

A second version of the *Compendium*, entitled *Statuta iurium municipalium civitatis Cibiniensium reliquarum civitatum et universorum Saxonum Transsilvan.*, was then drafted by the provincial notary Thomas Bomel. Like Altemberger, Bomel was part of the wave of academically-trained scholars who fostered the legal integration of the Transylvanian Saxon milieu into the fold of the *ius commune*. Unlike Altemberger, who had pursued canon law,

⁷⁴⁷ Zach, "Humanismus und Renaissance in Siebenbürgen", p. 138.

⁷⁴⁸ Zach, "Humanismus und Renaissance in Siebenbürgen", p. 138.

⁷⁴⁹ John Witte Jr., *Law and Protestantism. The Legal Teachings of the Lutheran Reformation*, Cambridge: Cambridge University Press, 2009, p. 65-66.

⁷⁵⁰ Witte, *Law and Protestantism*, p. 178 – 181.

Bomel had studied law in Wittemberg in the early 1540s, afterwards returning to his native Kronstadt where he received a position as schoolmaster in 1546. By 1548, he had relocated to Hermannstadt to occupy the dual office of provincial and city notary. The Small Council of Hermannstadt showed its continued appreciation for its official by providing him with a costly carpet – likely of Anatolian origin – as a wedding present in 1549. The urban account books for the same year listed the sum of 25 Hungarian Florin as payment for Bomel’s efforts in drafting ‘the written law’.⁷⁵¹

Like his predecessor in legal codification, Bomel was experienced in all matters pertaining to the practice of civil law, and especially so in the field of property devolution. This is well evidenced in the oldest extant *Stadtbücher* of the Small Council of Hermannstadt, recorded between 1522 and 1565. More than a quarter of the entries in the protocol in this period refer to inheritance disputes or settlements, including those noting that provisions of wills were upheld by the council despite relatives’ complaints. In his capacity as notary, Bomel had overseen the fulfilment of various testamentary dispositions: in June 1554 he had ensured that a widow’s charitable donation to the poor reached its intended recipients;⁷⁵² two months later he saw to the fulfilment of another individual’s final wishes excluding all kin from the inheritance of his estate, which was to go instead entirely to his spouse.⁷⁵³

Bomel’s work, a result of the University’s explicit demands to collect “laws, which had been kept through use” and to craft a “written law (*ius scriptum*)”, was already completed in 1549, when it was supposed to be submitted for approval first to the Saxon University and then to George Martinuzzi, at the time regent of the Kingdom of Hungary. The purpose of the submission was quite clear, showing that the Saxon law code was explicitly envisaged as a counterpoint to the *Tripartitum* in judicial matters: the University aimed to obtain approval “to pronounce judgements in Saxon lawsuits” on the basis of the work.⁷⁵⁴ Given the highly contentious external political situation of the late 1540s and early 1550s, the submission had to be postponed. Although it remained in manuscript, Bomel’s practical experience with legal matters and the bilingual character of the work (German and Latin) enabled its rapid adoption

⁷⁵¹ Gernot Nussbächer, “Zur Biographie von Thomas Bomelius“, in *Zeitschrift für Siebenbürgische Landeskunde*, Vol. 29, Issue 2, 2006, p. 138.

⁷⁵² Pakucs-Willcocks (ed.), “zu urkundt in das Stadbuch”, p. 209 – 210.

⁷⁵³ Pakucs-Willcocks (ed.), “zu urkundt in das Stadbuch”, p. 211.

⁷⁵⁴ Kathe Hientz, Bernhard Heigl, Thomas Şindilariu, *Hermannstadt und Siebenbürgern. Die Protokolle des Hermannstädter Rates und der Sächsischen Nationsuniversität, 1391-1705*, Hermannstadt: Honterus Verlag, 2007, p. 59, excerpt from the 4th volume of protocols, fol. 10, 24; the passages are also quoted in ⁷⁵⁴ Szabó, “Das Zusammentreffen”, p. 326, note 46.

by the Saxon courts as a legal instrument.⁷⁵⁵ However, this ‘brief introduction’ to Saxon law did not withstand the test of time: in the following decades,

“[...] several non-negligible cases and questions had appeared, in the majority located in the written imperial laws [Justinian’s laws], as well as several tangent to the Saxons’ privileges and freedoms. This was an essential concern, and the E.E. K. M. [imperial majesty] often admonished the envoys, and through them the cities in general, especially those [which were] endowed with men experienced in law, to take the brief law book, to re-inspect it, illuminate it, and increase it with the laws and customs of this territory of the Saxon nation, so that it be made more ostensive [explicit] through the enrichment with legal rules, and embellishment with statutes.”⁷⁵⁶

Mathias Fronius, a senator from Kronstadt and one of Bomel’s former colleagues from the law faculty of Wittemberg, was therefore mandated to undertake further revisions of the compendium.⁷⁵⁷ At the behest of the University, the *Compendium* was revised to better incorporate the extant customs, though its fourfold division was maintained: it comprised legal precepts on “general principles and procedures; marriage, wills, inheritance and wardship; the law of obligations, contracts, and commercial partnerships; property, complaints and criminal law.”⁷⁵⁸ The work was completed by 1581, when it was transcribed into several copies by students – likely from the local Gymnasium -, and sent out for revisions to the Transylvanian Saxon cities, the primary stakeholders in the process of codification. One year later, an amended version of the “deutsch Rechtsbuchlin” was proposed by the Kronstadt Small Council, while the University urged the speedy (“alsbald”) transcription and review by the cities for the renewed version. Local students again fulfilled the task, and were remunerated with 15 Hungarian Florin, a hefty sum for the time.⁷⁵⁹ Finally, the resulting work was submitted for approval to Stephen Báthory, the Prince of Transylvania, who sanctioned it on the 18th of

⁷⁵⁵ Dirk Moldt, *Deutsche Stadtrechte*, p. 225.

⁷⁵⁶ SJANS, Archival fund *Manuscrite*, Varia I, Manuscript no. 237 – 250, *Statuta iurium municipalium Saxonum in Transsylvania: opera Matthiae Fronii revisa, locupletata et edita*, Corona Transylvaniae, 1583, fol. 101r – 102v.: ‘etliche nicht geringere Felle und Fragen mit eingelauffen/ so zum meisten aus geschriebenen Kayser rechten erortet / etliche auch aus der Sachsen Privilegien und Freythume beruhreten/ war ein nothwendiges bedencken/ und E.E. K. M. ermahnen an die Herren gesandten zum offtern mal/ und durch sie an die Stedte in gemein/ insonders aber an jene/ so für andre mit rechts erfahrenen Mennern begabet/ das anfangene kurze rechts Büchel für hende zu nehmen / auff’s new zu besichtigen / zu leuteren / und mit was dem rechten und dieser Landschafft Sachsischer Nation gewonheiten gemess / zu mehren freundlicher massen befolhen / damit es gereichert an rechts regeln/ unnd mit Statuten locupletiret, scheibarere wurde.’ I have also used the digitised German edition of the *Statuta* available courtesy of the Bayerische Staatsbibliothek, with the digital identifier urn:nbn:de:bvb:12-bsb00103612-1.

⁷⁵⁷ Moldt, *Deutsche Stadtrechte*, p. 227.

⁷⁵⁸ Rady, *Customary Law in Hungary*, p. 155.

⁷⁵⁹ Friedrich Teutsch, “Zur Entstehung der Statuta”, *Korrespondenzblatt für Siebenbürgische Landeskunde*, Vol. 3, 1880, p. 38.

February 1583. By May of the same year, the delegation which had travelled to Poland to present the work to Báthory had returned to the fold of the Saxon nation, where it submitted to the University a reckoning of all costs incurred on this essential voyage for the defense of “its freedoms and privileges”. The entire sum amounted to over 3900 Hungarian Florin, which were to be paid out of the University’s as well as the individual Seats’ public funds. Each of the Seven Seats however needed to obtain a letter of confirmation for its own privileges, which came at an additional cost of 324 Florin.⁷⁶⁰

Both the first Latin edition of the work, entitled *Statuta Iurium Municipalium Saxonum in Transilvania* as well as its German version – *Der Sachssen inn Siebenbürgen: Statvta: Oder eygen Landrecht* – were published in Kronstadt in 1583.⁷⁶¹ They were prefaced by Báthory’s official confirmation, which underlined the work’s purpose in the legal economy of the Principality: on the one hand, it reaffirmed the original privileges the Saxons had received from the Hungarian kings; on the other hand, it would serve as a written instrument for the customs “that had long been in use ... so that they are not left only with verbal consuetudes, which are insecure, changeable, and easily pass into oblivion.” Like “other peoples and nations who already had committed their laws to paper”, the Saxons’ recorded customs had received the force of law by the grace of the Prince.⁷⁶²

The Transylvanian Saxons thus made use of one of the main instruments available to them as a consequence of their autonomy and jurisdiction, namely the *Rechtssatzung*, by putting forward the *Statuta* and obtaining its official confirmation from an external higher authority. Although the *Statuta* primarily focused on the different domains of civil law, it also worked as an essential tool in safeguarding autonomy by explicitly affirming the Saxons’ free election of their own officials, and not only of judges, as the *Andreanum* had. The lengthy validity of the *Statutes* flowed, according to Saxon scholars, not from its customary sources, but rather from its extensive reception of Roman law which would gradually make its way

⁷⁶⁰ Teutsch, “Zur Entstehung der Statuta”, p. 38

⁷⁶¹ I have also used the digitised German edition of the *Statuta* available courtesy of the Bayerische Staatsbibliothek, with the digital identifier urn:nbn:de:bvb:12-bsb00103612-1, as well as the original Latin edition digitized by the Central University Library of Bucharest, available at <http://restitutio.bcub.ro/handle/123456789/780>.

⁷⁶² SJANS, Archival fund *Manuscrite*, Varia I, Manuscript no. 237 – 250, *Statuta iurium...*, fol. 40v – 41r: “... ad nos mißi venissent, nobis[que] praeter alia privilegia antiquorum Hungariae Regum confirmanda, etiam codicem IVRIS MVNICIPALIS seu legume et consuetudinum, longo usu et observatione receptarum, ir[...] quibusdam locis, de communi Saxonum ipsorum consensus auctarum, ac in quator libros et certa capita distinctarum, humilime nobis obtulißent, supplicantes ut in instar aliarum gentiu[m] et nationum, quarum leges literarum monumentis mandate sunt, ne soli consuetudini, quae incerta, mutabilis et oblivion obnoxia est, niterentur, praedictis iuribus et consuetudinibus, auctoritatem nostram regiam impertiremus...”.

within other works of codified law over the course of the sixteenth century. The comprehensive transplant of Roman law within the *Statuta* meant that it was highly similar to the legal codes drafted during the second European-wide wave of codification, such as the Austrian Civil Code, a similarity which undoubtedly contributed to its resilience.⁷⁶³

At this point, it is warranted to ask how legal pluralism played into the Transylvanian Saxon narrative, at least prior to 1691. At a European level, early modern legal pluralism manifested on the one hand through the existence of different sources of law – not just within one single code – but also within one polity. What has been called a “dual normative order” was created by the juxtaposition of local, particular laws with supra-regional laws: in the first category one could include municipal statutes, guild statutes, or the like; the second category included not only the wide-ranging Justinian legacy, but also canon law, especially in resiliently Catholic areas, as well as glosses by jurists on these two legal strands. In increasingly centralised areas, such as for instance the French Kingdom, to this dual system a third element was added during early modernity, namely state law. This third layer shifted the previous balance between local and non-specific law: first in the new “legal order” became norms emanating from the state, followed by local law, and only after by the *ius commune*.⁷⁶⁴ In Transylvania, this was not necessarily the case. The political situation of the second half of the sixteenth century which had resulted in the split of the Kingdom of Hungary and the emergence of the Principality meant that it had a place apart in the Kingdom’s legal system. While remaining part of the Lands of the Hungarian Crown, and thus bearing the imprint of the Hungarian Diet’s decision-making to a certain extent, Transylvania nevertheless followed a different course in terms of legal practices, codification, and judicial infrastructure. For most of early modernity, as state law one could count to the articles passed by the Diet (*articuli dietales*), which were presented to each new ruler of the Principality and ratified anew between the mid-sixteenth century and the beginning of Habsburg statedom in the area in 1688. The new ruler ratified the Diet’s compilations, which were then printed and deposited in so-called *loca credibilia*, three selected locations in the Principality which were empowered to serve as repositories of official documents and provide official copies of charters in their keep.⁷⁶⁵

Despite the steep price involved by the sanctioning of the *Statuta* – a lesser seen facet of the legal pluralist order – the matter of the *Statuta*’s pre-eminence on the Royal Lands was

⁷⁶³ Tontsch, “Statutargesetzgebung und Gerichtsbarkeit”, p. 37-39.

⁷⁶⁴ Padoa-Schioppa, *A History of Law*, p. 368-369.

⁷⁶⁵ Kutschera, *Landtag und Gubernium*, p. 78. The three *loca credibilia* were the Chapterhouse of Weißenburg, the Convent of Koloszmonostor, and the Chapterhouse of Großwardein.

far from set in stone. In the 1630s and 1640s, Prince György II. Rákóczi reconfirmed the Saxons' privileges three times. The difficulty of legal pluralism in practice is most readily visible in the contradictions between the decisions of the Diets and the property regime with its precondition of formal citizenship, as prescribed by the *Statuta* and all subsequent municipal statutes. Significant attempts were made during the first half of the seventeenth century within the Diet to enable the purchase and holding of urban real estate by members of the non-Saxon nobility, who thus would accede to urban citizenship and participate within the Transylvanian Saxon bodily politic, at least in terms of fulfilling the essential precondition of property ownership. The Diet's decisions superseded in theory the primacy of the *Statuta*, at the broadest provincial level, as state law.⁷⁶⁶ However, the same decisions needed to be approved by the representatives of all three estates, including those of the Transylvanian Saxons, in order to be ratified. The occasion of the 1653 Diet showed that this was not necessarily the case: the other two estates successfully passed an article permitting them free settlement within Saxon cities, which was also ratified by princely approval along with the entire Diet's proceedings, collected within a "constitutional" compilation.⁷⁶⁷ The Transylvanian Saxons' displeasure was voiced in a petition to the Prince, which received an extensive and telling response in a letter addressed to the Small Council of Hermannstadt in 1657, in its capacity as representative for the entire nation.⁷⁶⁸ It is worthwhile to briefly examine Rákóczi's argument from the perspective of legal pluralism, as it strikingly encapsulates the precarious inter-estate and estate-royal authority balances, and the extent to which legal pluralism was framed as a *quid pro quo*.⁷⁶⁹ Having recently been deposed by the estates, Rákóczi began his epistle with pathos, emphatically pledging his continued faith in the Transylvanian Saxons, despite his apparent betrayal of their estate in ratifying the Diet's decision:

"if we could have opened door and window to our bosom, we would have shown you our heart, and that this, what our feather wrote or could write, were in accordance with the purity of our heart; and this would be thus our greatest proof [...] we call upon God as our

⁷⁶⁶ Schuler von Libloy, *Rechtsgeschichte*, vol. I, p. 65-66.

⁷⁶⁷ See Rady, *Customary Law in Hungary*, p. 142-143, on this first compilation entitled *Constitutiones Approbatae*, as well as its follow-up, the *Constitutiones Compilatae* of 1669, which also collected the results of successive layers of legal practice, and applied to the entire Principality.

⁷⁶⁸ Schaser, *Reformele iosefine*, p. 58-61 also discusses the issue more in-depth, as context for the Concivility debate of the eighteenth century, citing part of the document in question. The letter is provided in full in August Ludwig von Schlozer, *Kritische Sammlung zur Geschichte der Deutschen in Siebenbürgen*, Band 1., Göttingen 1795, p. 114-115.

⁷⁶⁹ Richard J. Ross and Philip J. Stern, "Reconstructing Early Modern Notions of Legal Pluralism", in Lauren Benton and Richard J. Ross (eds.), *Legal Pluralism and Empires, 1500-1850*, NY and Landham: New York University Press, 2013, p. 112-113.

witness, that we never endeavoured to spoil your beautiful freedoms, [even if] we did not reinforce them.”⁷⁷⁰

Reminding them of the previous confirmations of the *Statutes*, a sign of “fatherly love”, Rákóczi framed the ratification of the Diet’s decision as a matter beyond his control: “The Diet’s articles on the purchase of houses was not our own, but the request of the estates of the land. ... we saw the common acerbity of the estates; what could we have done otherwise, rather than assent to the attitudes of the majority?”⁷⁷¹

Thus, one of the defining features of legal pluralism in the province appeared to be the fact that the majority estates – the nobility and the representatives of the Szekler *natio* – could pressure infringement of particular laws, such as the *Statuta*, by employing their political support – or rather the danger of its withdrawal – as a lever of control over the leader of the Principality. In the “seesaw” political context of the seventeenth century, when the stability of one’s rule depended on both the goodwill of the majority of the estates as well as on maintaining a precarious balance between the Ottoman Empire and the Habsburgs, the matter of ratifying contradictory pieces of legislation seemed of lesser significance. However, as Rákóczi also pointed out, the contradiction between state law and the particular law of the Transylvanian Saxons did not mean that anything would actually come of the provision:

“[...] you will see, no one will buy houses: rather, you will be able, within 5 or 6 years, to have the article abrogated. We base our argument on the proof of those, who were included in this affair earlier [...]. And what use would we have from this, and what would fall back on to the princely honour from this? As we never endeavoured to mar your freedoms; [...] It was not us, for our own person, but rather the fatherland, that was to your undoing [...].”⁷⁷²

Thus, state law did supersede and could abolish aspects of particular law. The causes of these contradictions stemmed in large measure from the general disequilibrium between estate interests and state interests. Another factor was the relatively weak position of state

⁷⁷⁰ Schlozer, *Kritische Sammlung*, p. 114: “Könnten wir auf unser Brust Tür und Fenster öffnen; so zeigten wir Ihnen auch unser Herz, und daß das, was unsere Feder schreibt oder schireben könnte, mit der Reinigkeit unsers Herzens übereinstimmte; und dies wäre denn unser größter Beweis. [...] Allein wir rufen Gott zum Zeugen an, daß wir, wenn wir Ihre schönen Freiheiten nicht bekräftiget, dieselben doch zu verderben uns nie bestrebt haben.”

⁷⁷¹ Schlozer, *Kritische Sammlung*, p. 115: “Der Landes-Artikel vom Häuser-Kauf war nicht unser, sonder der LandStände, Verlangen. Und da wir sowol in diesem Fall, als auch in Ansehung der Circulirung, Appellationen und Citationen, der allgemeine Härte der LandStände sahen: was konnten wir da anders utn, als den Gesinnungen des größern Theils beipflichten?”

⁷⁷² Schlozer, *Kritische Sammlung*, p. 115: “Sie werdem es aber sehen, es wird niemand Häuser kaufen: vielmer können Sie, nach Verfluß von 5,6 Jaren, diesen Artikel wieder aufheben machen. Wir berufen uns auf das Zeugnis derer, welche damals in diesem Geschäfte mitbegriffen waren. [...] Und was haben wir für Nutzen, und was fällt hievon auf die fürstliche Würde zurück? So wie wir Ihre Freiheiten zu verderben, nie bemüht gewesen; [...] Nich wir für unsre Person, sondern vielmer das Vaterland, war Ihnen zum Verderben, und die Türken haben diesen nämlichen Endzweck.”

actors – the Princes of Transylvania – at various key moments, when external political influences intersected with estate interests to the detriment of the particular individual who wielded power. At the same time, as Rákóczi himself pointed out, this normative pluralism was superseded by jurisdictional pluralism.⁷⁷³ The latter meant that the Saxon jurisdiction and control of the Royal Lands was too well-entrenched to be actively or at least extensively transgressed by the other estates, the decisive factor in the hierarchy of legal layers, rather than the theoretical pre-eminence of the *Constitutiones*. Given the limited centralisation of the Transylvanian state compared to post-1691 developments and the largely self-contained large-scale administrative units of the noble counties, the Saxon Seats and Districts, and Szekler counties, the strength of the Diet’s resolutions would falter in practice.

Rákóczi’s argument showed that the normative legal pluralism in the sense of the order of laws to be applied to specific cases was a constantly-negotiated and fluid matter, which could turn with broader political tides. A second moment of negotiation occurred in 1692, shortly after the advent of the Habsburg rule, when an agreement was reached between the estates to “nullify” the provisions of the offending article. The Habsburg power would ratify this later agreement one year later, following the “petitions of complaint (*gravamina*) of our Saxon cities.”⁷⁷⁴ However, as has been amply discussed in previous chapters, neither the existence of an agreement nor its ratification by higher, state-level authorities, meant that its precedence would be enforceable regardless of context. Both the *Diploma* itself as well as the various means to circumvent its provisions are an ample testament to one way in which legal pluralism functioned.

10. Property and inheritance

Landed property in general and urban real estate in particular were integral to the Transylvanian Saxon definition of collective legal identity. This conceptualisation was undoubtedly spurred and strengthened by the process of codification, which wove together custom, Roman law, and the legal bases of the *ius Theutonicum*. In order to understand what place inheritance and testamentary succession held in the broader legal landscape of the *natio*, it is necessary to return to the *Statuta*. Property and its transmission figured throughout the *Statuta*, within various contexts, because much of civil law itself was grounded in the

⁷⁷³ See for instance Lauren Benton and Richard Ross, “Empires and Legal Pluralism: Jurisdiction, Sovereignty, and Political Imagination in the Early Modern World”, in Benton and Ross (eds.), *Legal Pluralism and Empires*, p. 1-20.

⁷⁷⁴ Excerpts of both documents are presented in Schlozer, *Kritische Sammlung*, p. 120; See also the brief discussion in Schaser, *Reformele iosefine*, p. 60-62.

distinction between (potential) property owners and those who could not accede to this status. Differing rights were awarded to those who owned any kind of real estate on the Royal Lands, and those who did not. Further distinctions were made between urban citizens and the inhabitants of villages (*colonus in pago*), and then between citizens and those who were in service and unsettled— *servilis et vaga persona, famulus, servus*.⁷⁷⁵

The most extensive context of civil law wherein property figured was the broader framework of family law, covered in the second book of the *Statuta*. According to the second book – one of four in total –, property was held jointly between spouses, in a so-called “communion of goods”, which was established at the time of marriage. This concept of joint marital property is regarded by current scholarship as having stemmed from “old Saxon customary law”, and as encompassing all shared property, regardless of when, how, and by whom it was acquired.⁷⁷⁶ According to nineteenth-century Saxon legal scholarship, which was united in this interpretation, the communion of goods did not only refer to those assets earned together after marriage, but also to the rights to previously inherited property, as well as to all debts contracted prior to marriage.⁷⁷⁷ According to more recent literature, the communion of goods has been regarded as stemming from the “Saxon customary laws”.⁷⁷⁸

Friedrich Schuler von Libloy, a leading figure in the *Landeskunde* movement and the initiator of a source-based comprehensive legal history of the province⁷⁷⁹, held that all property – even that inherited prior to marriage or that earned through common efforts during it – was to be included in the communion of goods and would devolve upon heirs when the marriage was dissolved through the death of a spouse. Artur Soterius von Sachsenheim, the author of an extensive comparison of the Austrian Civil Code and the local laws of the province, similarly maintained that the *Gütergemeinschaft* included everything in the couple’s possession, to the extent that no items were previously excluded through an instrument such as a contract concluded prior to marriage.⁷⁸⁰ Libloy likewise emphasized that the relation between debt and the marital communion of goods was gendered: while all debts potentially incurred by a husband would fall upon the estate, only those debts incurred by a wife “within her appropriate domain of inner household economy” could be covered by the estate.⁷⁸¹

⁷⁷⁵ Béla Szabó, “Die Rezeption des Römischen Rechts bei den Siebenbürgen Sachsen”, in *Publicationes Universitatis Miskolciensis, Sectio Juridica et Politica*, Vol. IX, Issue 1-3, 1994, p. 179.

⁷⁷⁶ Szabó, “Das Zusammentreffen von germanischen Rechtstraditionen”, p. 332.

⁷⁷⁷ Schuler von Libloy, *Rechtsgeschichte* vol. II, p. 219 – 222.

⁷⁷⁸ Szabó, “Die Rezeption des Römischen Rechts”, p. 180.

⁷⁷⁹ Török, *Exploring Transylvania*, p. 128-130.

⁷⁸⁰ Sachsenheim, *Das allgemeine bürgerliche Gesetzbuch*, p. 595.

⁷⁸¹ Schuler von Libloy, *Rechtsgeschichte* vol. II, p. 220.

As more recent Saxon scholarship has noted, prior to the codification of customary law, practices were not entirely unitary in regards to what the marital communion of goods contained, and whether a distinction obtained between property inherited and property gained during marriage. A brief historical note published in 1941 in one of the *Landeskunde* periodicals recalls a 1541 estate division recorded in the *Stadtbuch* of Hermannstadt, which included the objects falling to two siblings, Matthes and Dorothea.⁷⁸² The case contained a reference to a goblet inherited from their parents, that would go to Dorothea in case Matthes should pass without children, according to the “common custom of the land”.⁷⁸³ The author uses this occasion to point out that a profound difference exists in the definition of the communion of goods between the Latin and the German texts of the *Statuta*: while the Latin text explicitly defines the marital communion to be composed of all goods (*ex universis bonis*), the German version translates this as “all goods, which they brought together” (*aus allen guetteren, so sie beide haben zusammen gebracht*).⁷⁸⁴ The same contradictory meaning has been noted in more recent works as well, which have however pointed out that in practice, no formal no formal distinction was made between what each spouse had brought to the communion (*allatum* or *Zubringen*) and what had been acquired (*Errungenschaft*) jointly during the marriage, as opposed to other areas, such as for instance early modern Baden-Württemberg.⁷⁸⁵ Despite all rhetorical references to self-earned goods one might encounter in eighteenth-century wills, the partition of the estate upon the death of a married individual did not display any pattern that would suggest that this distinction obtained a degree of significance in practice.

Compared to Hungarian custom as codified in the *Tripartitum*, Saxon customs concerning property relations within the family differed in one significant respect: they did not recognize the existence of lineage property in the sense that Hungarian legislation did. Property rights in

⁷⁸² Adolf Schullerus, “Zum siebenbürgisch-deutschen Erbrecht“, in *Korrespondenzblatt des Vereins für Siebenbürgische Landeskunde*, Vol. 64, 1941, p. 274-275.

⁷⁸³ The entire document is reproduced in Pakucs-Willcocks (ed.), “*zu urkundt in das Stadtbuch*”, p. 127-129. The passage in question is p. 129: “Ist aber geschycht, das der pecher des Matis soll seyn, doch von eym kyndt an das ander zu erbenn nach gemeynem landtbrauch.”

⁷⁸⁴ Schullerus, “Zum siebenbürgisch-deutschen Erbrecht”, p. 275: “Im ersten Fall würde es der ‚gemeyne landtbrauch‘ verlangen, dass ererbtes, nicht als ‚Errungenschaft‘ gemeinsame erworbenes Vermögen, nicht unter der Drittelbesitz fällt (wie auch sonst die Morgengabe der Frau), also ein Nachklang altfränkischen Erbrechts, das die Drittelung nur auf die ‚Errungenschaft‘ beschränkt, ein zweiter Fall, dass fahrende Habe von der Drittelung ausgeschlossen ist. Nebenbei: der deutsche Text der Eigenlandrechtes, 2. Buch, 4 § 1, ‚aus allen guetteren, so sie beide haben zusammen gebracht‘, könnten darauf schliessen lassen, dass auch hier nur von der ‚Errungenschaft‘ die Rede sei, der lateinischen Text (*ex universis bonis*) zeigt jedoch, dass es sich um den Gesamtbesitz überhaupt handelt.”

⁷⁸⁵ Szabó, “Das Zusammentreffen von germanischen Rechtstraditionen”, p. 332; David Warren Sabean, *Property, Production, and Family in Neckarhausen, 1700–1870*, Cambridge: Cambridge University Press, 1990, p. 194.

the Kingdom of Hungary had proceeded from the notion that all land had initially been in the ownership of the monarch, who had gifted it to the nobility in repayment of their services. Indeed, this exchange of power, land, and trust was at the very core of the existence of the Hungarian nobility.⁷⁸⁶ Each noble family therefore regarded itself as descending from a single ancestor (or *avus*), upon which the original estate had been settled. In case a family line was extinguished, the last nobleman dying without male heirs, the property would revert back to the crown. Around the mid fourteenth century, customary law began to distinguish clearly between so-called *avitical* property and *acquisita*, property acquired during one's lifetime. The latter would become the former once it had undergone the process of devolution from one generation to the other. In 1351, the re-issuing of the Golden Bull clearly spelled out the principles of landed property transmission: nobles perishing without male heirs had no right to "give, grant, sell or alienate their estates to churches or to others whom they wish, [...] but the properties of the same nobles should devolve to brothers, collateral relatives and kinsmen by right and according to law, pure and simple, without anyone's objection." This system was accompanied by partible inheritance, which often had the effect of carving up estates into ever-decreasing pieces. However, in practice, in the event a male heir was lacking, noblemen could craft mutual inheritance contracts of so-called 'fraternal adoption', to prevent the ancestral estate from reverting to the royal fiscus. Werbőczy himself entered into four such contracts during his lifetime.⁷⁸⁷

Landed property could not however be inherited by daughters, who were generally to be compensated in cash for their portions of the *avitical* estate, according to the filial quarter system. Excepted were those who had not yet married, or whose husbands were "propertiless", so that they might not lose their noble status. In practice, cash compensations were not always awarded, and land did devolve upon daughters in many cases, even if only temporarily. In Transylvania, 'it was so common for the quarter to be given in land as to constitute the usual form of female inheritance, with the consequence that many family estates were over time dangerously depleted.'⁷⁸⁸ Thus, though early modern Hungarian wills from Transylvania sometimes noted that "the patrimonial estate is to devolve only to the male side, and that the

⁷⁸⁶ Rady, *Customary Law in Hungary*, p. 68

⁷⁸⁷ Rady, *Customary Law in Hungary*, p. 85 – 90.

⁷⁸⁸ Rady, *Customary Law in Hungary*, p. 92.

daughters or the sons-in-law are prevented from inheriting it” when a male heir was extant, the consistent study of practice reveals different patterns.⁷⁸⁹

However, this is not to say that property rights in Saxon law were not gendered. It is necessary to enquire into the contours of women’s property rights within marriage within Transylvanian Saxon customary and codified law. The Saxon custom provided that during the division and devolution of property, after the passing of one spouse, “of all goods, the man should be ascribed the *Zweytheil*, and the woman the *Drittheil*, and all kinds of prior gifts (*Fürgabe*) that are made between man and woman, should be taken out.”⁷⁹⁰. According to Schuler von Libloy, although the husband was the sole legal representative of the married couple, wives were not “wholly excluded from disposing of their estate”. Though wives were no longer regarded as owners of the property they had brought into the communion of goods, because they owned the virtual share of the *Drittheil*, they wielded decision-making power over any real estate transactions that a spouse might see fit to make. Husbands could not estrange landed property without their wives’ consent, while wives could appear before the authorities to declare their husbands as profligate and thus keep them from diminishing the marital communion of assets through wasteful expenses.⁷⁹¹

In this respect, the marital property regime which obtained within the Royal Lands was part of the broader strand of *Stadtrechte* which posited the establishment of the *Gemeinvermögen*, the united marital estate, a legal institute of Germanic provenance. However, the legal position of Transylvanian Saxon women within marriage was better in certain respects, as the Transylvanian Saxon marital property was located on the spectrum between complete *Gütergemeinschaft* and *Verwaltungsgemeinschaft*. As Schuler von Libloy pointed out, although husbands were the couple’s legal representative and therefore the administrators of the estate, women’s positions as stakeholders in the estate through their rights to a virtual share of the communion of assets was strongly acknowledged. The Transylvanian Saxon institute of the *Drittheil* or *triens* was first mentioned in the Transylvanian context in 1323, when it had

⁷⁸⁹ Will of Biális Ferenc, 1696, edited in Tüdös S. Kinga (ed.), *Erdélyi testamentumok IV. Erdélyi nemesek és főemberek végrendeletei*, Marosvásárhely: Mentor, 2011, p. 223 – 225, Romanian language summary at p. 359 – 360.

⁷⁹⁰ Fronius, *Der Sachssen inn Siebenbürgen: Statvta*, Book II, Title 4 § 1. I give here the entire passage: “Sintemahl Mann und Weib sich im Ehestand inn Gemeinschaft beider Leib und irer Güter zusammen begeben, drum ist es auch billich und löblich, das sie in irer Haushaltung, mit iren Kindern, in freundlicher Beywohnung und Leben, irer Güter zu gemeiner Nothdurfft brauchen unnd geniessen. Bey den Sachsen aber ist es in Brauch kommen, daß auß allen Gütern, so sie beyde haben zusammen gebracht, dem Mann das Zweytheil, und den Frauen das Drittheil gebühren soll, und werden allerley Fürgaben, so zwischen Mann und Weib geschehen, abgeschlagen.” I use the same 1583 edition for all following notes.

⁷⁹¹ Schuler von Libloy, *Rechtsgeschichte*, Vol. II, p. 220.

been designated as the “*consuetudo Cybiniensis*”, and was also employed widely in various medieval urban contexts in Central Europe.⁷⁹² The virtual division of the estate in the two-thirds and one-third shares between the spouses was also encountered for instance in the municipal law of Schemnitz, which had taken over this conceptualization of marital property from the law of Iglau, another widely-circulating legal inspiration during the period of early modern codification.⁷⁹³

Other pathways of estate division than the 2/3 – 1/3 pattern could be achieved through particular arrangements. Moreover, although some differences had existed between the various Saxon seats prior to the sixteenth-century codification, the same pattern of estate partitioning was prescribed when the marriage was terminated through causes other rather than the death of a spouse, namely through divorce.⁷⁹⁴ Antenuptial or marriage contracts, in which pretenses to property were regulated prior to the establishment of the communion of goods, required the presence of two witnesses and that of the local notary. When a would-be couple wanted to regulate their reciprocal rights to the common assets, and especially on those pieces of property brought into the marriage, the agreement of offspring from previous marriages was also necessary.⁷⁹⁵ Antenuptial contracts were however relatively rare in practice.⁷⁹⁶ As no provision in the *Statuta* explicitly regulated the making of marriage contracts, it may be safely assumed that these followed the *ius commune*.⁷⁹⁷ Thus, they were used to regulate property rights after the dissolution of a marriage by ensuring that the property each spouse had brought into the marital estate would be returned to them instead of devolving to other kin of the deceased. Women were often explicitly regarded as the main beneficiaries of such arrangements, as marriage contracts could be used to secure for instance the return of the dowry or marriage portion (*Mitgift*), the morning gift (*Morgengabe*) or make particular arrangements to ensure continued care in widowhood. Marriage contracts were more likely to be employed in upper class or elite milieus in other areas such as Bohemia.⁷⁹⁸ Marriage contracts were very rarely

⁷⁹² Gönczi, Carls, *Sächsisch-magdeburgisches Recht*, p. 100.

⁷⁹³ Ibolya Katalin Koncz, “Die Wurzeln der Frauenrechte in den mittelalterlichen Rechtsbüchern”, p. 226.

⁷⁹⁴ Schuler von Libloy, *Rechtsgeschichte*, Vol. II, p. 221.

⁷⁹⁵ Schuler von Libloy, *Rechtsgeschichte*, Vol. II, p. 219 – 222.

⁷⁹⁶ A similar situation to that encountered in early modern Baden-Württemberg, according to the sixteenth-century law code which regulated property transmission in the area. See Sabeau, *Property, Production, and Family*, p. 200.

⁷⁹⁷ Szabó, “Die Rezeption des Römischen Rechts”, p. 181.

⁷⁹⁸ Pavel Král, “Heiratsverträge und Testamente in Böhmen im 16. und 17. Jahrhundert”, in Josef Pauser, Martin Scheutz and Thomas Winkelbauer (eds.), *Quellenkunde der Habsburgermonarchie (16.-18. Jahrhundert). Ein exemplarisches Handbuch*, Wien, München: R. Oldenbourg Verlag, 2004, p. 478-479.

employed in the Transylvanian Saxon milieu,⁷⁹⁹ and even then, were very likely associated with individuals or couples who stemmed from other legal regimes, and who perpetuated the same legal practices they had been used to. In the probate samples with which the present analysis has operated, marriage contracts were generally entered by couples wherein one or both individuals were foreigners to Hermannstadt: for instance, in 1783, when the Austrian Transmigrant Johann Eder who kept an inn in the suburbs of the city passed away, the existence of a marriage contract securing the rights of his spouse to her own marital portion was discovered by the office of estate divisions.⁸⁰⁰ Another such contract had been drafted between Stephan and Anna Magdalena Patonay, neé Hochin, „according to which the widowed lady should remain in ownership of her entire estate” – i.e. what she had brought to the marriage.⁸⁰¹

The legal institute of gendered gifts, given either before, on the occasion of marriage, or after, had also assumed a specific form within the Transylvanian Saxon milieu. In the interest of equity, any gifts that had been made prior to the wedding by either set of the couple’s parents needed to be recorded by a notary in a register, in the presence of two witnesses. According to the *Statuta*, upon the death of one spouse, the remaining party was entitled to receive the allotted share, to which were added “all kinds of previous gifts, such as occur between man and woman”, which were “taken separately”.⁸⁰² A different form of spousal gift was the *Vorgab*. Encountered under various terms in European milieus where German law codes applied to inheritance matters, the *Fürgabe* or *Vorgabe* as it was most often referred to in probate registers had initially encompassed certain items, such as linen, specific items of clothing, or even pieces of jewellery.⁸⁰³ The *Vorgabe* was extracted from the mass of the estate after the settlement of debts, but prior to the allotment of shares between the remaining heirs. Although initially it had likely been assimilated to the dowry, the wedding gift, or even the morning gift, during the eighteenth century it had already assumed a specific form, covering neither of these three categories. The *Vorgab* was explicitly referred to as *Dos* – dowry – only during several estate divisions which occurred in 1740, after the plague had severely ravaged the city.⁸⁰⁴ Given the very high volume of estate divisions which had to be protocolled following the exceedingly high mortality elicited by the plague, it is likely that the use of *dos*

⁷⁹⁹ Some 42 marriage contracts were mentioned during the course of probate proceedings, out of more 2600 estate division events. See the chapter which discusses the composition of the sample for analysis for further details.

⁸⁰⁰ SJANS, *Magistrate - Registers*, Register of estate divisions no. 129, Upper City, 1778-1783, p. 500.

⁸⁰¹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 129, Upper City, 1778-1783, p. 30: “Contractum Antenuptiale, vermög welchen sie Frau Wittib mit ihrem völligen Vermögen bleiben solle.”

⁸⁰² Fronius, *Der Sachsen inn Siebenbürgen: Statvta*, Book II, Title 4 § 1: “... vnd werden allerley fürgaben so zwischen man und weib geschehen abgeschlagen.”

⁸⁰³ Schuler von Libloy, *Rechtsgeschichte*, Vol. II, p. 222.

⁸⁰⁴ SJANS, *Magistrate - Registers*, Register of estate divisions no. 266, Lower City, 1740, fol. 14 and fol. 913.

instead of *Vorgab* was an idiosyncrasy of the record-keeper, rather than a clear reflection of what the *Vorgab* was thought to represent.

During the eighteenth century, the *Vorgab* had standardized to 6% of the estate after the subtraction of debts.⁸⁰⁵ Like in the case of the Saxon *Gerade* ascribed to the widow according to the *Kursächische Konstitutiones* of 1572, which comprised various categories assets traditionally associated with women and the running of a household (linen, clothing, etc.), the *Vorgab* was allotted to a Transylvanian Saxon widow or widower who explicitly chose it instead of other gifts and allotments.⁸⁰⁶

Sometimes, the existence of marriage contracts which proposed different kinds of gifts – in itemized form – after a spouse’s passing could present the widow with a difficult choice: to accept the wish of a deceased spouse, or remain with the *Vorgab*? If other heirs were involved, the mediation of the officials of the probate court was often necessary, because a choice had to be made: both a morning gift and a *Vorgab* could not stand, just as a testamentary bequest to a spouse and a *Vorgab* could not be accepted in the same instance of property devolution. This was for instance the case in 1775, when a marriage contract between the deceased Johannes Drotloff and his surviving spouse, Maria Drotloffin, was discovered during the probate process. According to the contract, which had been completed less than one year to the husband’s passing, the widow was entitled to receive „a belt worth 100 Hungarian Florin and a woman’s mantle worth 50 Hungarian Florin” as a „morning gift”. However, the heirs demanded that if the widow accepted these items of considerable worth, she renounce her *Vorgab*. As was protocolled,

„after manifold chatter, the heirs [...] declared that they had reached a compromise in the following manner: that the widow will remain with the estate she had brought in to the marriage (*ihrem eingebrachten Vermögen*), and thus, both the *Vorgab* and the marriage contract will be left aside; nevertheless, the widow shall retain her residence in the front room or in the room at the very back, when the heirs have expanded it, until she weds again.”⁸⁰⁷

⁸⁰⁵ As noted in the *Regulativpunkte* of 1805, and re-confirmed throughout the probate registers examined for the present work. See also Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 222.

⁸⁰⁶ Karin Gottschalk, *Eigentum, Geschlecht, Gerechtigkeit: Haushalten und Erben im frühneuzeitlichen Leipzig*, Frankfurt am Main: Campus Verlag, 2003, p. 37- 38.

⁸⁰⁷ SJANS, *Magistrate - Registers*, Register of estate divisions no. 124, Upper City, p. 158-159: “Diesemnach wird ein Contractus antenuptialis de dato 774 31. October vorgeleget: krafft deßen der Wittib pto 2do ein Gürthel per Hfl. 100 - wie auch ein Weiber Mantel per Hfl 50 - als eine Morgengabe verschrieben worden; da aber die Erben solches nur in dem Fall gelten laßen, wenn die Wittib die Vorgab wolte fahren laßen, die Wittib aber darein nicht consentiret; so wird ihnen Erbnehmenden ein freundschaftlicher Vergleich aufgetragen. Nach vielfältiger Unterredung, treten die Erbnehmende ein, und declariren, daß sie sich untereinander solcher gestalten verglichen: daß nehml. die Wittib bey ihrem eingebrachten Vermögen bleiben, und sodann die Vorgab, als auch Heyraths-Contract von ihr fallen soll; jedoch solle die Wittib, solange sie nicht heyrathete, im dem vörderen Zimmer, oder aber, wenn sie Erben das hinterste Zimmer erweitert haben werden, daselbst wohnen [...].”

Thus, if the spouse had also benefitted from a legacy in a testament, a gift in a marriage contract, and the intestate pathway of the *Vorgab*, amounting to 6% of the estate, they were presented with a choice the immediate effects of which were not easily discernible.⁸⁰⁸ A fourth option, namely that of separating the estate into what had been earned during marriage and what each member had brought as *Eigenes* was employed. Thus, the provisions spelled out in wills were necessarily regarded as the most beneficial by widowed spouses, who explored other modalities of property devolution. What is more, the fact that the *Vorgab* had become a non-gendered institution, being equally discharged to both widows and widowers at the same rate of 6% of the estate made this legal institute stand out among similar provisions in the early modern European milieu. Transylvanian Saxon widows were thus placed on equal footing with their male counterparts by default, without the need for elaborate arrangements spelled out in marriage contracts. The strong position of the widowed spouse in the distribution of the estate ensured by intestate law likely also contributed to the relative scarcity of marriage contracts encountered in this milieu.

In this respect, Transylvanian Saxon law and procedure differed significantly from other German-speaking areas, such as early modern Württemberg, where estates were clearly – or at least explicitly – delineated according to their specific provenance: a couple’s estate could be divided into what each spouse had brought into the union, and what the couple had managed to gather together over the duration of the marriage.⁸⁰⁹ The *Vorgab* was most similar to the *Voraus* in the Württemberg milieu, but, unlike this conceptual share, it was not restricted to any kind of items and could also be transferred in real estate or even cash.

What is more, unlike other German-speaking areas such as Württemberg, there was no evidence for the Transylvanian Saxon milieu to support the existence of a gendered institution such as that of the *Kriegsvogtschaft*.⁸¹⁰ Although later Transylvanian Saxon legal scholarship emphasized the predominance of the male spouse in legal matters, and the legal unity between members of the marital unit, women’s legal identity did not blend in to that of their spouses.⁸¹¹ Guardians or curators were appointed only in exceptional situations, where the individual in

⁸⁰⁸ *Statuta*, II. Buch, 4 § 3. This principle was very similar to that of the *Gerade*. See Gottschalk, *Eigentum, Geschlecht, Gerechtigkeit*, p. 37 – 38.

⁸⁰⁹ Sabean, *Property, Production, and Family*, p. 194

⁸¹⁰ Sabean, *Property, Production, and Family*, p. 208 – 213. On the potential effects of this institution for women, see Sheilagh Ogilvie, *A Bitter Living: Women, Markets, and Social Capital in Early Modern Germany*, Oxford: Oxford University Press, 2003, p. 186 – 187.

⁸¹¹ Schuler von Libloy, in *Rechtsgeschichte*, vol. II, p. 209 notes that “Frauenspersonen sollten immer die Rechtswohlthat der Geschlechtsvormundschaft genießen; nur Wittwen wurden stets als sui juris gehalten und waren daher als Mütter zur Vormundschaft gelassen.” Practice evidences no proof of gender tutelage as was the case in Württemberg.

question was unable to administer their own affairs, regardless of gender. Thus, for instance, in 1771, when Sophia Krauss' estate was divided according to her will, after having dispensed all the legates, the scribe noted that

“...because the testatrix furthermore intended, that the universal heiress Anna Binderin be appointed a Curator in view of her sickly situation, so that her present inheritance possibly be maintained for her needs in old age, Michael Kopescher, a local wood turner, whose wife is a close relative [to Anna Binderin] will therefore be named as such.”⁸¹²

Leaving aside the instatement of a “universal heir”, untypical for Transylvanian Saxon law as espoused in the *Statuta*, the testamentary appointment of a curator for married women was undertaken only when it was regarded as beneficial, under special circumstances. Like Sophia Krauss, in 1792 Johann Georg Hambacher worried about his daughter's future, fearing that her share of the estate would be squandered by her husband. His daughter had been treated “in a disgusting way” by her spouse, and “risked being reduced to poor circumstances”, should her share of the inheritance fall to his hands. Hambacher therefore ordered that his son-in-law be blocked from disposing of this estate, and appointed the preacher Iacob Michaelis as tutor to his only daughter, and administrator of her inherited wealth. On the other hand, unmarried women could also remain in charge of their own estates, without the appointment of a tutor. In 1785, Susanna Giebel bequeathed to her daughter Regina 300 Rhenish gulden, as repayment for the sum her father had drawn from her share of the estate during a previous costly trial. Moreover, Regina Giebel was left to administer her inheritance and legacy without any outside interference, ‘because she was no squanderer, and knows very well how to govern her own things’.

It can be argued that the effects of these differences in the marital property regime and in the gendering of property disposal were visible in the different legal instruments chosen to bypass or deviate from intestate transmission. In Württemberg, marriage contracts were much more often employed than testaments, apart from first marriages, where presumably no instrument was deemed necessary: Sabean has noted the existence of some 3000 marriage inventories kept for the village of Neckarhausen between the mid-seventeenth and the late nineteenth century.⁸¹³ In Hermannstadt, although the precise number of testaments left by its

⁸¹² SJANS, *Magistrate - Registers*, Register of estate divisions no. 120 (1770, 6 August – 1772, 26 May), fol. 39r. : “und weil den Testatrix ferner auch vorgesehend, der Universal Erbin Anna Binderin, in Betracht Ihrer kränklichen Umstände ein Curator möge gesetzt werden, damit ihr diesfällige Erbfall zu ihrer Noth im Alter möglichstens möge beybehalten werden, so wirdt. H. Mich. Kopescher hiesiger Stein Drüchßler, als weßen Ehe Weib eine Nahe Anverwandtin ist, hierzu bestellet.”

⁸¹³ Sabean, *Property, Production, and Family*, p. 186, note 8.

inhabitants is not yet known, on the basis of the sampling described in chapter 10, it can safely be stated that testaments far outweighed marriage contracts at least tenfold. When an estate was inventoried also played an important part in the equation: as inventories were drawn up sometime after marriage in Württemberg, as per the provisions of the 1555 law code, the timing of particular arrangements as to each spouse's right in the event of the marriage's dissolution likely tied into this event;⁸¹⁴ in Hermannstadt and in the wider Transylvanian Saxon milieu, because the inventory of the estate was tied into death and burial rather than marriage, testaments represented a much more frequently chosen instrument.

The authors of the *Statuta* had endeavored to craft a system that would ensure equity in the distribution of resources to the entire kinship group out of Roman law and Transylvanian Saxon custom.⁸¹⁵ To this purpose, they had divided heirs into four main classes: descendants (children or grandchildren), followed by ascendants (parents or grandparents), collateral relatives (siblings, nieces and nephews) and finally the community itself.⁸¹⁶ Each category or class excluded all other categories of heirs: if children existed, then the estate reverted to them; if no children existed, but the decedent's parents were still living, then they were regarded as intestate heirs; if neither category existed, then the decedent's siblings were entitled to inherit. In each scenario, the marital estate was first divided between any potential surviving spouses and the abovementioned categories of kin. The community – represented by the town treasury – inherited “all the goods of those who passed away without heirs born in matrimony, without all kinds of blood relatives, and without a will” and would strive to put them to use for “the common good”.⁸¹⁷ A similar system, which divided categories of heirs into *parentelae*, would emerge towards the end of the eighteenth century in Austrian legal milieus. Despite superficial similarities to both the German customary intestate principles and to the Justinian law codes, the parentelic system would re-balance the rights of ascendants and collateral relatives according to slightly different principles.⁸¹⁸

The sale of immobile property was also strictly regulated. Should Transylvanian Saxon individuals wish to estrange any type of house, yard, vineyard, orchard, arable land, pasture or

⁸¹⁴ Sabeian, *Property, Production, and Family*, p. 192, note 22.

⁸¹⁵ Béla Szabó, “Rezeption”, p. 181.

⁸¹⁶ As per Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 211, the community was also the first creditor in cases of bankruptcy and the first to receive bequests when it had been remembered in individuals' wills.

⁸¹⁷ *Statuta*, II. Buch, 2 § 13.

⁸¹⁸ Christiane Wendehorst, “Intestate Succession in Austria”, in Kenneth G.C. Reid, Marius J. De Waal, Reinhard Zimmermann (eds.), *Comparative Succession Law. Vol II: Intestate Succession*, Oxford: Oxford University Press, 2015, p. 160 – 164.

pond, they would first be required to announce their intentions to their relatives and neighbors. Relatives who were entitled to inherit part of the property needed to be notified, even if they were living abroad.⁸¹⁹ If neither of these groups was interested in purchasing the property, then the would-be seller had to publicly advertise the transaction for three consecutive Sundays, either in the main square or in front of the parish church. This emphasized the “latent co-ownership” of immobile property: though it was not regarded as lineage property in the strong sense, blood relatives were seen as entitled to prevent its estrangement by any means possible.

The Transylvanian Saxon law balanced not only these rights between ascendants and collaterals, but was also dedicated to ensuring that equity between the two branches of the family – the two sets of kin – was maintained. Each relative would inherit in the particular “line” from which he or she hailed: for instance, a woman’s father was entitled to inherit from her third part of the estate (*Drittheil*), while a man’s siblings would inherit from his two-thirds (*Zweytheil*).⁸²⁰ This principle superficially resembled Hungarian custom, according to which any land brought by a woman into matrimony would, in the event she had perished without children, revert to her male relatives.⁸²¹ The successive authors of the Saxon code seemed to have followed both the principle of inheritance *per stirpem*, and that of “paterna paternis, materna maternis”. In the first case, the principle of inheritance along the kinship line (*Stammenweis*) appeared in the usual “truncated form”, stopping with the offspring of collateral relatives. The second principle, which had apparently appeared between the tenth and twelfth centuries as a corollary of feudalism, entailed in its stark form that “inherited property, if there were no descendants, or no descendants or ascendants, was to fall back to whichever family it had come from”⁸²² In the Transylvanian Saxon context, it rather referred to the ideal shares held by each individual in the communion of goods, and not to landed property, as it had originally been meant. Accordingly, “if the deceased was survived by siblings of half-blood from different marriages on the paternal side ...what had come to the deceased from the paternal side had to go to the half-brother on the paternal side.”⁸²³ As Schuler von Libloy explained in the *Rechtsgeschichte*, the principle of the *Stammweis* intestate succession provided that “from every estate, the next of kin from the father’s side always inherit the *bess* (the 2/3rd,

⁸¹⁹ *Statuta* III. Buch, 6. § 7.

⁸²⁰ *Statuta*, II. Buch, 2 § 8 – 2 §13.

⁸²¹ Rady, *Customary Law in Hungary*, p. 90.

⁸²² Kenneth G.C. Reid, Marius J. De Waal, Reinhard Zimmermann, “Intestate Succession in Historical and Comparative Perspective”, in Reid, De Waal, Zimmermann (eds.), *Comparative Succession Law, Vol. II*, p. 456.

⁸²³ Reid, De Waal, Zimmermann, “Intestate Succession”, p. 455.

or *Zweytheil*) and the next of kin from the mother's side inherit the *triens* (1/3rd or *Drittheil*).”

Parents were obliged to divide the estate with their offspring within one or two months of their spouse's passing, a timeframe that could be extended to two months for women, and three months for men, provided they were “respectable persons”. Those who did not proceed to the division of the estate within the allotted time could be fined with 25 Florin, originally a hefty sum.⁸²⁴ Women were however cautioned that prior to the division of the estate, they were not to estrange any of the goods.⁸²⁵ As has been noted, the *Vorgab* was paid out of the estate (*excontentiert*) prior to the division, but after debts were discharged. The inclusion of real property in the estate demonstrated the gendered and differentiated boundaries of parental authority: if two houses existed, then the father (widower) was entitled to choose the best one. If it exceeded the value of his *Zweytheil*, he needed to compensate his children in cash for their shares. The same applied if the property devolving upon children exceeded the value of their *Drittheil*. The father would retain ownership of the house, if only one such piece of real estate existed.⁸²⁶

Widowed mothers were entitled to retain one third of the extant house, as living space for their remaining years, but not as possession. If a widow remarried and had children with her second spouse, then the offspring from her first marriage were entitled to receive her share of the house, and needed to compensate their half-brothers and stepfather in cash.⁸²⁷ If a widower remarried, upon his passing his second wife was allowed to inhabit the house until death or remarriage. In the latter case she was to be compensated for the value of her share.⁸²⁸ Similar provisions could be encountered for instance in the *Kursächische Konstitutionen* of 1572, which specified that widows were to receive a third of the entire marital estate after their husbands' passing, when the couple had no children, or a quarter, when children (and therefore bodily heirs) were at hand. Moreover, the *Konstitutiones* were similar in their balance of freedom of disposition and *Pflichtteil*: in case a will was made, the legal (intestate) heirs were entitled to receive at least a third of the deceased's share of the estate.⁸²⁹ As far as the possession of land was concerned, regardless of its type (arable land, vineyards, pastures, ponds), children had first choice to the detriment of their mother. Arable land was to

⁸²⁴ *Statuta*, II. Buch, 4 § 2, 4 § 5. The fine did not change between the first edition of the *Statuta* in 1583, and the edition re-printed by Schuler von Libloy, dating from 1779.

⁸²⁵ *Statuta*, II. Buch, 4 § 5.

⁸²⁶ *Statuta*, II. Buch, 4 § 4.

⁸²⁷ *Statuta*, II. Buch, 4 § 7.

⁸²⁸ *Statuta*, II. Buch, 4 § 8

⁸²⁹ Gottschalk, *Eigentum, Geschlecht, Gerechtigkeit*, p. 37 – 38.

be divided into three parts, one of which went to the mother, and two to the children, who then received their shares *in capita*. A widower would receive two parts of the land of his choice, as head of the household.⁸³⁰

A single distinction was introduced between rural and urban succession: in the cities, the youngest heir was to inherit the house, while the land or real property would devolve upon his next eldest sibling. In markets and villages, the remaining land needed to be divided equally between all siblings, including the youngest heir.⁸³¹ Moreover, when siblings divided an estate between them, the youngest son was entitled to receive the house, or, in the absence of a male heir, the youngest daughter. If the youngest wished to renounce his claim on the house and be compensated in cash by his siblings, then the next brother would receive it. Sons were however always preferred to daughters in this respect.⁸³²

Moreover, during the inventory process, the offspring needed to acknowledge “gifts for weddings, clothing, studies or teaching”, which they had received prior to their parents’ deaths. These needed to be accounted for when calculating each individual’s share, so that the rights of other siblings who had not received as much would not incur damage. The *Statuta* is explicit in this respect, noting the compulsory character of this registration of gifts: otherwise, it would be as if the parents had made legates in a will to this purpose.⁸³³ However, expenses incurred by parents for studies abroad were excluded from this process of collation, seemingly in direct contradiction to the preceding article, but in fact a reflection of the context of codification.⁸³⁴ Because the peregrination process enabled the Transylvanian Saxon *natio* to contribute to the formation of an elite group of academically trained graduates of law or theology faculties, who could support its collective efforts to maintain the tenets of autonomy in the Diet, and who could capably run the urban affairs of its main centers on the Royal Lands. Thus, expenses for study abroad incurred by Transylvanian Saxons sons were a gift from both parents, and the nation. When no records existed concerning this issue, or other debts and claims, the burden of proof was laid upon the parties who felt they had been wronged.

⁸³⁰ *Statuta*, II. Buch, 4 § 6.

⁸³¹ *Statuta*, II. Buch, 4 § 9.

⁸³² *Statuta*, II. Buch, 4 § 11. This was a newer addition to the Saxon custom, following a statute passed by the Saxon University in 1524, according to which the youngest of all heirs has the right of choice for the paternal inheritance, and among the daughters, the youngest also has the same right. See Pakucs, “*zu urkundt in das Stadbuch*”, p. 331.

⁸³³ *Statuta*, II. Buch, 4 § 14.

⁸³⁴ Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 218; *Statuta*, II. Buch, 4 § 15: “Schickt aber der Vatter seinen erwachsenen Son in frembde land/ freyer kunst und studirens halben/ und stewret im zur Zehrung ein summa geld zu/ aus sonderlicher lieb wegen in und gutwilligkeit/ sie mag ihme auff sein gebürendes teil am erbfa/ nit geschlagen/ nach mit keiner billigkeit abgezogen werden.”

Children and those who were born to a couple whose union had not yet been officially proclaimed were then legitimized through the act of marriage, and held to be equal to bodily children sired within marriage.⁸³⁵ The same applied to the so-called *posthumi*, children who had been sired within a marriage but were not yet born by the time their father had passed away.⁸³⁶ Illegitimate children whose status had not been changed through marriage only inherited from their mother's line.⁸³⁷ Adoptive children's status was subject to Roman law only prior to the early nineteenth century, and the agreement of all other heirs was necessary to introduce an adoptive child among the *Erbnehmenden*. Prior to the codification of the *Statuta*, adoption and the contending rights of children from different marriages were regarded as a problematic process from the perspective of the Saxon University.⁸³⁸

In the event that no heirs existed, and depending on the provenance and legal status of the deceased individual, at least part of the estate fell to either the city or the state. Within the jurisdiction of the Royal Lands, there existed the so-called *ius detractus*: when someone from another jurisdiction inherited an estate from a decedent located in the Saxon territories, then the settlement of origin was entitled to receive the sixteenth part of the entire estate, "for the use of the public". According to a 1775 decision of the Saxon University, this inheritance tax began to apply only when the decedent's estate devolved outside the boundaries of the *fundus regius*.⁸³⁹ The estates of foreigners who passed on the Royal Lands went to the Royal Treasury, or the *Fiscus*.⁸⁴⁰

Moreover, the *Statuta* also contained detailed provision as to the legal institute of guardianship, or *Vormundschaft*, described at length in the third chapter of the Second Book. These provisions opened with the surviving spouse's obligation to have a written inventory of the estate drafted where "children of the body" were left behind.⁸⁴¹ Three types of guardianship were then delineated: the *legitima*, which involved the surviving parent or the next of kin; that instituted by testament "by a father"; finally, that which was the result of an official appointment, when neither kin existed nor a testamentary provision had been made in this sense.⁸⁴² According to the *Statuta*, women could not be appointed as guardians, unless they

⁸³⁵ Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 225; *Statuta*, II. Buch, 2 § 2.

⁸³⁶ *Statuta*, II. Buch, 2 § 3.

⁸³⁷ *Statuta*, II. Buch, 2 § 4.

⁸³⁸ Pakucs, "zu urkundt in das Stadtbuch", p. 111, document 146.

⁸³⁹ "Siebenbürgische Annalen unter der Kaiserin Königin Maria Theresia", in *Siebenbürgische Quartalschrift*, IV. Jahrgang, Erstes Quartal, 1795, p. 51-52.

⁸⁴⁰ "Siebenbürgische Annalen unter der Kaiserin Königin Maria Theresia", in *Siebenbürgische Quartalschrift*, IV. Jahrgang, Erstes Quartal, 1795, p.52.

⁸⁴¹ *Statuta*, II. Buch, 3 § 1.

⁸⁴² *Statuta*, II. Buch, 3 § 3.

were “esteemed matrons” – likely widows of some social standing in the community – or the orphans’ own mothers. Likewise, individuals who had not reached 25 years of age were prohibited from acting as guardians, as were those who were proven “squanderers” of their own estates.⁸⁴³ Guardians needed to keep a written and precise inventory of their wards’ estates, which needed to be presented regularly to the local authorities – i.e. the office of estate divisions –, and could not estrange any real estate from the orphans’ estates without the consent of higher authorities.⁸⁴⁴ Most provisions concerning this legal institute stemmed from Roman law, and had been partially adapted to fit the legal framework of Transylvanian Saxon custom. Some matters, such as the adoption of wards or the curatorship – as distinct from guardianship – were however left inexplicit, which suggests that the subsidiary law was employed in such issues.⁸⁴⁵

Property ownership – and thus being part of the citizenry and the *natio* – was also regarded as a prerequisite for those who were to be appointed as guardians. For instance, after the passing of master tailor Martin Mockesch in 1762, three minor children were left behind. The youngest daughter remained under the guardianship of her mother, as a “child of the body”. The two eldest were placed under the guardianship of their grandfather, Georg Mockesch, “in the absence of other propertied kin”. The items which they had been allotted as part of their shares were ceded to their grandfather, along with the advice that they be properly cared for.⁸⁴⁶

11. Testamentary law

As opposed to marriage and succession law, the normative foundation for making a last will and testament, described extensively in the fifth chapter of the second Book of the *Statuta* was purely Roman in character.⁸⁴⁷

According to the *Statuta*, all persons who were of age and in possession of their mental faculties could make a will at any time. Young men could draft their will starting with the age of 14, while young women could have their final dispositions drafted after reaching 12 years of age.⁸⁴⁸ As has been noted, this was the *aetas legitima*, as opposed to the *aetas maior*, of full

⁸⁴³ *Statuta*, II. Buch, 3 § 10.

⁸⁴⁴ *Statuta*, II. Buch, 3 § 11.

⁸⁴⁵ Szabó, “Rezeption”, p. 180.

⁸⁴⁶ SJANS, *Magistrate - Registers*, Register of estate divisions no. 288, Lower City, 1762-1765, p. 29: “Pro Tutore Martinus und Helenae wirdt in Mangel anderer Possessionierter Freünden, der Groß Vatterl. Georg Mockesch bestellet; welchem auch die Bonula dieser Kinder nebst bester Recomendation der Besorgung übergeben werden. Ana Catharina Tutrix aber ist und bleibt die Leibl. Mutter des Pupilles.”

⁸⁴⁷ Szabó, “Rezeption”, p. 181.

⁸⁴⁸ *Statuta*, II. Buch, 5 § 1.

coming of age. A young man was considered an adult, and fully legally empowered, after reaching 20 years or after entering marriage (for women).⁸⁴⁹ Between 12 and 20, young women who were not yet married were regarded as *in capillis*. The difference between these two categories of ages also reflects other issues, apart from legal empowerment: adolescents older than 12 or 14 could already enter into service and earn their own living, as evidenced by other sources. For instance, the mid- and late-eighteenth century ordinances on the institution of a clear pension system for widows and orphans of civil servants in imperial service spelled out that the *maior aetas* was 20 for women, and 22 for men. However, social class background counted as well: for orphans of lower-level civil servants (including auxiliary employees such as for instance doormen, servants proper, etc.) the age until they were supported by the pension system was lowered to 14 years for boys and 15 years for girls, after which they were regarded as apt to enter service and earn their own wages. Children of the nobility benefited from a longer time span of support, seeing as they could not be expected to work.⁸⁵⁰ Children old enough to work, but who had not yet reached the *aetas maior*, wielded a certain amount of control over their own affairs, but were nevertheless subject to official guardianship. This was for instance the case in 1782, when two orphans, one of whom was *in capillis*, were regarded as “able to take care of their things on their own”. The orphan unmarried daughter would remain in the care of her aunt “and work for herself, and maintain her own self, until a [possibility to enter] service will appear for her.” A guardian – a *Curator* rather than a *Tutor* – was appointed to help ensure the best of care for the female adolescent.⁸⁵¹

Excluded from making a will were individuals who presented various disabilities: the deaf and dumb, the “senseless” and other “frail persons”.⁸⁵² This provision entirely mirrored Roman law as expressed in Justinian’s *Corpus Iuris Civilis*, and more precisely in the *Institutes*.⁸⁵³ The *Institutes* also explicitly noted that a will could be valid even if the testator had lost mental

⁸⁴⁹ Szabó, “Rezeption”, p. 179.

⁸⁵⁰ Wunder, “Die Institutionalisierung der Invaliden-, Alters- und Hinterbliebenenversorgung”, p. 383-384.

⁸⁵¹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 129, Upper City, 1778-1782, p. 394: “Beyde Erbnehmende könne ihre Sachen selbst besorgen, und Catharina (in Capillis) wird bey ihrer Mutter Schwester Catharina Thomae ihr bleiben haben, vor sich arbeiten, und aus eigenen sich erhalten, biß sich ein Dienst vor sie ergeben wird. Hl. Johann Burgberger Maurermeister wird ab officio pro Curatore bestellt, besonders auf das Mägdten besten sorgen zu helfen.”

⁸⁵² *Statuta*, II. Buch, 5 § 5: “Stumme/Daube/ Sinnlose unnd andere gebrechliche Menschen/ so nicht vollige vernufft haben/ oder Krankheit wegen irre und im Sinn verruckt sein/ auch die unmanbare / können kein erbgemäch nit auffrichten noch machen.”

⁸⁵³ Szabó, “Rezeption”, p. 179; I have used one of the nineteenth-century editions of the Justinian corpus of laws, namely *Corpus Iuris Civilis. Ad fidem codicum manuscriptorum aliorumque subsidiorum criticorum recensuit, commentario perpetuo instruxit, Eduardus Schrader ictus*, Tomus Primus, *Institutionum Libri IV*, Berolini, Apud Georgium Reimerum, 1832, Titulus Duodecimus (Chapter Twelve), “Quibus non set permissum testamenta facere”, § 1, p. 306-308, hereafter abbreviated as *Institutiones*, Libri IV.

capacities after it had been drafted; moreover, according to Roman law, those who were prohibited from administering their own estates owing to irresponsible management were likewise barred from making wills. A distinction that did not seem to have passed into Transylvanian Saxon law was the prohibition of blind individuals from making a will.⁸⁵⁴ Szabó also notes that according to the Latin edition of the *Statuta*, women “had no capacity to testate”, and “could not become guardians”, which was regarded as being in agreement with Roman law, citing several paragraphs.⁸⁵⁵ While women in the Transylvanian Saxon legal milieu indeed could not serve as witnesses to testaments, their *Testierfähigkeit* as well as their ability to exert the role of *tutrix naturalis* to their own children were by no means restricted.

Several forms of wills existed within the Transylvanian Saxon milieu, not all of which were formally or explicitly acknowledged in the *Statuta*. In this respect, the subsidiarity of Roman law was evident, as gaps in the municipal legislation as to the form of wills were supplanted by reference to Justinian codes when necessary. The formalities of Roman law wills as it had been received and adapted in the early modern *ius commune*, within which the *Statuta* can be well ascribed, distinguished between two basic forms of wills: private and public. From a legal perspective, private wills could be either oral (nuncupative) or written. Public wills were those made before a judge or a public figure vested with authority.⁸⁵⁶ What is more, a clear distinction was made within Roman law between testaments proper, through an heir was instituted, and a lesser form of bequeathing under the heading of “codicils”. Because early modern testation had changed in scope considerably compared to its Roman origins, the distinction between the two forms – full testaments and codicils, or lesser wills – was gradually moderated.⁸⁵⁷ Early modern wills, among which those left by eighteenth-century testators in Hermannstadt can surely be counted, were more akin to modern wills than to their Roman counterparts from the perspective of formalities. The observance of formalities served other purposes in the early modern milieu, as opposed to the Roman context: while in the early modern contexts, the formalities of a will (a required number of witnesses, a special procedure as to the place and circumstances of testation, etc.) worked to ensure that the intention of a testator was reproduced as well as possible and the interests of intestate heirs were preserved, in the Roman context these same

⁸⁵⁴ *Institutiones*, Libri IV, Titulus 12, § 2-4.

⁸⁵⁵ Szabó, “Rezeption”, p. 179, note 64, 65: “Bedeutend ist für die Handelsfähigkeit der Status der Frauen, daß sie keine Testierfähigkeit haben und auch nicht Vormund werden können, so wie es das römische Recht auch bestimmt. Das hatte aber das sächsische Gewohnheitsrecht den „Weibern“ auch vorenthalten.”

⁸⁵⁶ Nils Jansen, “Testamentary Formalities in Early Modern Europe”, in Kenneth G. C. Reid, Marius J De Waal, Reinhard Zimmermann, *Comparative Succession Law, Vol. I: Testamentary Formalities*, Oxford: Oxford University Press, 2011, p. 28, 38.

⁸⁵⁷ Jansen, “Testamentary Formalities in Early Modern Europe”, p. 34-35.

formalities had been part of a ritual, constitutive of the act of testation itself.⁸⁵⁸ Further complicating this image was the introduction of canon-law or Church wills, which further eased the requirements for the number of witnesses and the circumstances of testation, as they were to be used exclusively for making legacies in favour of the Church. Owing to their lessening of these requirements, they were also partially but inexplicitly assimilated to codicils.⁸⁵⁹

According to the *Statuta*, those who intended to make a will had two main possibilities to achieve this goal: either they could write it themselves, and summon two or three “credible male persons” to attest to its authenticity or, as the majority of testators did, solicit the presence of these “honourable men” when the document was being written down.⁸⁶⁰ A formally “unobjectionable” will needed to ensure that the testators’ wishes were recorded precisely as they had been intended, and that they were not made public before it due time, as this could give rise to “hate and envy” within the family. Therefore, the witnesses called upon by the testator – if they had not committed his wishes to paper themselves – needed to be made aware of the will’s provisions, and “write their baptism and surnames and seal it with their seals, and record the year, day, and place, and the name of the testator.”⁸⁶¹

The Roman background of the role played by witnesses and the conditions imposed on their selection was still visible in the *Statuta*. Witnesses did not need to safeguard the testator’s last wishes, in the sense of ensuring their fulfilment, but simply to make certain that what the testator had presented as his will was the same document that was opened and read out after his passing. Literacy was however not a prerequisite, as this guarantee took the physical form of the witnesses’ seals placed upon the document.⁸⁶² The *Statuta* explicitly mentioned that the act of sealing the document would ‘not bring them in any danger, disadvantage, or damage.’⁸⁶³ Witnesses could not be under the parental authority of the testator, nor could one of the testators’ heirs or relatives serve in this capacity.⁸⁶⁴ Nevertheless, beneficiaries of legates or bequests (*legata* or *bescheidenen Gütern*) were allowed to witness to a testator’s wishes.⁸⁶⁵ The minimum number of witnesses stemmed most likely from canon law, supporting the hypothesis that the development of wills for the benefit of the church predated and served as models for lay wills in the German-speaking areas. At least two witnesses were absolutely necessary.

⁸⁵⁸ Jansen, “Testamentary Formalities in Early Modern Europe”, p. 36.

⁸⁵⁹ Jansen, “Testamentary Formalities in Early Modern Europe”, p. 35-36.

⁸⁶⁰ *Statuta*, II. Buch, 5 § 4.

⁸⁶¹ *Statuta*, II. Buch, 5 § 17.

⁸⁶² Thomas Rübner, “Testamentary Formalities in Roman Law”, in Reid, De Waal, Zimmermann (eds.), *Comparative Succession Law, Vol. I*, p. 8.

⁸⁶³ *Statuta*, II Buch., 5 § 17.

⁸⁶⁴ *Statuta*, II Buch., 5 § 5. See Rübner, “Testamentary Formalities”, p. 8, 20.

⁸⁶⁵ *Statuta*, II. Buch, 5 § 6 (1583 edition, art. 8 in 1721 edition). See Rübner, “Testamentary Formalities”, p. 20.

Except in times of great troubles when the plague was raging or wars were ravaging the Saxon lands, women could not act as witnesses.⁸⁶⁶

Initially, the presence of a great number of witnesses when a testator declared their final wishes had been an integral part of a “formal ritual... that brought about the legal effect of the will’. Then, with the advent of canon law wills, the witnesses fulfilled a different role, namely to act as living “evidence” of a testator’s intentions.⁸⁶⁷ This understanding underscored the culture of will-making throughout early modern Europe and well into the eighteenth century.

The models of the formally-deficient wills meant for recording pious bequests were then gradually transferred upon an increasingly varied process of will-making, which did not only aim to satisfy religious beliefs. For most of early modernity, and in most European territories, formally-deficient wills – unsigned by testators, with imprecise dating or locations, written without carefully-selected provisions – would continue to spread and increase the difficulties of the process of property devolution.⁸⁶⁸ This was also the case for eighteenth-century Hermannstadt, where various forms of wills coexisted over the course of the eighteenth century. It was only during the 1780s and 1790s that a more standardized form – in the sense of the formalities observed therein – became common.

Likely the most significant issue in the *Statuta*’s treatment of will-making was its omission of the fundamental reason for testation, namely the institution of an heir (*Erbeinsetzung*). This was of significant consequence for the understanding and practice of will-making, certainly contributing to increased insecurity and legal uncertainty.

At the same time, testators owed their freedom to circumvent the path of intestate succession to the comprehensive reception of Roman law in the Saxon legal milieu from which the *Statuta* had emerged. Testamentary freedom, a principle of classical Roman origins, had for centuries been a thorn in the side of German customary law. One of the hallmarks of Roman testamentary freedom was the right to disinherit heirs, which stemmed from the almost unchecked authority of the *pater familias*. This notion had pervaded German municipal legislation during the late middle ages to varying degrees, signaling the still modest reception of Roman law in conjunction with the codification of German custom. The right to “act as

⁸⁶⁶ *Statuta*, II. Buch., 5 § 6.

⁸⁶⁷ Rűfner, “Testamentary Formalities”, p. 32.

⁸⁶⁸ This was an issue noted by English authorities towards the end of the seventeenth century. Lloyd Bonfield’s main contention in *Devising, Dying, and Dispute* is that it indirectly contributed to the passing of the Statute of Frauds, the enforcement of which led to the predominance of formally-rigorous final dispositions.

master” of one’s property was balanced by the existence of the *Pflichttheilsrecht*, the German customary equivalent of the Roman *legitima*, the share of the decedent’s estate that automatically and inalienably fell to one’s heirs after death. According to the Saxon custom, an individual, regardless of gender, could freely dispose of a third (*Drittheil*) of their estate, the remaining two thirds (*Zweytheil*) constituting the so-called *Pflichttheil* or legitimate share that would automatically be passed on to the next of kin.⁸⁶⁹

Where the Transylvanian Saxon code deviated from Roman law in regards to testamentary provisions was the institution of the heir: the main rationale behind Roman wills was the *Erbeinsetzung*, which the *Statuta* lacked. In Transylvanian Saxon legal understanding, there was no unity of person between testator and heirs, as had been present in Roman law, and the testator could not – according to law - appoint a universal heir to the entire estate. This was another of the strands which tied Saxon law to medieval municipal German legislation.⁸⁷⁰ Indeed, the appointment of a universal heir – for instance one’s spouse – contravened the legal self-perception of the Saxon testator’s relatives. The authorities supervising the devolution of estates were less clear on how to react to such dispositions.

Complementary to the principle of testamentary freedom was that of *favor testamenti*, according to which the authorities needed to give priority to the testament as an expression of the testator’s intentions, in case doubts were raised concerning the clarity of its provisions. This did not however apply to the children’s legitimate shares, which had to be provided for.⁸⁷¹ This notion also originated in Roman law.⁸⁷² Moreover, individuals were free to rewrite the scripts they had previously fashioned, as the law acknowledged that “a man’s will is changeable”.⁸⁷³ Given the lack of the *Erbeinsetzung*, the boundary between testaments and codicils was in practice removed, further blurring the already complex boundaries of formalities, and creating a legally-precarious will-making culture.

This precariousness had been a constant of Roman law itself, even before Justinian’s reforms, which had offered some pathways for “undutifully” disinherited heirs to countermand the provisions of wills. It had originated in the essential opposition between, on the one hand,

⁸⁶⁹ *Statuta*, II. Buch, 5 §9.

⁸⁷⁰ Schuler von Libloy, *Siebenbürgische Rechtsgeschichte*, p. 245.

⁸⁷¹ *Statuta*, II. Buch, 5 § 15.

⁸⁷² Szábo, “Die Rezeption des Römischen Rechts”, p. 182, argues that the introduction of this principle, in conjunction with testamentary freedom and the intestate system had placed the Saxon civil legislation ,several centuries ahead of the Transylvanian and the royal Hungarian inheritance law’.

⁸⁷³ *Statuta*, II. Buch, 5 § 4: “Denn es mag und kan ein ieder darbey leben, und so lang er bey guter Vernunft ist, sein gethan Testament ändern, mandeln, oder auch gar darvon abstehen und es auffheben, sintenmahl des Menschen Wille wandelbahr ist bis gar an seines Lebens-Ende und niemand ihm selbst solch Gesetz setzen mag, noch also binden, daß er davon nicht solte mögen abstehen noch weichen können.”

the rights of the relatives who had a so-called ‘latent co-ownership’ of the testator’s property, making them ‘compulsory heirs’, and on the other hand, the individual’s possibility to name as heir ‘whomever he wanted’.⁸⁷⁴ Justinian’s reforms had given a stronger claim to the testator’s closest relatives, who began to be regarded as potential heirs themselves, and not just beneficiaries of a “part of the value of the estate”. They could not be overlooked in a will without just cause, regardless if they were ascendants or descendants. The possible reasons for their disinheritance – which needed to be made explicit – were clearly defined, and were subject to the burden of proof by the heir who had been instated in the will.⁸⁷⁵ Measures were also taken to improve the situation of widows, who were entitled to receive a share of the estate, if no other financial arrangements had been made prior to the husband’s death.⁸⁷⁶ The subsequent developments of Justinian law further empowered relatives to legally challenge the will if they had not received their minimum shares in correlation with their intestate allotments.

The other source of the *Statuta*, medieval German customary law, was not without issues itself: prior to codification, the partible inheritance practiced in certain territories meant that ‘the devolution of property was as often decided by emotions and sibling jealousies as it was by legal precepts.’⁸⁷⁷ Even after undergoing codification, the custom present in late medieval German municipal codes wavered between several extremes: full testamentary freedom (Köln); the compulsory heirship of a share of the decedent’s real estate (Zwickau); the right to only dispose of one’s ‘self-earned goods’ and not of lineage property (Lübeck).⁸⁷⁸ According to Schuler von Libloy, “the familial and communitarian organization and the social character of property made it impossible to completely and freely dispose of landed property or of specifically inherited goods”. Therefore,

“such final dispositions must have been quite rare, as they contradicted the living idea present in the popular consciousness, whereby the natural (lawful) succession was the only to correspond both to the moral and juridical entitlement of kin, and to the order of all corporate living conditions.”⁸⁷⁹

⁸⁷⁴ Reinhard Zimmermann, “Compulsory Heirship in Roman Law”, in Kenneth Reid and Marius de Waal, *Exploring the Law of Succession: Studies National, Historical and Comparative*, Edinburgh: Edinburgh University Press, 2007, p. 30 – 31. On compulsory heirship, see p. 31-32, 37.

⁸⁷⁵ Zimmermann, “Compulsory Heirship”, p. 42 – 43.

⁸⁷⁶ Zimmermann, “Compulsory Heirship”, p. 45 – 46.

⁸⁷⁷ Erica Bastress-Dukehard, “Negotiating for Agnes’ Womb”, in Matthew P. Romaniello, Charles Lipp (eds.), *Contested Spaces of Nobility in Early Modern Europe*, Farnham: Ashgate, 2011, p. 58.

⁸⁷⁸ Peter Landau, “Die Testierfreiheit in der Geschichte des Deutschen Rechts im späten Mittelalter und in der frühen Neuzeit”, in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Germanistische Abteilung*, Vol. 114, Issue 1, 1997, p. 61 – 63, 69.

⁸⁷⁹ Schuler von Libloy, *Siebenbürgische Rechtsgeschichte*, vol. II, p. 244. The original passage is as follows: “Es mußten daher solche letztwillige Verfügungen über das Vermögen um so seltner sein, als sie auch der im Volksbewußtsein lebenden Rechtsidee widerstritten, wornach nemlich von der natürlichen (gesetzlichen)

Schuler von Libloy seemed to regard the wholesale adoption of Roman rules in matters of testamentary disposition as unfortunate, though he conceded that the Saxon legislative power had at the time believed it to be an appropriate way of ‘accelerating the completion and application of this specifically German legal institute’. The “national customs” had however remained a forceful counterbalance and continually in usage.⁸⁸⁰

In practice, the prospect that testamentary dispositions in general were regarded with skepticism was most likely a post-hoc learned interpretation of the mix between Roman law and Saxon custom. Schuler von Libloy’s assertions should be foremost read in the context of the political struggles of the late nineteenth century: the edition of the *Rechtsgeschichte* used here was published one year after the signing of the *Ausgleich*, the document that had irrevocably tipped the precarious balance between Saxons and Hungarians in the Austrian state in the latter’s favor. Saxon historical legal scholarship during the nineteenth century was not unique in emphasizing the customary and German character of the Saxon laws as a factor of resilience for national identity. A parallel process of re-definition was occurring in Hungarian scholarship, where the *Tripartitum* was increasingly praised as a “the embodiment of the national character”.⁸⁸¹

12. The office of estate division

The institutional framework underlying the devolution of property on the Saxon lands predated the codification of custom, and became increasingly differentiated with time. Prior to the establishment of the Transylvanian Saxon version of the probate court, literally the “office of estate divisions”, the Small Council handled the issue of estate devolutions, testaments, and other tangent matters collectively. Between 1522 and 1565 the first *Stadtbuch* of Hermannstadt recorded various mentions of estate division, will-making, and inheritance trials, which suggests that these issues fell under the supervision of the *Bürgermeister* and the Small Council. As the final version of the *Statuta* was undergoing revision in the 1570, the Small Council saw it fit to imitate the example of nearby Kronstadt and establish a separate *Teilamt*, in order to relieve themselves of the onerous tasks related to the supervision of inheritance

Erbfolge angenommen wurde, daß sie allein ebensowohl der sittlichen und juristischen Nächstberechtigung der Anverwandten, als auch der Ordnung aller genossenschaftlicher Lebensverhältnisse entspreche.”

⁸⁸⁰ Schuler von Libloy, *Siebenbürgische Rechtsgeschichte*, vol. II, p. 244 – 245.

⁸⁸¹ Katalin Gönczi, “Werböczy’s Reception in Hungarian Legal Culture”, in Martyn Rady (ed.), *Custom and Law in Central Europe*, Centre for European Legal Studies, Occasional Paper No. 6 Faculty of Law, University of Cambridge, pp. 87 – 100, here p. 97.

proceedings. The *Teilamt*, or division office, was charged with overseeing the division of estates and gained currency in the great majority of Saxon cities during the sixteenth century.⁸⁸² It was mentioned for the first time in 1567 in Kronstadt, and had already appeared as a distinct branch of the Small Council in Hermannstadt in 1573.⁸⁸³ The evolution of the urban landscape was reflected in the subsequent split of the office into two departments: one for the upper or main part of the city, and one for the lower part (*Pars Superior, Pars Inferior*). This process of separation was attested to by the existence of distinct registers of division (*Teilungsbücher* or *Teilungsprotocolle*) for each of these urban spaces, beginning with 1670. A third *Teilamt* appeared in 1739 for the Saxon seat of Hermannstadt, as a result of the requests lodged by the court officials (*Stuhlsgericht* or *Judicat*) in charge of overseeing petty civil complaints, who could no longer handle the high inflow of petitions and ensuing trials regarding inheritance from the seat's inhabitants.

Within the seat of Hermannstadt, the nearby villages of Heltau and Stolzenburg also received their own such institutions prior to the nineteenth century. Still, these village offices were subordinate to their central-level counterpart (the *Stuhlteilamt*), where the protocols of estate divisions were to be submitted at the end of each year, and where unsatisfied heirs could appeal the decisions of their local officials.⁸⁸⁴ Each of the two urban offices of division comprised three positions: two *Theilherren* or *divisores*, accompanied by one *Theilschreiber*, who acted as secretary.⁸⁸⁵

The urban and rural probate courts on the Royal Lands were supplemented by separate ecclesiastical courts, which handled the transmission of estates which had belonged to members of the Lutheran clergy or their direct heirs. Thus, Lutheran pastors did not have their estates inventoried nor their testaments probated in the secular courts pertaining to the settlements they inhabited. This separate ecclesiastical jurisdiction only applied until the late eighteenth century, after which it was merged into its secular counterpart.⁸⁸⁶ For Hermannstadt, estate divisions for

⁸⁸² The institution of the *Teilamt* in early modern Transylvania has recently attracted the interest of Romanian and Hungarian historians. Enikő Rűsz-Fogarasi has written for instance on the *Theilherren* as instruments of social disciplining, in “Judele divisional – factor al disciplinării sociale?”, in Toader Nicoară (ed.), *Disciplinarea socială și modernitatea în societatea modernă și contemporană (sec. XVI – XXI)*, Cluj-Napoca: Accent, 2011, p.32 – 412. Other more comprehensive studies are those by Kóvacs Kiss Gyöngy and Kiss András.

⁸⁸³ Georg Eduard Müller, *Stühle und Distrikte als Unterteilungen der Siebenbürgisch-Deutschen Nationsuniversität 1141 – 1867; verfassungsrechtliche Forschungen*, Krafft und Drotleff: Hermannstadt, 1941, p. 277 – 278.

⁸⁸⁴ Müller, *Stühle und Distrikte*, p. 278 – 279.

⁸⁸⁵ In the village setting, an inhabitant who was sworn in, along with one of the village elders and a notary were responsible for conducting the estate inventory and partitioning it under the supervision of the *Pupillen-Inspektor*.

⁸⁸⁶ Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 232-233, note 1. It is unclear whether the *Reskript* of June 6th 1785 or another, later imperial edict from 1798 had led to the merging of these jurisdictions.

members of the clergy were handled by the Evangelical Chapter House of the ecclesiastical province of Hermannstadt, which kept separate registers at least since 1685.⁸⁸⁷ The Habsburg military also had its own probate court over the course of the eighteenth century, an institution which undoubtedly gained in definition with the establishment of the Border Regiments in Orlat, Năsăud, and the Szekler area.⁸⁸⁸ The separate jurisdiction was supplemented in this case entirely different record-keeping practices, which followed the pathway of orphans' estates in the militarized villages, ensuring their continued care over time. Retired soldiers' and other military officials' estates were however present in the urban records as well, owing to their exit from the special jurisdiction for military estate devolution. These distinctions increased in clarity only in the early nineteenth century, as part of a general reform of administration.

In the urban milieu of Hermannstadt, since the mid- seventeenth century and in the interest of institutional balance, one main office was held by a member of the Small Council, while the other by a member of the Great Council. The most prestigious position was that of the *divisor primus*: the individual occupying it was one of the city's *Oberbeamten*, the highest level of city leadership. The position of *divisor secundus* – in charge of overseeing the divisions in the lower part of the city – was considered an *officiola senatorialia*, a “smaller”, somewhat less prestigious office, which ‘brought some work with it, but also income’. For this second kind of position, “members of the magistrate who were no longer fit to work” were also taken into consideration. In practice, the twelve senators of the Small Council would succeed each other in the variety of extant offices and *officiola*, most often occupying more than one at a time.⁸⁸⁹ This constant to and fro between administrative responsibilities also meant that each member of the Small Council would have had the opportunity to become familiar with almost every aspect of the city's functioning. This back and forth in civil service reveals to what extent legal knowledge and administrative experience were disseminated among those who supervised the inventory of estates and the transition of property. It also conveys the extent of the practice of simultaneous office holding, which necessarily downplayed the positive effects of this experience and knowledge in the day-to-day running of administrative matters. An individual who simultaneously occupied three or even more such positions could not have dedicated

⁸⁸⁷ SJANS, *Capitulul Evanghelic C.A. Sibiu (1206-1923)* [*Evangelical Chapterhouse of Augustan Confession in Sibiu (1206-1923)*], no. 11, Section 2 – *Acte și registre fără instrumente contemporane de evidență*, Sub-section 1 - *Registre*, Register no. 48, *Capit. Cibin. Protocoll. Divis. De annis 1685-1713*.

⁸⁸⁸ Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 232-233, note 1.

⁸⁸⁹ Herbert, “Der innere und äussere Rath Hermannstadts”, p. 395 – 400.

significant time to any of them, and would have most likely delegated less pressing issues to his adjunct and to the *Theilschreiber*.⁸⁹⁰

The professionalization of the urban administration was a slow and fragmentary process everywhere in Transylvania, and in most of Hungary. In 1723, the provincial legislative assembly ordered the town council of Szatmárnémeti, located in the Eastern part of Hungary and the centre of the county of Szatmár, to include at least two senators who disposed of juridical knowledge. On the basis of eighteenth-century sources stemming from the urban administration, it has been argued that ‘at the beginning of the century, deficient reading and writing abilities were no reason to exclude individuals from occupying positions on the town’s small council’. Other urban councils from Transylvanian or Hungarian cities would allow the entry of illiterate members up until the mid-eighteenth century. Formally, this situation would only come to an end in 1755, when a royal decree prohibited the accession to the office of senator in urban milieus to those who had not received an education or mastered the ‘local laws.’⁸⁹¹

The office of first divisor for the upper part of the city was a highly prestigious position, as evidenced by the increasing interest paid to it by the members of the Saxon nobility. Its position in the administrative hierarchy also attested to this: it usually came as penultimate step before reaching the office of high constable. Occupying the position did not however imply extensive formally-obtained legal knowledge, even in the eighteenth century, but rather experience in the urban civil service.⁸⁹²

Hermannstadt could boast a somewhat more professionalized corps of civil servants, due to the city’s position in the administrative hierarchy of the province. During the latter half of the eighteenth century, many of the senators on the small council had previously worked at the Transylvanian chancery in Vienna, and had amassed considerable knowledge in the practice of law and administration. How well this prepared them for the day-to-day dealings of the *Teilamt*

⁸⁹⁰ Herbert, in “Der innere und äussere Rath Hermannstadts”, p. 394-399, also provides a tabellary *schematismus* of the major offices and officiola occupied by the members of the Small Council between 1711 and 1740. He also centralizes information regarding the families and careers of these upper-level civil servants in a final appendix, at p. 443 – 485.

⁸⁹¹ András Vári, Judit Pál, Stefan Brakensiek, *Herrschaft an der Grenze. Mikrogeschichte der Macht im östlichen Ungarn im 18. Jahrhundert*, Köln u.a: Böhlau, 2014, p. 158 – 160.

⁸⁹² Rüz –Fogarasi argues that the Theilherren were ‘persons who knew well the urban laws and statutes.’ (p. 37). Simple knowledge of the statutes and laws was insufficient to deal with the increasingly complex, non-custom-based strategies designed by testators towards the late eighteenth century. A complete prosopography of the urban administration in Sibiu for the entirety of the early modern period will be necessary both to dispel the preconceptions of historiography regarding the rigor of the implementation of Saxon laws, and to reveal the specificities of the process of professionalization. Kovács Kiss, in *Rendtartás és kultúra*, argues much the same, on the basis of seventeenth-century records from Cluj.

is another matter altogether. The *Teilhaerren* were charged with overseeing each instance of property devolution that resulted in the division of estates, wherein minors were involved.⁸⁹³

Over time, the supervision of guardianship accounts began to take over much of the *Teilhaerren*'s time, especially since cases became exceedingly complex, and the limits of the guardian's power of administration and estrangement of a pupil's property were not entirely and clearly defined. To ensure that no improprieties emerged in this matter, in 1721 the Small Council ordered that "all of the guardianships in the city be revised in the most precise way by the entire *Teilamt*, then be conscribed and arranged to the best advantage of the wards". Moreover, other local authorities were involved in this extensive process of revision, as all leaders of neighborhoods (*Nachbarhannen*) were entreated to insist by those in their midst who acted as guardians to bring their accounts in order and to avoid all possible prejudices to their pupils' estates.⁸⁹⁴ In the same year, the Small Council also ordered that, every two years, at the time when the city's accounts were submitted, the probate officials should also present their protocols in a "clean, correct, and bound version" to the city's archive for safe keeping. The *Teilamt* would also receive the power to hear witnesses under oath, and was tasked with overseeing non-litigious cases.⁸⁹⁵

In practice, sometime during the course of the latter half of the eighteenth century, they had begun to act as the first instance (*forum primae Instantiae*) when disputes occurred in property division the urban milieu. They were to submit quarterly reports of the trials they handled to the Magistrate and the lord lieutenant, and explicitly mention why a decision hadn't been reached for those disputes that had been unduly prolonged.⁸⁹⁶ The *Regulativpunkte* concerning the administration of the Transylvanian Saxon lands passed between 1795 and 1805, reflected the consistent process of professionalization that the institution had undergone: at this time, the *Teilämter* in the cities comprised each two assessors and one actuary.⁸⁹⁷ The position of actuary – in effect, a specialized legal clerk handling financial issues- was also present in smaller-scale settlements, such as Neckarhausen, but only from the late 1820s.⁸⁹⁸ These office holders were cautioned to act "impartially" and, in cases where minors were involved, to only proceed to the inventory of the estate in the presence of their next of kin. Any testaments that would be found needed to be opened only in the presence of the heirs, and copies of such documents were to

⁸⁹³ Schuler von Libloy, *Rechtsgeschichte*, p. 224.

⁸⁹⁴ Herbert, "Die Rechtspflege", p. 51, 55.

⁸⁹⁵ Herbert, "Die Rechtspflege", p. 49.

⁸⁹⁶ Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 234.

⁸⁹⁷ *Regulativpunkte von 1805*, cited in Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 231..

⁸⁹⁸ According to Sabeau, *Property, Production, and Family*, p.74, the actuary "was concerned with revising the mortgage volumes and keeping the increasingly complex financial records of the village".

be provided to each concerned party at their request. In a direct collaboration with the city administration, each priest needed to submit to the office of division a monthly list of those in their parish who had passed away, so that the institution might achieve a clear overview of future divisions.⁸⁹⁹

13. Changes during the eighteenth century

Clear-cut infringements or outright conflictual situations were not however the only facet of legal pluralism, even during the eighteenth century. In most situations, the legal ecosystem operated harmoniously, drawing from various sources. In criminal matters, Transylvanian Saxon judges availed themselves of various legal works such as Benedict Carpzov's widely-circulated *Practica nova imperialis*, or sought out the legal opinion of the law faculties of Leipzig and Vienna in especially contentious cases.⁹⁰⁰ Within the well-circumscribed field of inheritance or testamentary proceedings, the *Statuta* were enforced as *Stadtrecht* within the boundaries of Hermannstadt, and as *Landrecht* within the entirety of the Royal Lands.⁹⁰¹ In both cases, their prevalence over the wider-ranging compilations of provincial legislation emanating from noble, non-Saxon sources was indisputable, a fact evidenced for instance by the extensive property division dispute discussed at the beginning of the present work, where the entire trial was conducted according to the norms of the *Statuta*. Given how profoundly the *Statuta* had integrated Roman law and harmonised it to extant custom in matters of family and property, it is not entirely clear that the *Stadtrecht* also "prevailed over the *ius commune*", as was the case for other European milieus at the time.⁹⁰² Various other authors as well as other legal opinions would begin to make themselves increasingly felt towards the late eighteenth century in this milieu as well, owing to a rise in legally-trained individuals, who often employed sophisticated arguments in the defence of their clients' inheritance rights. What is more, even the clear-cut jurisdictional layering which provided the *Statuta* with its precedence within Hermannstadt and throughout the Royal Lands was more fragmented in practice, a trait which increased in intensity during the eighteenth century. Jurisdictional centralism gave way to

⁸⁹⁹ *Regulativpunkte von 1805*, cited in Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 233.

⁹⁰⁰ Rady, *Customary Law*, p. 155-156; Legal opinion was sought on a witchcraft trial in Hermannstadt conducted in 1719-1720, following which the two accused women were acquitted for lack of evidence of wrongdoing. An extensive account of the trial including a transcription of its proceedings was provided by Heinrich Herbert, "Rechtspflege", p. 118-147.

⁹⁰¹ As Moldt, *Deutsche Stadtrechte*, aptly describes the situation, the *Statuta* were "Stadt- und Landrecht in einem", p. 51.

⁹⁰² Padoa-Schioppa, *A History of Law*, p. 369-376.

pluralism even within the city itself in matters of inheritance proceedings, a pluralism that stemmed from one's social or professional condition rather than one's legal category. This tendency was also compounded by the increasingly intent gaze directed by the Habsburg authorities during the Josephinian decade towards the tie between the Transylvanian Saxon legal community, its collective ownership of the Royal Lands, and the consequences of this relationship on the devolution of real property within the broader framework of cameral and mercantilist policy.

The resilience of the *Eigenlandrecht* as legal source for the devolution of property between 1583 and the adoption of the Austrian Civil Law Code in 1853 was a point of pride for nineteenth-century legal Saxon scholarship. The reform projects emanating from Vienna in the latter half of the eighteenth century had not directly affected the law of intestate succession or the will-making process. The monarchy preferred to act indirectly, bypassing the issue of inheritance, and attempted to modify property and ownership rights.⁹⁰³ These partially short-lived decrees were pieces of a larger project, which aimed to “make Transylvanians out of all members of the *nations*”.⁹⁰⁴ This endeavor itself overlapped with the codification of civil and penal law in the monarchy proper, beginning after 1780, and proceeded from similar considerations: a unitary legislation would ensure that all subjects were treated equally by the state, and that the unequal social structures still persisting in the monarchy's provinces would undergo a propitious levelling.⁹⁰⁵

The position of Austrian jurists vis-à-vis the ingression of the state into its subjects' rights of ownership was not however unequivocal: for instance, the commission charged with drafting the new civil law code devoted lengthy discussions to the question of the *fideicommissum*, and whether this instrument did not go against the purposes of the reform.⁹⁰⁶ A *fideicommissum* constituted a type of trust, through which a property owner “explicitly nominated the pattern of succession over generations and limited his successors from alienating the property.” According to Lloyd Bonfield, “it achieved a similar goal as did Germanic

⁹⁰³ It should however be noted that such attempts to break the Saxon monopoly on real property on the *fundus regius* predated the Habsburgs' reforms. During the course of the seventeenth century, the estate of the Hungarian nobility led a concerted campaign against the Saxons' privileges, without lasting results. The pretenses of the Hungarian nobility were finally put an end to in 1693, when the estates reached a quasi-friendly agreement regarding the matter. See Angelika Schaser, *Reformele iosefine*, p. 57 - 61.

⁹⁰⁴ Georg Adolf Schuller, *Samuel von Brukenthal*, Band I, München: Oldenburg, 1967, p. 309.

⁹⁰⁵ Gernot Kocher, “Zum Wechselspiel von Rechtsordnung und Sozialordnung in der Theresianisch-Josephinischen Gesetzgebung und Judikatur”, in Richard Georg Plaschka, Grete Klingenstein, u.a (hg.), *Österreich im Europa der Aufklärung. Kontinuität und Zäsur in Europa zur Zeit Maria Theresias und Josephs II.*, Band 1., Wien: Verlag der Österreichischen Akademie der Wissenschaften, 1985, p. 380 – 384.

⁹⁰⁶ Kocher, “Zum Wechselspiel von Rechtsordnung und Sozialordnung”, p. 388 – 389.

custom, transforming property from individual to familial.⁹⁰⁷ Not unexpectedly, nineteenth-century Transylvanian Saxon legal-historical literature also disavowed the possibility of establishing such trusts by testament. Friedrich von Sachsenheim, one of the Saxons' most important legal voices in the nineteenth century, noted that "the Municipal-Constitution of the Saxon Nation [establishes it] as a purely civic (*bürgerlich*) [nation], founded on the continuous equality of its members", and therefore, the institution of the *fideicommissum* was impossible to implement. When the Court had attempted to introduce the possibility of creating such trusts to Transylvania in 1811, the Saxons had argued that it "instituted feudal arrangements, namely the existence of a *Fideicommiß*-estate for all the future members of a lineage, and its inalienability." This contradicted the essence of the Saxon's collective rights to the *fundus regius*, which precluded even the royal prerogative of making donations of land from this territory.⁹⁰⁸

If broader reforms were not harshly felt in the field of municipal laws, it was not due to a lack of intention or effort. Since his 1773 visit, the Transylvanian Saxon jurisdictional construct and its legal bases were at the forefront of Joseph II's concerns. Among the lengthy list of grievances with which Joseph II was presented after his first visit to the province, priorities included separating and clarifying the muddy foundations of the Transylvanian Saxon public finances; disentangling the even muddier bases of fiscality, as even after the reforms, according to one report, "not one Transylvanian taxpayer knew how much they had to contribute at the beginning of the year";⁹⁰⁹ finally, the complete overhaul of the urban administration, with a particular focus on Hermannstadt, where "so much usury was abetted and supported" by those in charge.⁹¹⁰ Alongside an improved legal framework for fiscality, a general legal framework that would apply to the entire province needed to be put into place.

A report by the Count Bethlen, the Treasurer of the province, explained that there was much need to establish a "Professor of law" in the province, who could teach and harmonize the "ius commune, with the manifold municipal laws which exist in this land [...] so that in the future no religion and no nation will be found lacking in able subjects" who could occupy public offices. According to Behthen, the Saxon nation had at its disposal not one able

⁹⁰⁷ Lloyd Bonfield, "European family law", in David Kertzer, Marzio Barbagli (eds.), *The History of the European Family*, Vol. 2: Family Life in the Long Nineteenth Century, 1789 - 1913, New Haven, London: Yale University Press, p. 153.

⁹⁰⁸ Friedrich von Sachsenheim, *Das allgemeine bürgerliche Gesetzbuch vom 1. Juni 1811, gültig für Siebenbürgen vom 1. September 1853, verglichen mit dem siebenbürgischen Civilrechte*, Wien: Verlag von Friedrich Manz, 1856, p. 544.

⁹⁰⁹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 325.

⁹¹⁰ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 331.

individual, who could defend its interests in outside courts as a “sworn man knowledgeable in law”, and therefore had to leave the matter to the Hungarian procurators, and employ the Hungarian “style and practice”, which were largely unknown to the Saxons “who learned only *ex usu* (from practice)”.⁹¹¹ The same report specifically brought into discussion the problems incurred by the legal frameworks in use in the Transylvanian Saxon milieu, namely the *Statuta* or “municipal laws”. In Bethlen’s view, the issue was not the lack of proper laws, which were amply provided both by the *Statuta* and its Roman law bases, but rather the stark dependence on learning from practice rather than in a formal setting. Those who had been trained by someone whose knowledge of law was formally acquired, had a “tolerable practice”; those who “had not acquired the true understanding of the municipal laws, or could not acquire it” were as bad as their masters at handling the issue. Bethlen likewise emphasized that outside some particular sections in the *Statuta*’s book referring to the succession of heirs, the municipal laws were “a general extract of the *ius commune*”. The danger of unfit judges and those who had not been formally trained in law was compounded by the subsidiarity of Roman law to the *Statuta*: those who did not know the Roman law (*Kaysserlichen Rechte*),

“took to aid the Hungarian laws, or let themselves be led by Hungarian procurators, even though these (i.e. Hungarian laws) deviate from the municipal law and from the *iure communi*, and sanction precisely the opposite particularly in the case of inheritance cases.”⁹¹²

Thus, as Bethlen concluded from personal experience as a witness in one inheritance trial, not only were trials protracted, but could lead to contradictory court decisions, which completely went against municipal laws and were pronounced in the highest Transylvanian Saxon court of Hermannstadt. However, Bethlen’s description should be taken with some grain of salt, as he then went on to praise the collection of royal decrees, sentences, and Diet decisions undertaken in Hungary, which had been started to be assembled during the seventeenth century. The late eighteenth-century edition of the *Corpus Iuris Hungarici*, owing to its breadth, the repeated ingression of misprints each time a statute was reprinted, the extent and variety of its sources, and the multi-directional process through which it had been compiled, has been estimated to have collected several thousand errors. Even the main text of the *Tripartitum* survived in altered form, with compilers managing to misprint and mangle even basic matters, such as units of measurement.⁹¹³ Bethlen’s urge that at least one or two professors of law – and

⁹¹¹ Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 331.

⁹¹² Bozac, Pavel, *Die Reise Kaiser Josephs II*, p. 469.

⁹¹³ Rady, *Customary Law in Hungary*, p. 184-185.

thus a law academy – be established in the Transylvanian milieu would remain unfulfilled for a while longer.⁹¹⁴

Nevertheless, change which affected the devolution of property at least indirectly did occur in the short and medium terms as well. Along with the *de jure* dissolving of the Transylvanian Saxon nation, the reforms of 1784 had also upturned the validity of the Transylvanian Saxon municipal laws. Petitions directed by the Transylvanian Saxon nation towards the Habsburg court poignantly emphasized the fundamental character of laws, and particularly inheritance and property laws, to the political being of the nation. It is worthwhile to emphasize the constitutive character of the municipal laws in the political imagination: as one contemporary memorial noted,

“Our municipal law is in accordance with the circumstances in which we find ourselves. It has given life to industry, and brought it to a higher degree among ourselves, than it is to be found among other peoples in this country. It has hindered the accumulation of wealth in the hands of the few and devolved it upon the many. It has provided the security of wealth for us and our own, preserved order and good mores, lent sufficient and necessary power and respectability to the heads of families and the aldermen of communities. If other laws should be introduced, as is planned out, in the realms of inheritance, marriage, parental relations, superiors and inferiors, property, sale, loans, pledge and exchange, injuries and criminal deeds, as has already occurred in the realm of juridical practice, then the intentions which were fulfilled through our laws will no longer be upheld. On the contrary, the opposite will take effect, and a great confusion will emerge among families, in what is mine and thine, in servitude and duties.”⁹¹⁵

The petition encapsulated the Transylvanian Saxon viewpoint on the character of legislation, and particularly inheritance and property legislation, as means of safeguarding power hierarchies within the family and the community. Moreover, the order of things in the micro-field was reflected in the order of things at provincial level: because the Saxons had managed to keep “security of wealth”, the nation had remained a powerful stakeholder from a

⁹¹⁴ On the first law academy in Transylvania, which was established in Hermannstadt in 1844, see Günther Tönts, “Die Rechtsakademie zu Sibiu (Hermannstadt)”, in *Studia Universitatis Babeş-Bolyai, Series Jurisprudentia*, XIV. Jahrgang, 1969, p. 97-110.

⁹¹⁵ Text of 1784 memorial submitted to the Habsburg court, cited in Ferdinand von Zieglauer, *Reformbewegung*, p. 51: “Unser Municipalgesetz ist dem Umständen, in welchen wir uns befinden, angemessen. Es hat die Industrie belebt und unter uns auf einen höheren Grad gebracht, als sie unter anderen Völkern dieses Landes ist. Es hat die Sammlung des Vermögens in die Hände weniger verhindert und es in mehrere gebracht. Es hat uns und unserem Vermögen Sicherheit gewährt, Ordnung und gute Sitten bewahrt, den Häuptionern der Familien und den Vorstehern der Gemeinde gebührende Macht und Ansehen verschafft. Sollten demnach, wie es im Antrag ist, in Absicht auf die Erbfolge, die Ehe, Eltern und Kinder, Vorgesetzte und Untergebene, Eigenthum, Kauf und Verkauf, Darlehen, Pfand und Tausch, Beleidigungen und Verbrechen, sowie es in Absicht auf die Rechtspflege bereits geschehen ist, andere Gesetze eingeführt werden, so würden jene Absichten, welche durch unsere bisherigen Gesetze erreicht worden sind, nicht mehr erhalten werden können, sondern das Gegentheil gewirkt und eine große Verwirrung in den Familien, in Mein und Dein, in Gerechtsamen und Pflichten entstehen.”

fiscal perspective, which had lent it a degree of political negotiation power it might otherwise had not been able to wield. The envisaged natural consequence of inheritance law in the Transylvanian Saxon realm – the prevention of undue wealth accumulation in the “hands of the few” – was not necessarily a reflection of factual circumstances. Certainly, by comparison to Hungarian inheritance law as pertaining to the nobility, overall, the Transylvanian Saxon municipal laws had allowed some measure of equity between heirs and some prosperity in the urban realm. Nevertheless, neither the law nor its consequences were as equitable as they were portrayed. Confusion in regards to the relation between one’s testamentary freedom and the fulfilment of the *Pflichtteilsrecht* was already present in the Transylvanian Saxon milieu.

Interestingly, the longest-lasting reforms of the late 1790s and early 1800s, which were meant to tackle the issue of Concivility after the 1791 Diet of restoration, would also have far-reaching consequences in the domain of inheritance. Owing primarily to the nebulous and exceedingly contentious issue of the political status of the Romanians on the Royal Lands, between 1795 and 1805 a series of ordinances were passed at imperial level to regulate *en gross* the administration and enfranchisement of this territory. Thus, the so-called *Regulativpunkte* emerged, which aimed to put into written form some of the pre-1791 intentions regarding the increase in administrative and legislative predictability. In general, this collection of ordinances sought to move the balance of power towards Seat-level assemblies rather than where it had been concentrated – in the hands of the few, in the urban Small Councils responsible for each seat. It also envisaged an administration on the Royal Lands that would include delegates from each community, and would thus guarantee exclusively-Romanian-inhabited villages a voice at the grassroots-level of politics.⁹¹⁶ Following ample petitioning and counter-petitioning, the 1804 version of the *Regulativpunkte* constitutes a position of “compromise” from the perspective of community-enfranchisement.⁹¹⁷

In the realm of inheritance and the devolution of estates, the *Regulativpunkte* bring increased predictability and clearer procedures, which will be followed well into the nineteenth-century. They also confirm matters which had entered into custom through repeated practice over the course of the seventeenth and eighteenth-centuries, but which remained unwritten, such as the 6% quota of the *Vorgab*.⁹¹⁸ An ample set of instructions was provided to the *Teilhaeren*, the officers of the probate courts, generally repeating what had already been

⁹¹⁶ Gyémant, *Mișcarea națională a Românilor*, p. 238-245.

⁹¹⁷ Gyémant, *Mișcarea națională a Românilor*, p. 249.

⁹¹⁸ I use the excerpts of the *Regulativpunkte* concerning property devolution published by Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 233.

evident in the registers of the 1780s and 1790s, such as the necessity to draft “correct protocols of all divisions” and to assign numbers to each estate division, which were to correspond with an index of all divisions undertaken in a particular year. The probate officials were also to provide clear numbers and descriptions for each piece of property, again a custom that had become stable in usage in the 1780s and 1790s.

Finally, among other issues, the *Regulativpunkte* settled clear levels for probate fees, depending on where they were undertaken: those divisions in the cities were charged a basic fee of 6 Hungarian Florin, higher than customary; divisions undertaken in the urban suburbs were taxed at half the rate. Moreover, taxes for divisions began to correlate directly with the value of the estate: for estates under 200 or 100 Florin in the city and the suburbs, respectively, the probate officials were to halve the fees; for estates over 1000 Florin, the regular fees rose in 2-Florin increments for each 1000-Florin rise in estate value.⁹¹⁹

Conclusions

The present chapter has canvassed the emergence and evolution of inheritance and testamentary law in the Transylvanian Saxon milieu between the late sixteenth and the late eighteenth centuries. It has explored the balance reached by customary law, German transplants from the multiple *Stadtrechte* circulating during the late middle ages, and Roman law bases in the codification of the *Statuta Iurium Municipium*. It has also emphasized the different types of legal pluralism which obtained in the province prior and after the introduction of Habsburg rule, and the essential role played by the emerging charters received by the settlers in the Transylvanian area in determining the ulterior pathway of this territorial estate.

It has also explored the reasons behind the emergence of the probate office, first in the urban and then in the rural Transylvanian Saxon milieus, as an exceptional institutional feature in East-Central Europe. The probate office as well as specific care devoted to property devolution – and a restrictive intestate framework – had worked to preserve the cornerstone of property within the settler communities, which had given them an edge in provincial affairs beyond their power as urban inhabitants. It had also worked, against the arguments of its national leadership, to concentrate power and resources in the hands of a few.

These two consequences were both tackled during the eighteenth century, when Habsburg reformism attempted to come to grips with a sort of entrenched legal pluralism the

⁹¹⁹ Schuler von Libloy, *Rechtsgeschichte*, vol. II, p. 224-225.

likes of which it had not faced in its Crownlands. What the eighteenth century brought to the picture was the reform of administration and its increasing separation from politics. Additionally, the late eighteenth and early nineteenth-century *Regulativpunkte*, imperial ordinances which re-set the administrative balance in the Royal Lands on new coordinates, also contributed to the further work of *Verschriftlichung* of customs and practices in the realm of property devolution. These had emerged, spread, and evolved after the codification process of the late sixteenth century, and were partly the result of the difficult balance between Roman law and intestate customary inheritance, which gained in precariousness with the increasingly felt influence of the non-Transylvanian imperial staff who wielded power in Hermannstadt.

Part V. Probate and will-making: the broad perspective

14. Sources, sampling, and intersections: a descriptive approach

The present chapter outlines and clarifies the working samples of sources which provide the bases for ulterior analyses, as well as the processes by which they were made to fit together in order to create an image that was more than the sum of its parts. It achieves this goal by casting a wider archival net, spanning beyond the separate archival fund of last wills and testaments. Thus, the material dealt with also includes a sizeable sample of registers maintained by the office of estate divisions as well as the lion's share of the parish burial records from Hermannstadt during the second half of the eighteenth century. There is a double rationale behind this approach: on the one hand, the existence of systematic probate registers, an exceptional situation for East-Central Europe, warrants their inclusion into the analysis; on the other hand, because testaments were merely one potential conduit for wealth devolution at death, in order to understand testamentary behaviour, it is necessary to re-situate testaments into the broader framework of wealth transmission.

As a first step in constructing the bases for an informed discussion of testamentary behaviour in the following sections, the chapter provides a brief survey of the sources which were then 'translated' into datasets.⁹²⁰ This survey is not entirely *quellenkundlich* in approach, but focuses rather on the sampling procedures employed for burial records and probate registers (and events). As such, it documents the decisions made at every step of the process and how these affected the boundaries and content of the samples. Following this discussion, it describes the way in which burial and probate records were superimposed, while contextualising the results of this procedure from a comparative perspective. Secondly, it explores the separate archival collection of last wills and testaments, examining to what extent its contents reflect more modern archival practices rather than the historical flow of sources. Within this context, it shows that it is necessary to engage with all three categories of sources in order to obtain a clearer image of the breadth and boundaries of will-making.

To clarify how the overlapping samples depicted in *Figure 7* were reached (*Final sample and sources: adult deaths, estate divisions, and testaments in Hermannstadt*), it is necessary to delve into archival material beyond the archival fund of testaments from which the present

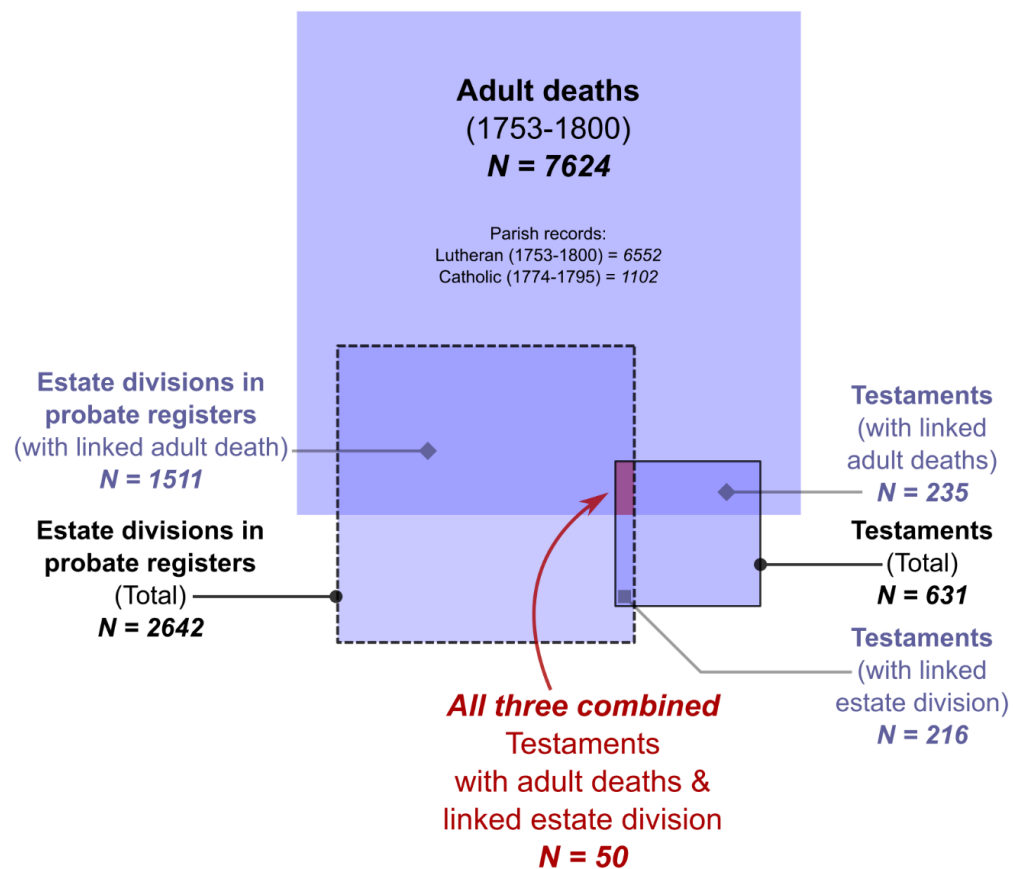
⁹²⁰ Fred Gibbs and Trevor Owens, "The Hermeneutics of Data and Historical Writing", in Jack Dougherty and Kristen Nawrotzki (eds.), *Writing History in the Digital Age*, Ann Arbor, Michigan: University of Michigan Press, 2013, 10.3998/dh.12230987.0001.001, p. 160, accessed 17 July 2020.

work began its inquiry. Because the following analysis aimed foremost to recontextualize testamentary behaviour from the perspective of its major social, economic, and political coordinates, the general approach to the topic was both exploratory and heuristic in character. This meant that the purpose of source collection was first and foremost to create a robust and clearly delineated sample, according to explicit criteria. Thus, both the present and subsequent chapters build on three main types of sources: parish records of burials, estate division registers (*Teilungsbücher*), and last wills and testaments. In an ideal-typical trajectory, the same individual could be traced through all three events: from having a will drafted, to death (and burial), and finally to the inventory and division of their estate. This section cursorily examines the characteristics and limits of these sources, in the order of their breadth, as well as the sampling processes and the criteria employed therein. It does not however delve into the composition of the samples, in the sense of the specific attributes of the sampled events and individuals, two issues which will be approached in the ulterior chapters.

The ideal-typical pathway outlined above could not be followed in all cases, owing to several reasons, the first of which is of an archival nature. Although unusually rich and well-maintained in other regards, the historical archives of Hermannstadt are lacking in two basic regards, the first of which concerns the state of parish records. No parish records of burials undertaken prior to 1753 for the Lutheran majority of urban inhabitants seem to have survived, a conspicuous absence already noted at the end of the nineteenth century by *Landeskunde* historians.⁹²¹ What is more, despite the fact that the Lutheran majority held steadfast throughout the eighteenth century in the city proper, various cross-sectional sources such as the two conscriptions of 1720 and 1750 make clear that a sizeable minority of Roman or Greek Catholic, Orthodox, and even Calvinist individuals lived both in the city and its suburbs.

⁹²¹ K.V., “Hartenecks Grab”, in *Korrespondenzblatt des Vereins für Siebenbürgische Landeskunde*, Vol. 22, 1899, p. 20-22; For the sake of comparison, the earliest Lutheran parish records of baptisms begin in 1642, and the earliest marriage records are dated to 1648. Most Lutheran parish records in Transylvania, at least for larger settlements, were started during the late seventeenth or the early eighteenth century. See Gustav Arz, *Die Matrikeln der evangelischen Gemeinden A. B. In Siebenbürgen*, Berlin: Verlag Grenze und Ausland, 1939, p. 5-6.

Figure 7. Final samples and sources: adult deaths, estate divisions, and testaments in Hermannstadt



Source: datasets from the Historical Population Database of Transylvania (deaths) and the Probate Database of Transylvania⁹²²

⁹²² Data visualization created by Arnold Platon, data visualization specialist (<https://arnoldplaton.wordpress.com/>).

However, burial records for the Orthodox in the lower city or the suburbs only survived starting from 1796 and 1793, respectively, while for the Greek Catholic inhabitants a single register containing all types of vital events was kept from 1786 onwards. Burials for Roman Catholic inhabitants were recorded in two registers, one for the suburbs, which was begun in 1781, and one for the city proper, which was started in 1772. Burials of Calvinist individuals were sometimes recorded in the Lutheran parish register, at least prior to 1785⁹²³, when a separate register for this denomination began to be kept.⁹²⁴

Surviving Greek Catholic and Calvinist burial registers are of very limited span, compared to their Roman Catholic and Lutheran counterparts. This may well reflect the situation at hand, as the area surrounding Hermannstadt was one of the most resilient nuclei of the Orthodox Church, wherein Greek Catholicism only made limited headway during the eighteenth century. Similarly, Calvinist (or Reformed) individuals were likely a relatively limited presence in the area. Because the analysis aimed to focus on those testators who lived in the city proper, the sample of burial records includes all Lutheran burials between 1753 and early 1800⁹²⁵ and all burials recorded in the central Roman Catholic parish between 1772 and 1795.⁹²⁶ Given the fact that a majority of records listed age at death, or included such designations as “infant” (*infans*) or “child” (*puer, puella*) it was possible to abstract from this larger sample (N = 15,126) a smaller and more relevant sample of adults who passed away and were buried between 1753 and 1800 for the Lutheran community and 1772-1795, respectively, for the Roman Catholic community. Male individuals were allowed to make wills starting with 14 years of age, while female individuals were granted this right once they had reached 12 years of age.⁹²⁷

⁹²³ The burials of at least 24 Calvinist individuals were recorded in the Lutheran burial registers between 1754 and 1779.

⁹²⁴ A complete overview of parish records which survived for Hermannstadt can be obtained in the finding aid published for this fund by the SJANS, *Colecția de registre de stare civilă [Collection of parish registers of vital events]*, inventory no. 378 (1607-1950), available at http://arhivelenationale.ro/site/download/arhive_judetene/sibiu/Colectia-Registre-de-Stare-Civila-1607-1950.pdf, accessed 18 July, 2020.

⁹²⁵ From the following three registers: SJANS, *Collection of parish registers*, Burial register of the Evangelical Church of Augustan Confession, no. 76 (S121), 1753-1779; Burial register of the Evangelical Church of Augustan Confession, no. 77 (S122), 1779-1798; Burial register of the Evangelical Church of Augustan Confession, no. 78 (S123), 1799-1813.

⁹²⁶ SJANS, *Collection of parish registers*, Baptism, marriage, and burial register for the Roman Catholic central parish of Hermannstadt, no. 29 (S77), 1772-1809.

⁹²⁷ *Statuta*, 2. Buch, 5 § 1.

This working sample of burial records thus contains 7624 deaths of presumed adult individuals, roughly 50% all deaths recorded in these two parishes for this time period.⁹²⁸ Given the stark overlap between confessional adherence and social-legal status – i.e. the overwhelming majority of citizens were recruited from among the Lutheran or Roman Catholic denominations at even after 1781 – it can be argued that the widest majority of citizens (either full-rights or settled) should have left a trace in these records.⁹²⁹ Thus, testators who lived in the city proper and had achieved any kind of formal citizenship status were likely to have been listed in these records, as part of the Lutheran or Roman Catholic communities.

The following section of the sample consists of estate divisions drawn from the urban probate records of Hermannstadt. As has been noted in the previous chapter on the legal framework, the institutional infrastructure overseeing the devolution of property in the city – the *Teilamt* – was separated into two sections by the mid-seventeenth century, each covering one part of the city, namely the Upper Part (*Pars Superioris*) and the Lower Part (*Pars Inferioris*).⁹³⁰ Starting from the 1736, separate division registers were kept for the suburbs (*Vorstadt*). The criteria employed in sampling registers were threefold: firstly, the primary focus fell on those registers that recorded division events after 1750, in order to increase the likelihood that persons or couples whose estates were inventoried and divided could also be traced in the burial records; secondly, emphasis was laid on those registers or combinations of registers that covered complete years, with the aim of achieving a complete overview of probate events around certain years; thirdly, only the Upper and Lower parts of the city were sampled extensively for the main analysis. Given that testaments – the main focal point of analysis – were sampled from 1720 to 1800, in order to facilitate temporal comparisons, a selection of registers from the early 1720s, 1730s, and 1740s was also included. These criteria were foremost heuristic, and adapted to the documentary situation at hand. Seeing as the current study does not explicitly aim to formulate any overall argument pertaining to wealth inequality up to the standards of economic history, but merely to re-situate will-making and

⁹²⁸ Among those who appeared to be of age – they were listed as married, or bore an occupational title, and had no parents listed, as was the custom for recording infant or child deaths – some 685 had no age at death indicated (fewer than 9%).

⁹²⁹ As the previous chapter has argued, in the longue durée of formal citizenship accession, non-Lutheran or non-Catholic individuals barely made a dent in the ranks of the burghers.

⁹³⁰ A list of surviving division registers was also published in Zimmermann, *Das Archiv der Stadt Hermannstadt*, p. 47-52. It does not entirely mesh with the current list of extant registers detailed in the archival fund's finding aid.

testators into the documentary context from which they have been abstracted, issues such as unequal sampling or the representativity of probate groups in the overall population were not of primary concern. Nevertheless, in devising and employing these criteria, the study took into account the general principles outlined in the relevant literature on working with probate records.⁹³¹

The sampling was somewhat complicated by the fact that some of the registers only survived in concept, while some only in the clean copy transcribed by the secretaries of the *Teilämter*.⁹³² At the same time, this meant that while some years are missing entirely from registration, the events recorded in other years were doubled. The selection of registers to be included in the analysis took these issues into account, and attempted to craft a sample that was both extensive and in-depth, without repeating events surviving both in concept and in copy (see *Annexes – Table 2 – Complete sample of estate division events per year and part of city*). *Figure 8* shows the extent of the years covered by the sampling, as well as the distribution of events between the two parts of the city. The same figure also includes all events protocolled, regardless of their particular focus. For the quantitative analysis, a further selection was undertaken.

Thus, this working sample depicted in *Figure 7* was then further reduced by eliminating several categories of events which were not, *sensu stricto*, divisions of decedents' estates: divorces (52), reviews of orphans' estate accounts (80), submissions of petitions and claims concerning the devolution of property (21), notifications that a will had been drafted (3), trials concerning inheritance (3), reviews of extant divisions, similar to reviews of orphans' accounts (11), and another 83 events and notices which concerned various matters related to the division of estates. In the latter category, several events concerned deceased persons who left neither any belongings nor any considerable debts after their passing, thus allowing any surviving heirs to officially forego any estate division.⁹³³ These were not however numerous: on the contrary, to avoid social and

⁹³¹ As outlined for instance by Peter H. Lindert in "An Algorithm for Probate Sampling", in *Journal of Interdisciplinary History*, Vol. XI, Issue 4, 1981, p. 649-668. Lindert's work is still highly relevant for current research on probate records, a fact evidenced by its frequent citation in recent works such as Bengtsson et al., "Wealth and Inequality" (2018) or Nicolini and Palencia, "Comparing Income and Wealth" (2016).

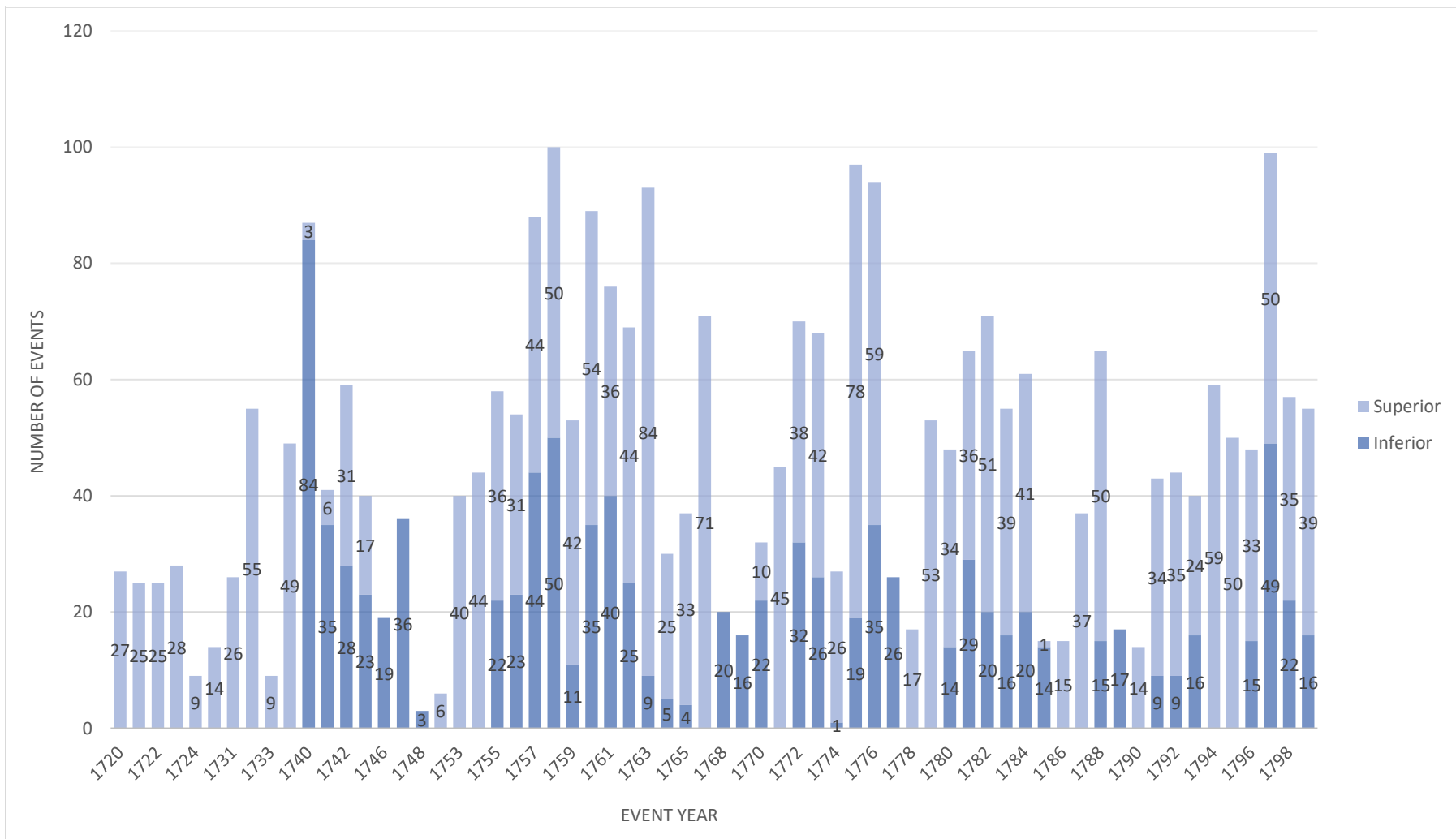
⁹³² As per the archival finding aid to the sub-section of the SJANS archival fund *Magistrate of the city and seat of Sibiu - Registers of inventory and division of deceased inhabitants' estates*, inventory no. 238, 1985, p. 1, both concepts and clean registers were kept, as sometimes concepts provided information that was no longer included when the 'clean' version was transcribed.

⁹³³ They nevertheless differed in several respects from events wherein the deceased had left very little or no belongings, but had debt, more than one heir, or where the party who informed the Office of Estate Division mentioned that a

economic bias, the great majority of estate divisions wherein a deceased individual was explicitly recorded as having no estate (nothing to inventory) were included in the final sample. The criterion employed in this case was the presence of any kind of attributes for the deceased (complete name, occupation, provenance, marital status, etc.) that could allow the individual to be linked either to a testator or to a person who had passed away.

‘Vergleich’ – agreement – had been reached by the heirs. All events of this kind were included in the quantitative analysis, as relevant to the social-economic and professional make-up of the decedent group in the probate records.

Figure 8. Distribution of all events in estate division registers included in sample, by event year and city part



Source: author's calculations, Probate Database of Transylvania

Other events in this excluded category concerned for instance the sale of houses inherited to pay for the decedent's outstanding debts,⁹³⁴ or the 1787 inventory of the estate of a "slow-witted" (*kürzsinnig*) individual and its devolution to another, likely un-related person who offered to take over his care.⁹³⁵ All of the events within the above-mentioned sub-categories accounted for a little over 8% (253) of the total number of events depicted in *Figure 7*.

Finally, from the remaining 2730 events, another 88 where the gender and other identifying attributes of the deceased individual could not be ascertained with certainty, were eliminated from the sample as their inclusion would have significantly impeded the linkage process or further comparisons which included these variables.

Having discussed how the first two samples were reached, it is worthwhile to introduce the bases, preconditions, and results of the first linkage process, which aimed to identify protagonists of estate divisions among those who were recorded as having been buried. It is important to first make a distinction between events and individuals: each burial had one main individual, namely the deceased; other 'secondary' characters regularly listed by the officiating clergyman were for instance the spouse of the deceased, in the case of married women, or the father, in the case of infants and minors. However, each estate division could have more than one protagonist who received the primary role of "deceased."⁹³⁶ In times of high-volume recording such as the early 1740s (*Figure 8*), in the wake of the last significant wave of plague to hit Hermannstadt between 1738 and 1739, it was not uncommon to divide the estate between remaining heirs after both members of a couple had passed away. Thus, the number of decedents in the sample is slightly higher than the number of events: 2734 compared to 2642. The same sampling filters were employed as for events: all decedents whose estates had been protocolled in the Upper or Lower City, who were not part of an event which fell under the excluded sub-categories discussed above, and whose gender could be clearly inferred were included in the sample.

⁹³⁴ SJANS, *Magistrate - Registers*, Register 145, 1796-1799, Upper City, fol. 166; Event id. 929, *Probate Database of Transylvania*.

⁹³⁵ SJANS, *Magistrate - Registers*, Register 135, 1786-1788, Upper City, fol. 158; Event id. 1325, *Probate Database of Transylvania*.

⁹³⁶ Other roles that individuals could hold in a given division event were "spouse of deceased" and "heir".

Minimal standardisation of nominative data (first names) and other individual-level attributes such as gender, occupational status, etc. was first employed.⁹³⁷ Afterwards, several criteria based on current research into probate records were devised to guide the linkage process: the date of burial/death would have to precede the date of the probate event, but the year would have to match in both instances; the gender of the deceased individual would have to be identical in both cases, which automatically excluded divisions wherein multiple deceased were listed from the process; finally, the standardised first names and unstandardized surnames and noble names would have to match to a certain, predetermined degree.⁹³⁸ A string-matching algorithm commonly employed in the linkage of historical demographic data was then used to measure the similarity between the names of deceased in burial records and deceased whose estates had been inventoried.⁹³⁹ Initially, this did not yield entirely successful results, owing to the several reasons. Firstly, there was a high prevalence of similar or identical combinations within the same brief time-span, especially in the case of female deceased with commonly-encountered names such as a Catharina Gross (9 occurrences between 1757 and 1791), Catharina Binder (13 occurrences between 1755 and 1794), or Catharina Krauss (10 occurrences between 1762 and 1800). This was also the case for male decedents: at least 23 individuals by the name Johann Schmidt passed away between 1754 and 1794. As women who had passed away or had their estates inventoried after death very rarely had occupations listed, this criterion could not be employed for linking female individuals. Even in the case of male decedents, for whom occupational titles were generally listed

⁹³⁷ Owing to the breadth of data, the stark differences in the spelling of surnames between sources of different provenance – ecclesiastical vs. secular administrative records –, and the partial omission of first names in some cases, a preliminary linkage was performed prior to last name standardisation in order to obtain an overview of the situation. Last names and noble names, two categories which overlapped to a certain extent both in the source material and the resulting datasets, remained unstandardized for the time being, as this will be necessitate a separate, tiered procedure of its own. Given the high prevalence of a few nominative variants and the sheer number of records – especially for burials –, it was deemed prudent to leave this segment of the data unstandardized, even if the share of automatically-linked pairs would be thus reduced.

⁹³⁸ These settings are commonly referred to as “blocking” variables. A good overview of currently employed automatic linkage procedures and their respective pitfalls is provided by Maria Wisselgren et al., “Testing Methods of Record Linkage on Swedish Censuses”, in *Historical Methods: A Journal of Quantitative and Interdisciplinary History*, Vol. 47, Issue 3, p. 141-145; The most recent general discussion of automatic historical record linkage is that provided by Kenneth Sylvester and David Hacker (eds.) in the “Introduction to special issues on historical record linking”, in *Historical Methods: A Journal of Quantitative and Interdisciplinary History*, Vol. 53, Issue 2, p. 77-79.

⁹³⁹ For an application of this method and other similar approaches, see for instance Gunnar Thorvaldsen, Trygve Andersen and Hilde L. Sommerseth, “Record Linkage in the Historical Population Register for Norway”, in Gerrit Bloothoof et al. (eds.), *Population Reconstruction*, Springer International Publishing, p. 163-168.

both in the Lutheran burial records as well as in the registers of estate division,⁹⁴⁰ the existence of homonymous persons with the same occupational title within a 1-5 year interval impeded the establishment of clear links on the basis of comparing solely individual-level data.

Thus, manual linkage was employed both to check the results of automatic linkage and to establish whether additional links might be discerned. This second step also took into account additional contextual information concerning a deceased individual's family: given that both burial records and estate divisions generally listed married women's surviving spouses, information on spouses was also integrated as a criterion. This method significantly improved the results by allowing an increased contextualisation of both probate and burial records: for instance, the correct Catharina Binder from the parish records could be matched with her correspondent in the probate records by establishing whether she had been married to the same individual in both cases, and whether that individual bore the same occupational titles. This procedure eliminated significant uncertainties, but required the additional data entry of all spouses of deceased from the probate records.⁹⁴¹ Thus, out of the entire sample of 2734 decedents whose estates were inventoried in the probate records included in the analysis, 1648 were also found among those who passed away and were buried between 1753 and 1800. However, the share of linked individuals in the probate sample increases from 60.28% to 74.94% when only the estate division events between 1753 and 1800 are taken into consideration, and any prior divisions from the 1720s, 1730s, and 1740s are excluded from the count.

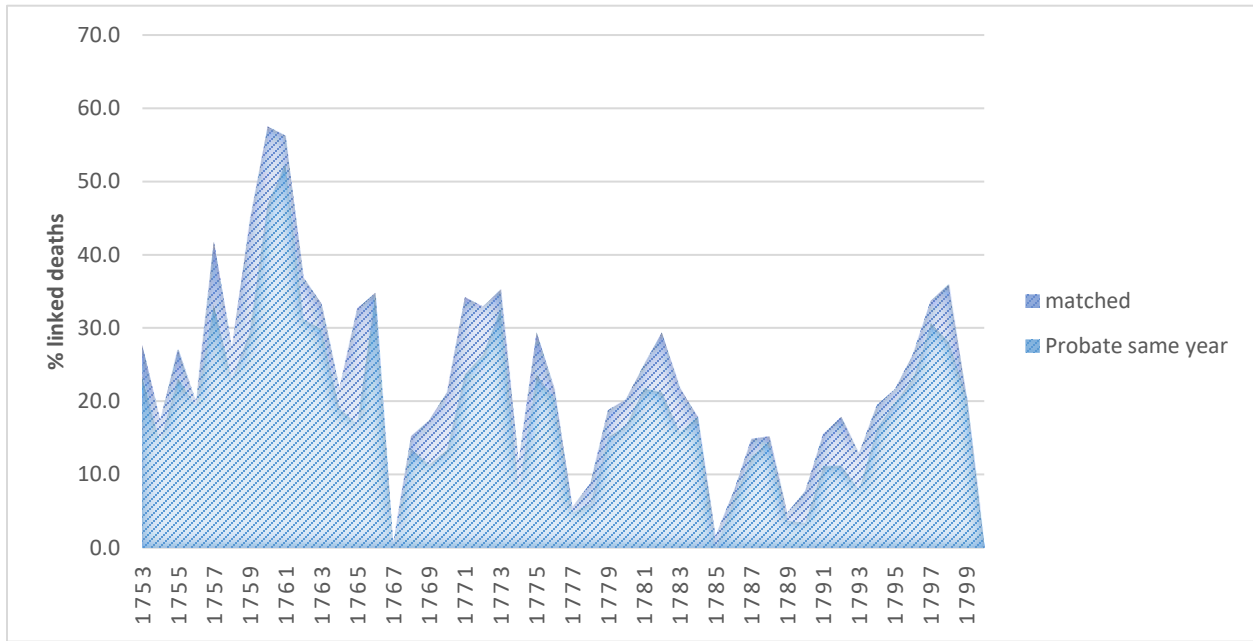
The results remained satisfactory when regarded from the opposite perspective, despite the sampling strategy employed for probate. The sampling of probate was foremost intensive – i.e. the data entry prioritized complete years – rather than extensive – covering as many years as possible. *Figure 9* shows the share of burial entries per year which were matched to a corresponding estate division. *Figure 10* depicts the corresponding sub-sample of probate events for the period 1753-1800. The side-by-side comparison of the two figures reveals that for years when probate registration was presumably completely covered during data entry, it was possible for more than

⁹⁴⁰ Almost 40% of entries of deceased adult male individuals in the Roman Catholic register lacked any occupational information (217 records out of 568). For Lutheran burials, only 608 out of 3356 deceased male individuals lacked occupational information (18%).

⁹⁴¹ The *Historical Population Database of Transylvania*, which was built with a stronger source-oriented architecture in mind (along with its drawbacks), already contained fields for all types of relatives which might have been mentioned in the event of a burial.

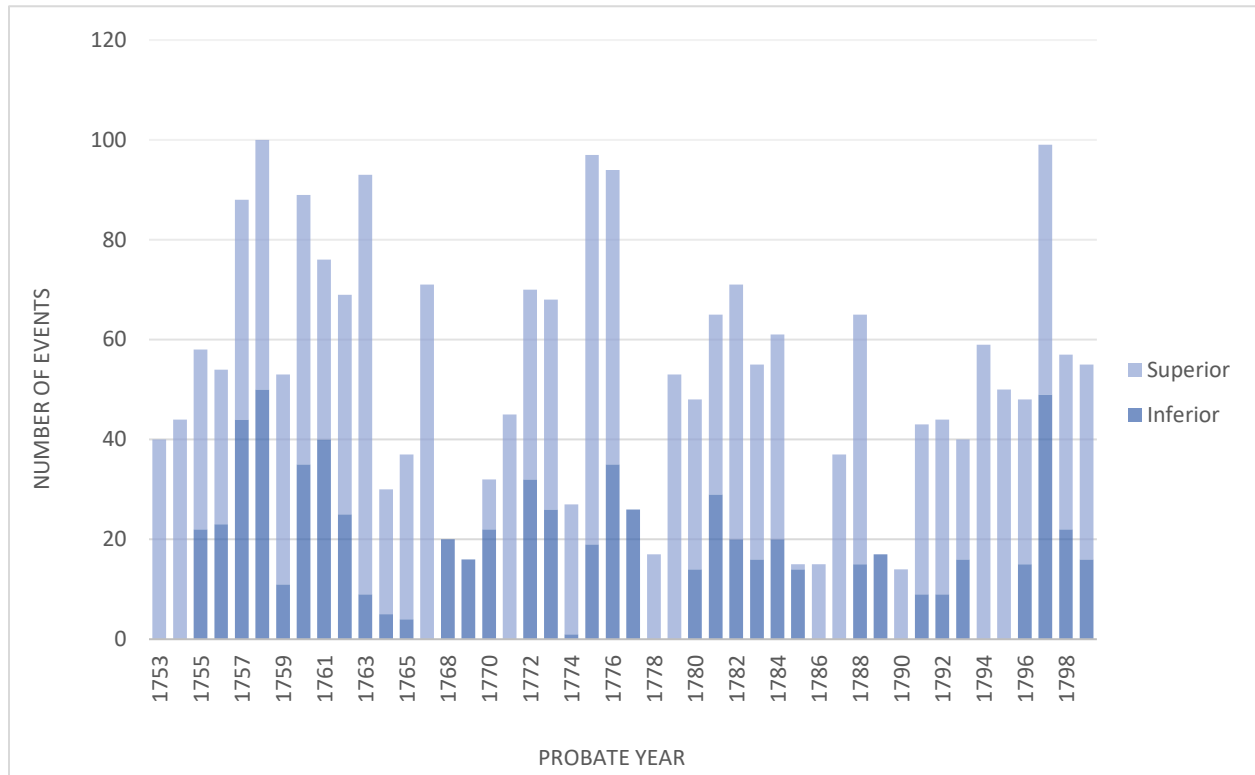
one in two adults who passed away in Hermannstadt to have their estates inventoried. However, the share of probated individuals varied considerably in the sample, reaching an average of 23%.

Figure 9. Percentage of deceased individuals whose estates underwent probate, 1753-1800



Source: author's calculations, Historical Population Database of Transylvania and Probate Database of Transylvania

Figure 10. Distribution of events in estate division registers included in sample, 1753-1800



Source: author's calculations, Probate Database of Transylvania.

Because the sample did not include any probate events for 1800 or 1767, or only covered very few probate events from 1777, 1778, 1785, 1786, 1789, and 1790, the share was naturally reduced.⁹⁴² If these years are excluded from the calculation of the frequency of probate, then the share of linked records rises to 26.7%. Nevertheless, even the average share of 23% represents a surprisingly good result for this type of overlap: it means that at least one in four adult individuals who perished in the city proper in Hermannstadt, and who adhered either to Lutheranism or Roman Catholicism, had their estate undergo probate during the second half of the eighteenth century. Moreover, as *Figure 9* shows, the great majority of estates underwent probate during the same year the individual passed away, in accordance to contemporary legislation. A non-negligible share of all probate events which matched with a death, occurred in the year after the decedent's passing

⁹⁴² The total numbers of probate events per year are provided in the Annexes, Table 2. No events were entered for 1767 and 1800. Under 20 events per year were entered for 1769 (16), 1778 (17), 1785 (15), 1786 (15), 1789 (17), 1790 (14).

(20.7%), while less than 2% were recorded as having taken place 2 or more years later (see *Annexes – Table 2*). This pattern is similar to that displayed by Swedish probate during the eighteenth and nineteenth centuries.⁹⁴³

Unfortunately, few studies have worked with historical probate records and burial records for a well-defined population in a systematic way, most tending to focus either on the social and economic biases inherent in the former or on what they revealed about the distribution of a wealth.⁹⁴⁴ The significant differences in what precisely constituted probate from a jurisdictional and geographical perspective likewise make trans-national comparisons difficult. Nevertheless, some information which can help shed light on the value of the “score” derived for Hermannstadt does exist, from the Northern European, Anglo-Saxon, and German-speaking Central European milieus. For instance, the cross-referencing of probate and adult deaths in Stockholm in 1700 yielded a share of 38.4%,⁹⁴⁵ which meant that more than one in three deceased adults underwent probate. Earlier research has shown that during the eighteenth century, in the city of Gothenburg, a quarter of deceased urban residents had their estates inventoried. Nevertheless, both of these figures predated the 1734 law code that made probate compulsory at a general level, which means that for the later centuries these shares increased significantly.⁹⁴⁶ In Wildberg, a locality in Württemberg, a superposition of taxpayers and individuals whose estates were inventoried upon death revealed that between 30% and 80% of the former underwent probate between 1650 and 1750. However, because the share of taxpayers among the total inhabitants in Wildberg gravitated between roughly 22% in the 1660s and 29% in the early 1750s, the rates at which all deceased individuals’ estates were probated appeared to be extremely similar to those encountered in Hermannstadt around the middle of the eighteenth century (23%).⁹⁴⁷ Estimates regarding English probate inventories – one of the richest troves for this type of source – appear to vary significantly by locality, probate court, and time period: in most areas, between the 1660s and 1720s, it has been

⁹⁴³ Bengtsson et al., “Aristocratic Wealth and Inequality”, p. 32.

⁹⁴⁴ In recent economic history research, the matter of how representative probate records are for the general population is settled by simply weighing each social-economic (or social-occupational) group in the probate sample by its share in cross-sectional sources such as tax records. For this approach, see for instance Bengtsson et al., “Wealth Inequality in Sweden”, Bengtsson et al., “Aristocratic Wealth and Inequality”.

⁹⁴⁵ Bengtsson et al., “Mercantilist Inequality: Wealth and Poverty in Stockholm”, p. 8, note 30.

⁹⁴⁶ Jan Kuuse, “The probate inventory as a source for economic and social history”, in *Scandinavian Economic History Review*, Vol. 22, Issue 1, 1974, p. 25.

⁹⁴⁷ On probate in Wildberg, see Sheilagh Ogilvie, Markus K pker, Janine Maegraith, “Household Debt in Seventeenth-Century Württemberg: Evidence from Personal Inventories”, Cambridge Working Papers in Economics, 1148, Faculty of Economics, University of Cambridge, 2011, doi: <https://doi.org/10.17863/CAM.5553>, p. 67-68, table 1, figure 1.

argued that between a quarter and a third of deceased household heads had their estates inventoried.⁹⁴⁸ More recent research has shown that inventory coverage for adult male household heads (the likeliest to be probated, in general) in Cheshire, ranged between 34 and 19% between 1661 and 1760.⁹⁴⁹ These figures situate the results obtained for Hermannstadt as reliable and worthwhile to pursue for further analysis. Given the legal and political specificities of probate and property ownership in the Transylvanian Saxon urban milieus during the eighteenth century, it is highly likely that once complete coverage of surviving probate records for Hermannstadt is reached, the share of probate deceased adults will near the maximum identified in the present sample, of 57.5 %, or perhaps also exceed it.

Turning to the final and central part of the sample, namely the last wills and testaments left by the inhabitants of Hermannstadt between roughly 1720 and 1800, archival practices again come to the fore of the discussion. The rich archival fund of last wills and testaments created as a subsection of the broader, all-encompassing fund of the Small Council (*Magistrat*), is of relatively recent inception, having been assembled well after 1887, when the city archivist and historian Franz Zimmermann published a comprehensive archival guide to Hermannstadt and the Saxon nation's documentary holdings.⁹⁵⁰ While the fact that it includes testaments from outside Hermannstadt means to reflect the extended testamentary jurisdiction of the Saxon University as the highest judicial instance on the Royal Lands, it also impedes the clear selection of those documents whose principal actors were inhabitants of the city proper, and therefore likely to have their estates probated and their deaths recorded in the same environment. What is more, the blurry criteria according to which the documents were selected for inclusion in this fund mean that it is impossible to state with certainty whether a particular testator was an inhabitant of the city proper, its suburbs, or the villages in the Seat, in the absence of clear spatial clues. Additionally, even when the testament was clearly written in Hermannstadt and the testator was explicitly designated as an inhabitant of the city, it is not possible to discern whether they were living in the Upper or the

⁹⁴⁸ Lindert, "An Algorithm for Probate Sampling", p. 654.

⁹⁴⁹ Sebastian J. Keibek, "Correcting the Probate Inventory Record for Wealth Bias", Cambridge Working Paper in Economic and Social History, no. 28, March 2017, p. 5, table 1.

⁹⁵⁰ Franz Zimmermann, *Das Archiv der Stadt Hermannstadt*. The existence of the same archival fund has been noted once before in recent historiography, namely by Marius Rotar in *Moartea în Transilvania în secolul al XIX-lea, Vol. II Ipostaze ale morții*, Cluj-Napoca: Accent, 2007, p. 475.

Lower part of the city, as any real estate they might have possessed was not described fully in this context.

The recent creation of the archival fund of testaments (likely sometime in the 1980s) meant that an artificial discontinuity was introduced within the documentary link between testament and estate division, and therefore in the link between testament and burial record. As will be shown in the following chapter, when not transcribed in the registers of estate division, testaments were surrendered – at least in copy – to the officials of the Teilamt and “beygelegen”, that is, physically appended to the account of the division proceedings. When the leaves of the registers were bound together, as per the Small Council’s instructions, testaments would often be bound into the relevant register either before or after the division of the estate they pertained to. Thus, the contextual clues which tied these documents to their milieu of their emergence were removed in the process of creating a separate archival subsection. Owing to the fragmentary survival of registers of estate divisions and the high prevalence of a select few individual first or last names, it is difficult to piece together the three events for the same individual, even in the presence of exhaustive burial records.⁹⁵¹ This is of significant consequence, as it is not seldom the case that two or three persons bearing the same first and last name and even the same occupational title left last wills and testaments around the same time, or perished in the same year. Unlike the clear temporal relationship between probate and death (burial), testaments could be made well in advance of one’s passing. The absence of individual markers such as individuals’ occupational status also increased the number of potential correspondents within both the probate and the burial groups. For female testators, the absence of spouses’ names as well as occupational titles meant that identifying the appropriate estate division event and the relevant burial event required a careful scanning of each testament for additional contextual clues, such as the names of bequest receivers, etc. Regarded from the other perspective, probate registration was highly idiosyncratic in mentioning the existence of a last will and testament left by the decedent: where in the course of the proceedings the testament was noted (if at all) bares proof of the highly unstandardized procedures for inventorying and dividing estates.

⁹⁵¹ Within the burial records sample (adult deaths), the most often encountered 5 male first names appear in more than 49% of all male deaths (Michael, Martin, Georg, Johann, Andreas), the most often encountered 5 female first names (Catharina, Anna, Maria, Agnetha, Elisabetha) account for over 79% of all female deaths, while the 10 most frequent surnames account for more than 11% of all events, regardless of gender (Müller, Schüller, Schmidt, Theil, Roth, Klein, Schuster, Binder, Czekelius or variants thereof).

In order to reach the sample noted in *Figure 7*, several filters were applied to the primary source corpus, which consisted in 755 testaments left prior to the beginning of the nineteenth century kept in loose-leaf form, separately from the registers of estate divisions (see *Annexes – Table 5 – Characteristics of wills before 1800*).⁹⁵² The first was temporal in nature: all testaments which were drafted before 1720 or after 1800 were firstly excluded.⁹⁵³ This did not reduce the number of documents significantly, as only 16 testaments appeared to have been dated before 1720. Another sizeable share of testaments was excluded on a spatial criterion: testaments which had been written in localities other than Hermannstadt and proved by the office of estate divisions for the Seat, or whose testators were listed as inhabitants of other localities were not included into the analysis. By applying the joint provenance-place of recording criterion, a total of 244 testaments whose main figures were inhabitants of the villages of the Seat of Hermannstadt were discerned. After these were eliminated, the resulting preliminary sample of testaments from the separate archival fund of the Small Council amounted to 495 documents.

A second step was to cross-reference instances of estate division with testaments, on the basis of testament dates (where these existed) and probate dates (when these were also listed on the testament itself).⁹⁵⁴ This process was also done semi-automatically, employing a similar method as that used for matching deceased individuals who had been buried and decedents who had had their estates inventoried. In this case, the nominative criterion took a secondary role, and the temporal variables were more significant. As a result, a little over 16% (N = 80) of testaments in the preliminary sample were matched with an estate division in the probate sample. Among testaments left before 1753 (N = 143), a little under 5% were matched with a probate event (N = 7); this share increased to over 21% for testaments after 1753. This is primarily a result of the focus of the probate sampling, which was in turn guided by the temporal markers of the extant burial records.

⁹⁵² This section was organised into 21 sub-folders, alphabetically, according to the last name of the presumed testator. During the process of inventory, the archivist(s) tasked with discerning the identity of the testator, then pencilled in at the top of the document, stopped at the first individual mentioned by name in the will. Because of a non-negligible number of testaments wherein the first person noted was in fact one of the witnesses, some testaments have been mis-filed into the wrong folder. In other cases, the first and last names of the testator were reversed, and a will left by Martinus Laurenti was filled under “L”, rather than M (sub-folder M, document no. 16, fol. 40ff).

⁹⁵³ Testaments were arranged by testator last name and by year. When the same individual left several such documents, these were placed together within the same folio (literally enveloped within one another, from earliest to latest). Thus, two of these post-1800 wills were initially included in the sample, but were then excluded.

⁹⁵⁴ Where two dates of writing existed, the first date was used.

Confirming the fact that research on testaments based solely on those in archival subsection of the Small Council eliminates a significant part of potential sources and thus distorts the image of will-making, the probate registers sampled contained an additional 136 estate division events where the devolution of property had been decided by will, for which there was no equivalent in the *Testaments* fund. In these cases, even when the testament itself survived (a rarity), it had not been selected for inclusion in the main archival collection. It is clear that by relying only on the contemporary archival selection of last wills and testaments, only a fragmentary image of testamentary behaviour as a collective endeavour can emerge.

Thus, the final sample of testaments built by overlaying these two archival sources – loose-leaf testaments and probate records – reached the number of 631 documents, of which a total of 34% had an equivalent probate record (N = 216).⁹⁵⁵ Testaments and burial records were also linked manually, after the probate matching procedure had established that a testator had passed sometime between the date of the last will and the date of probate. As *Figure 7* shows, 37% of all testaments could be linked to at least one adult death (N = 235), only one of which was however dated before 1753.⁹⁵⁶ Among all testaments dated after 1753, 59% were linkable to a burial event (N = 229, out of 387 testaments made starting 1753). Regarded from the opposite perspective, namely that of burials, the figures are expectedly much lower: only 3.03% of all burials between 1753 and 1800 could be linked to a testament, either in loose-leaf or in the probate records. Nevertheless, this is more a reflection of the boundaries of the probate sampling than an accurate representation of how many individuals in the city actually left wills. An examination of the share of deceased individuals from the burial record sample who could be matched with a testament according to the year of death resulted in percentages which varied extensively, ranging between 0% and 8.11% (*see Annexes – Table 6*). No deceased individuals from 1753, 1755-1756, 1783, or 1787 could be matched to an extant testament. Additionally, the lowest positive linkage scores (under 1% of deceased matched) were achieved for the persons buried in 1758, 1780, 1782, 1784, 1786 and 1799. If one takes into consideration the fact that the sequence of events was testament – burial – probate, then the low scores for the 1780s should also be regarded as reflecting the low number of estate division events sampled: only 15 events/year were sampled for 1785 and 1786, for instance

⁹⁵⁵ Because the gender of the deceased could not be ascertained in one testament, the sample was in certain cases reduced to 630, rather than 631.

⁹⁵⁶ Given the existence of joint testaments, with more than one testator, this figure will be discussed more in-depth in the following chapters.

(see also *Figure 9*, in the present chapter). It is possible that once a complete overview of all extant probate registers is reached, the shares of testators/deceased adults for these years will also increase.

Finally, although all three types of records were only matched for 50 cases (*Figure 7*), amounting to almost 8% of all testaments, the existence of significant two-way overlaps between, on the one hand, burial records and probate, and on the other hand, probate and testaments will allow a sufficiently contextualised discussion of testamentary behaviour. Additionally, the linkage between testaments and adult deaths (37%) will allow the analysis to factor in such issues as the testator's age, which usually elide historical research into this matter.

Conclusions

The present chapter has delineated and defined the three samples with which the analysis will operate in the following sections. It has aimed to make explicit the procedures and criteria employed in creating these samples from the three types of historical sources which formed the basis of the present work: last wills and testaments, probate records, and parish burial records. It explored the documentary status-quo for testamentary wealth transmission for eighteenth-century Hermannstadt by engaging with modern archival practices and their effects on the boundaries of ensuing document clusters. Thus, it showed that the creation of a thematically unitary archival collection of last wills and testaments had a disruptive potential on the organic tie between testament and probate record, decontextualizing the transmission of wealth by testament. More than a quarter of the testaments in the final analysis-ready sample were not found in this archival collection, but rather remained in the probate records, either as fully-fledged documents or as cursory notes at the end of estate divisions. Moreover, the documentary link between loose-leaf testament and estate division could be established in at least one fifth of cases, thus allowing the opportunity for further re-contextualisation.

Although the documentary status-quo does not allow the analysis to pursue any individuals who perished prior to 1753, given that no burial records survived for Hermannstadt prior to this year, this category of sources allows the addition of various demographic and individual-level data (such as age) to further contextualise and understand testamentary behaviour. Even though an average of 3%, of deceased adult individuals was found to have left wills, this share experienced

significant variation, reaching up to 8% towards the late eighteenth century. By employing probate records as a byway into the process of property devolution *in extenso*, the potential reasons behind the values of this rate can be more easily assayed. In addition, given the sparseness of information provided by the testaments on the identity of the testator and social-economic status, the addition of information drawn from probate and burial records can serve to enhance both the individual and collective image of the corps of testators. Finally, the criteria employed in sampling last wills and testaments meant that a significant number of such documents was eliminated from the analysis, which, as might be argued, led to the involuntary silencing of testamentary “voices”. However, the aim of the sampling process was to create a coherent, comparable, and harmonizable basis from which to build on, even if it came at the expense of increased variation. The rationale behind placing coherence before variety was that from a coherent and clear basis, further research could expand on variety, whereas the opposite would not necessarily be the case.

15. Practice and procedure

Introduction

The present chapter outlines and describes the practices and procedures underpinning the processes of will-making and wealth devolution in Hermannstadt during the eighteenth century. It focuses on practice as *praxis* without veering into the realm of actual strategy, in order to shed light onto a series of separate issues, of equal importance in the understanding of testamentary behaviour. Its purpose is to trace first the inception and then the afterlife of wills in probate proceedings, and in turn, to recontextualise both moments into the broader urban economy of individual or collective engagement with authority. For these purposes, it adopts a primarily descriptive approach, while periodically highlighting certain quantitative dimensions of the phenomena surveyed.

Firstly, it examines the spatial, temporal, and social circumstances of both will-making and probate. Within this framework, both the timing of will-making and the blurry border between public and private in the eighteenth-century urban milieu will be explicitly approached, as means of engaging with the pragmatic character of will-making. A useful parallel between will-making and petitioning in the early modern context will help reintegrate the former into the broader

framework of engagement and transaction with authority by means of a legal document. Individuals' and surviving kin's understanding, knowledge, and expectations of will-making will also be explored, to the extent that they were visible either in testaments or probate records.

Following this inquiry, the discussion temporarily bypasses the death and burial of testators, and proceeds to explore the after lives of testaments by thoroughly canvassing the estate divisions preserved in the *Teilungsbücher*, where final dispositions were proved (*vigoriert*). The Office of Estate Divisions was the first judicial instance for the devolution of property, and took on an increasingly greater role over the course of the eighteenth century. Within the registers the *Teilherrn* kept, a whole suite of instruments and means to negotiate the devolution of wealth emerges. The present chapter will survey the different outcomes that an estate division could result in, even in the presence of a will, and highlight the mediating role that the *Teilamt* played in this instance, contextualising it within the broader sphere of attributions held by the members of the Small Council in keeping urban order.

This examination therefore aids in re-situating testaments within their broader context, and thus in understanding their practical specificities. As in the exploration of will-making practices, the discussion of probate engages with individuals' expectations concerning the inventory and division procedures, the public/private character of wealth devolution, and the increasing attributions of the *Teilamt* in matters having to do with debt and the administration of orphans' estates. It also discusses the place of the *Teilamt* as a political gate-keeper and the inventory of estate as an explicitly political event, through which individuals settled in the city could obtain acknowledgment of their claims and rights to the same legal resources as formal residents – citizens. The way in which the *Teilamt* handled the estate divisions of foreign individuals, as a separate category of deceased, will be approached within this framework. What is more, the present section emphasizes the fact that the public/private dichotomy which might have applied to a certain extent to the drafting of wills was no longer tenable in the case of probate proceedings, especially towards the late eighteenth century, when public auctions of decedents' estates were increasingly resorted to. Thus, it also explores the sociability of probate events.

15.1. Testaments

The circumstances of will-making were heavily influenced by testamentary law as it appeared in the *Statuta iurium municipalium*, as well as by the subsidiarity of Roman law, which had laid the bases for the well-orchestrated ritual of making a will. Where, how, and by whom a testament was made were interdependent issues. The information about the conception of the testament, when it existed, could be found at the beginning of the document, in a preamble-like and highly formulaic passage wherein the witnesses explained that they had been tasked with committing to paper the testators' final dispositions.

Examined from a bird's-eye-view, the ideal typical structure of eighteenth-century last wills and testaments in Hermannstadt followed that in general use at a European-wide level. Most wills contained all of the typical sub-sections of the *Eingangsbestimmungen*, beginning by invoking the higher power of the divinity in various standardised forms, followed by the *Intitulatio* and the *Promulgatio*, through which the testator announced their identity and goal to make a will. These initial stipulations were then followed by more or less detailed explanations of the reason for which a testament was drafted. The majority of wills in the sample included some form of meditation on the Christian duty to make a testament and thus to put one's worldly affairs in order; few contained provisions as to the burial, or an explicit commendation of one's soul and body.⁹⁵⁷ This was then followed by a so-called "distributive" part, wherein testators described the actual dispositions the will enacted. No particular order was followed in this section, in regards to pious or worldly bequests. The final sections of wills and testaments were varied in content, but generally included at least a combination of two usual clauses, pertaining to one of the following: the validity of the will as a result of witnesses' sealing and signing of the document; the codicillary clause, which will be discussed separately and at length; the appeal to authorities – in this case the probate office – to ensure that the document is upheld; etc. Most testaments examined thus followed the ideal typical structure outlined for early modern last wills in Bohemia⁹⁵⁸ or in the other areas of

⁹⁵⁷ The few exceptions in this regard were generally testaments left by Catholic individuals, who commended their souls, made provisions as to burial, and donated cash sums for Holy Masses, or to Catholic institutions such as the Catholic orphanage or Catholic orders, such as the Franciscans.

⁹⁵⁸ Král, "Heiratsverträge und Testamente in Böhmen", p. 483.

the Austrian Crownlands.⁹⁵⁹ The majority of testaments examined also do not deviate from the basic three-fold structure of the *notificatio*, *donatio*, and *sanctio* outlined for early medieval wills in the Anglo-Saxon milieu,⁹⁶⁰ although the order of the latter two parts is sometimes reversed.

Because there was no clear distinction between codicils and testaments, as the *haeredit institutio* was absent from the *Statuta*'s discussion of final dispositions, the ideal-typical structures intersected in various ways, resulting in various combinations. The context of drafting and the type of will – public or private – also contributed to the proliferation of distinct forms and sub-forms: documents with elaborate preambles wherein the testator meditated on the frailty of the human condition and the obligations of a Christian intersected with sparser documents, which were more akin to written renditions of ceremonies than legally-binding, constitutive judicial acts.⁹⁶¹

Most last wills and testaments in Hermannstadt appeared to have been drafted in the testators' own homes, as a result of witnesses having visited these locations. In the overwhelming majority of cases, two witnesses were summoned to the testator's place of residence at a certain pre-set time, as both needed to hear the testimony, sign and then seal the document at the same time.⁹⁶² The temporal circumstances of the will-making process were committed to paper with varying degrees of precision: some witnesses mentioned that they had been called "on the 11th of September 1748 between 8 and 9 in the early morning"⁹⁶³; others noted that they had both been called in at the same time – around midday – and appeared by the testator's bedside an hour later, in fulfilment of the legal requirements of simultaneous presence.⁹⁶⁴

Nevertheless, not all testators' first option was to summon witnesses as "living" evidence of their intentions⁹⁶⁵ to their residences, some preferring to have their will drafted in an institutional

⁹⁵⁹ Michael Pammer, "Testamente und Verlassenschaftsabhandlungen (18. Jahrhundert)", in Josef Pauser, Martin Scheutz and Thomas Winkelbauer (eds.), *Quellenkunde der Habsburgermonarchie (16.-18. Jahrhundert). Ein exemplarisches Handbuch*, Wien, München: R. Oldenbourg Verlag, 2004, p. 503-507.

⁹⁶⁰ Brenda Danet and Bryna Bogoch, "Orality, literacy, and performativity in Anglo-Saxon wills", in John Gibbons (ed.), *Language and the Law*, London: Longman, p. 100-135; On the three basic parts of testaments in the Anglo-Saxon context see also Mary Louise Fellows, "Death and Ritual: The Role of Wills in Late Anglo-Saxon England", in Albert Classen (ed.), *Death in the Middle Ages and Early Modern Time. The Material and Spiritual Conditions of the Culture of Death*. Berlin, Boston: De Gruyter, p. 75-94.

⁹⁶¹ On the types of speech-act differences between the two types of wills – the classical and the medieval/post-classical, see Gabriella Del Lungo Camiciotti, "Performative aspects of late medieval wills", in *Journal of Historical Pragmatics*, Vol. 3, Issue 2, 2002, 205-227, especially p. 225-227.

⁹⁶² *Statuta*, II. Buch, 5 § 17.

⁹⁶³ SJANS, *Magistrate - Testaments*, Folder M (16), Document no. 7, fol. 14r, Catharina Moschkerin's will of 1748.

⁹⁶⁴ SJANS, *Magistrate - Testaments*, Folder Sch₁ (25), Unnumbered document, unnumbered folio, Will of Magdalena Schaffner, 1795.

⁹⁶⁵ The two witnesses to Matthias Keuder's will in 1788 described themselves as "lebendige Zeuchen". SJANS, *Magistrate - Testaments*, Folder K (13), Document no. 43a, fol. 84r.

setting. A medieval addition to testamentary law was the individual's possibility to appear before an authority figure, either a member of the clergy or a notary, judge, or similar officeholder.⁹⁶⁶ This custom was still in use during the eighteenth century, though much less often than had been the case when the Small Council acted as undifferentiated arbiter of all things to do with the devolution of property, prior to the late sixteenth century.⁹⁶⁷ Over the course of the seventeenth century, the *Teilamt* would take over much of the attributions of the Small Council in supervising wealth transfer, including the registration and probate of final dispositions. Judging by eighteenth-century wills, it appears that the *Teilamt* was regarded as the proper authority with which to negotiate potential pathways of property devolution, rather than the extended Small Council. Physical delivery of one's wishes before the officials of the estate division office provided testators with a sense of security and was desirable but unattainable in some cases. In 1795, Catharina Blaam decried her "sick and very fragile circumstances" which prevented her from leaving her bed, and thus made her appearance before the representatives of the "esteemed division office" impossible.⁹⁶⁸ Others managed to have their will drafted at the office of division – likely in the building where the Small Council met, in the main square: in 1793, the glazier's widow Maria Schindler went to have her final dispositions drafted in the company of her witness, Michael Fabritius, a master of the butchers' guild.⁹⁶⁹

The question of temporality can be more easily answered than that of place, based on those testaments linked to a deceased individual in the burial records (N = 397 out of 631, *Table 10*). Over 33% of testaments were dated within one week prior the testators' burial or passing.⁹⁷⁰ Following the same pattern, and suggesting some degree of illness, half of the testaments for which a date of death could be ascertained were written within 22 days of a testator's passing. However, a considerable share of testators displayed both potential signs of illness and some degree of forethought, leaving a testament at least one month prior to their passing (45%).

⁹⁶⁶ Rűfner, "Testamentary formalities", p. 36.

⁹⁶⁷ Testaments were generally registered – if not declared – before the Small Council, as evidenced by the first *Stadtbuch* kept for Hermannstadt.

⁹⁶⁸ SJANS, *Magistrate - Testaments*, Folder C (4), Document no. 52, fol. 82, "Da ich in kränklichen und sehr schwachen Umständen mich befinde daß ich wegen Schwachheit nicht in Stande bin außer Bett zu seyn, mich also bey einem hochlöbl. Theilamt zu erklären eine Unmöglichkeit ist. So habe ich meine Worte in Gegenwart zweyer Unterfertigter Altväter aufsetzen laßen, wie folget..."

⁹⁶⁹ SJANS, *Magistrate - Testaments*, Folder Sch₁ (25), Document no. 65, fol. 130 – 131.

⁹⁷⁰ The Catholic parish register notes the dates of death, while the Lutheran registers note the date of burial. For the purposes of the present analysis, they have been merged into a single death/burial date. It is highly unlikely that the burial would have been postponed to a significant degree.

Table 10. Timing of testament compared to death, by gender (including joint wills)

	male	female	joint	all
Valid	123	88	23	234
Missing	182	194	20	397
Mean	224.2	434.8	1193.6	398.7
Median	11	24	481	22
Std. Deviation	562.9	817.8	1575.7	853.8
Minimum	1	0	6	0
Maximum	3277	4355	4762	4762
10th percentile	3	3	32.2	3
25th percentile	4	5	136	5
50th percentile	11	24	481	22
75th percentile	80.5	497	1726.5	300.7
90th percentile	629.4	1483.3	4189.8	1387.3
99th percentile	2658.3	3359.7	4733.8	4471.5

Source: author's calculations, Probate Database of Transylvania and Historical Population Database of Transylvania.

Some 15% of testators within the broader subset were by no means on their death beds, as their final dispositions had been committed to paper almost three years in advance.⁹⁷¹ The timing of testaments as related to death exerted influence on their composition, and should be taken into account in their analysis.

When testators were close to passing, their state of health could witness sudden changes from one day to the next. This represented a problem for will-writers, who needed to ensure that the individual could still speak out their dispositions clearly. When this was no longer the case, both parties were put in a difficult situation. In 1779, the pastor Samuel Schimeß visited the home of one Agnetha Roth, to whom he had promised to act as scribe. Having reached the elder woman's house, he quickly realized that he had been too late in fulfilling this duty towards his parishioner. Only one hour prior to his arrival, Agnetha had been struck by such a powerful apoplexy, that she could neither speak, nor move her right hand or leg. As Schimeß recounted, "from her gestures you could see with great certainty that her soul was in a similar state of disarray." The would-be

⁹⁷¹ Over 1082 days prior to death.

testatrix “clearly wanted something, but what she actually wanted, remained a secret to me.” At this point in the proceedings, one of Agnetha’s kin, Simon Roth, a master carpenter, “explained her countenance” thusly: she had wanted to reach a balance between her offspring. Schimeß, unable to ascertain the truth of the matter, only committed to paper the following:

“To this purpose he [*m.n.* Simon Roth] gave her the two belts, one of silver and one of silk. She took these in her hand and gave them to the persons standing next to her. But she then took them back, and wanted to express her wishes with words, but could no longer utter more than ‘ach hhr’. That this occurred in my presence on the 5th of April in the afternoon, I attest to by undersigning my name.”⁹⁷²

In this case, the scribe could only attest to what he had seen and heard, the deceased’s final wishes being readable only through her gestures. While the line between the testator’s intentions and the writer’s language was clearly and decisively drawn, the extent to which the former shined through in the final document was radically reduced by the testatrix’s inability to speak.

Some would-be testators displayed awareness of the fact that delaying the drafting of a will could have nefarious consequences and showed profuse gratitude to their witnesses and scribes for performing this service. The sense of urgency of the summons as well as the testator’s gratitude were apparent in the preamble to the will left by Andreas Klöss, a senior market judge and member of the Great Council. Somewhat more stiffly than usual, his witnesses recalled that although they had been called for in the evening, they had nevertheless been “properly thanked for their compliant appearance.” The testator had been putting off the business of will-writing for too long a time, as “his constant laborious and burdensome tasks in the service of the town had prevented him from crafting his written disposition, until the Almighty had laid him in this perilous sick-bed.” His witnesses – both senior officials in the urban administration – would then be entrusted to commit to paper this “disposition and respectively donation as a formal and certified instrument”, including all the provisions exactly and explicitly as they had been heard from “the testator’s own mouth.”⁹⁷³ The latter expression was frequently encountered in last wills and testaments throughout the period, employing orality as a guarantee for the veracity of the document.⁹⁷⁴ It was also, more importantly, a marker to nuncupative or oral wills which had been committed to paper.

⁹⁷² SJANS, *Magistrate - Testaments*, Folder R, Document no. 34, fol. 69r.

⁹⁷³ SJANS, *Magistrate - Testaments*, Folder K (13), Document no. 10, fol 15r, 17v, Will of Andreas Klöss, 1750.

⁹⁷⁴ On orality in written documents, see the excellent contribution by Cohen, “She Said: He Said”, p. 403-430.

There did not seem to be a significant social class gradient to the timing of will-making, compared to death: only 5 testaments from the 35 which were left at least 3 years before the testator's passing belonged to individuals who could be classified as part of the elite, by virtue of their own or their spouse's occupational status.⁹⁷⁵ As the following chapter will show, timing likely had more to do with one's own familial and economic circumstances, rather than merely reflecting the prestige of one's class belonging.

Some differences in timing were however noted between the two genders: while half of male testators passed away within 11 days after expressing their final dispositions, 50% of female testators managed to have these committed to paper over three weeks (24 days) prior to death. This might show greater foresight on behalf of women, but could also reflect women's limited abilities and authority in summoning witnesses, compared to male testators, who could afford to leave this task for later. Although women were frequently encountered among the testator group as the following chapter will show, the differences in timing suggest that the drafting of a will was an activity that for various reasons came easier to men than to women. This is supported by the fact that the overall majority of women tended to make wills much earlier than men: three quarters of female testators left wills more up to 497 days prior to their passing, while an equal share of male testators only resolved this essential task fewer than three months prior to death.⁹⁷⁶

The starkest differences were revealed not between men and women, but rather between individuals and couples: some 43 joint wills between spouses were included in the primary sample, for which the death of at least one spouse could be discerned in 23 cases. These final dispositions were reciprocal and protected the surviving spouse's rights against the interests of the decedent's kin, in the event that no bodily offspring existed. To a certain extent, joint reciprocal wills functioned akin to marriage contracts, by safeguarding the surviving spouse's material position. This tie was strengthened by the fact that over half of the wills from this category were made more than one year prior to either spouse's passing; the greatest estimated time frame between the drafting of a joint will and one of the spouses' passing reached 13 years.⁹⁷⁷ In this sense, marriage was more likely to have been the prompting event for will-making, rather than the prospect of

⁹⁷⁵ Individuals who were classified as HISCLASS 1, and SOCPO 5.

⁹⁷⁶ This was likely not an effect of the fact that women had longer adult life-expectancies, as among the sample of adult deaths included in the analysis, the average age at death was 47.4 years for women and 48.6 years for men. A fuller discussion of age at death and testamentary behavior will be included in the following chapter.

⁹⁷⁷ SJANS, *Magistrate - Testaments*, Folder C (4), Document no. 27, fol. 41r-v, Will of Simon and Rosina Clemens, left on 24th of March 1783; Rosina Clemens passed away on the 6th of April 1796, HPDT death event id 42252.

nearing death. Although almost half (47%) of these joint documents were drafted less than one year prior to one of the spouses' passing, implying that drawn-out illness or advanced age should also be factored in, only 3 such documents were made less than one month before the couple dissolved.

As has been argued in the "Introduction" to this work, a productive avenue of examining last wills and testaments dating from the eighteenth-century is to include them into a broader culture of transactional engagement with authority, which (also) resulted in the production of judicial ego-documents, of serial character. Thus, both testaments and individual petitions or claims during litigation had achieved a minimal degree of standardisation, regardless of the particular legal milieu in which they emerged. Eighteenth-century Transylvania did not boast with a coherent body of notaries, solicitors, or scribes such as Spain⁹⁷⁸, other German-speaking areas in Europe⁹⁷⁹, the Anglo-Saxon⁹⁸⁰, Italian⁹⁸¹ or French milieus.⁹⁸² The majority of witnesses and scribes in eighteenth-century wills from Hermannstadt were either the decedent's neighbours or members of the Lutheran or Roman-Catholic clergy. One might enquire where the boundary separating witnesses' role as living "evidence" from the testators' intentions themselves might be drawn.⁹⁸³ However, as studies into petitions and litigation from the eighteenth century have shown, neither of the two ways of examining this issue based on the textual evidence provided by testaments alone can reach satisfactory conclusions. It is of course necessary to reckon with what Kathryn Burns has called the "notarial truth": "To read in a will for the first time of a deceased person leaving her spouse property 'out of the love I bear him' is to wonder about the history of *mentalites*, of love and affection; to read this standard phrase for the fifth or sixth time is to wonder

⁹⁷⁸ Burns, "Notaries, Truth, and Consequences", p. 350-379.

⁹⁷⁹ Ian F. McNeely, *The Emancipation of Writing. German Civil Society in the Making, 1790s – 1820s*, Berkeley: University of California Press, 2003, p. 32 – 35.

⁹⁸⁰ Amy Louise Erickson, *Women and Property in Early Modern England*, London & New York: Routledge, 1993.

⁹⁸¹ Laurie Nussdorffer, *Brokers of Public Trust: Notaries in Early Modern Rome*, Baltimore: The Johns Hopkins University Press, 2009.

⁹⁸² Julie Hardwick, *The Practice of Patriarchy: Gender and the Politics of Household Authority in Early Modern France*, University Park: Pennsylvania State University Press, 1998.

⁹⁸³ This is a question that has plagued historians since wills started to form the object of systematic enquiry. It is a debate with several points of contention, which cannot be satisfactorily enumerated within the confines of the present chapter. It should however be noted that the hard kernel of the debate focuses not on language in general, or on legal awareness and strategies employed by individual testators, but on the transparency and representativeness of the religious expressions used in testaments. Given the high degree of involvement of clergy members in the will-making process, the potential of such documents to shed light on individuals' religious beliefs remains doubtful.

about the conditions of notarial production of wills”.⁹⁸⁴ The present work does not discount the textual layer of testaments, but rather attempts to push beyond the debate on whether and to what extent the written word reflected the spoken word, and how the spoken word might have been shaped by the circumstances in which it was uttered.⁹⁸⁵ As Susan Cohen has argued, “even if the recorded words sometimes were not exactly what had been said, they corresponded to something such a person would likely find sayable.”⁹⁸⁶ I find this approach to satisfy the needs of the present endeavour, whose primary aim is not to elucidate the precise contribution of witnesses and scribes to the language of testaments.

Nevertheless, the presence of neighbours as witnesses deserves attention, because it attested to the role of the neighbourhood as multi-purpose corporation in the urban milieu, similar to the multi-purpose character of early modern guilds.⁹⁸⁷ Neighbourhoods had essential attributions in the social and political milieus, functioning as conduits for the *Polizey* ordinances emanating from the Small Council.⁹⁸⁸ Neighbourhood leaders thus were ideal for the implementation of urban order and social disciplining among the inhabitants of the city in the wake of the Reformation, maintaining this essential quality well into modernity.⁹⁸⁹ The neighbourhood was also involved in organising funerals for its decedents, managed self-organisation at local level on other issues, and was an intermediary on various public issues between individual inhabitants and urban authorities.⁹⁹⁰

Neighbourhoods worked to ensure the unity of the urban social fabric, just as the provisions of the *Statuta* or other municipal ordinances. According to the 1698 statutes, no foreigner could marry a Saxon individual without the approval of the Council and the Community, and any such intentions were to be discovered and communicated without delay by the leaders of the

⁹⁸⁴ Burns, “Notaries, Truth, and Consequences”, p. 354.

⁹⁸⁵ On orality, the present work agrees with the view presented by Cohen in “She Said, He Said”, p. 413, that “the situation of utterance molded almost everyone’s strategies of speech”.

⁹⁸⁶ Cohen, “She Said, He Said”, p. 417-418.

⁹⁸⁷ Ogilvie, “The Use and Abuse of Trust: Social Capital and Its Deployment by Early Modern Guilds”, CESifo Working Paper, No. 1302, Center for Economic and Ifo Institute, Munich, 2004, p. 3, according to whom guilds display “multiplex relationships”, as characteristics of social networks. Thus, “once brought into existence for one set of purposes”, a guild “can also aid others.”

⁹⁸⁸ The most comprehensive overview of neighbourhoods in the Transylvanian Saxon milieu remains Franz Zimmermann, “Die Nachbarschaft in Hermannstadt. Ein Beitrag zur Geschichte der deutschen Stadtverfassung und – Verwaltung in Siebenbürgen (Anhang dazu vgl. unter IV.1. Quellen, Urkundenpublikationen)“, in *Archiv des Vereins für Siebenbürgische Landeskunde*, Vol. 20, 1885, p. 47-202.

⁹⁸⁹ Mária Pakucs, “‘Gute Ordnung und Disciplin’: Patterns of Social Discipline in Sibiu (Hermannstadt) in the Sixteenth Century“, in *New Europe College Yearbook*, Issue 11, 2003-2004, p. 173-206.

⁹⁹⁰ On neighbourhoods’ attributions see also Müller, *Stuhle und Distrikte*, p. 188-132.

neighbourhoods and the parish priests. Clandestine intermarriage was punishable with loss of property and exile from the seat. Even if a member of a “foreign nation” had been previously conceded to and allowed to purchase a house, after their death the property could only devolve upon their children. “Foreign lineages” could not inherit ownership rights to real estate, but would only receive the monetary value of the house or land in question. The house or inherited property needed to be “sold to the German *Stadtleuten*” who had previously owned or built it.⁹⁹¹

Making wills or assisting in making wills was not explicitly mentioned among neighbours’ attributions, but was in practice one of the most common solutions. Unfortunately, the actual extent to which neighbours participated as witnesses or scribes to testaments cannot be clearly ascertained, as their capacity as neighbours to the testator was sometimes elided in favour of listing other elements of identification, such as occupational titles. Neighbours and neighbourhoods also sometimes kept last wills and testaments in the drafting of which they had participated, and presented them to the officials of the probate court at the required time. While drafting his will in 1798, Johann Paul Hüttig specifically noted that his brother had drafted him a written legal instrument according to which he renounced any claim he might have had on the estate, which was to be kept in the chest of the neighbourhood alongside his last will and testament.⁹⁹²

The presence of members of the clergy as witnesses and will-writers likely exceeded that of neighbours, which reflected the stark overall confessional aspect of testation. Members of the clergy who served as scribes or witnesses also sometimes remained in possession of testaments they had drafted. When testators had their wills drafted in villages surrounding Hermannstadt, and their heirs had then relocated to the city – a frequent occurrence, given the high rates of migration from the neighbouring villages to the city – their local preachers held on to testaments. Upon their former parishioners’ passing, the documents needed to be presented to the city, which involved further effort on the behalf of scribes, or even their successors. For instance, after the passing of Johann Georg Schüller in 1752, a will he had made in the presence of the former preacher of Groß Scheuern was brought in to the probate office by the clergyman’s successor. The new pastor of Groß Scheuern had found the writing among his father’s papers, after his passing. This situation underlined the material precariousness of will-making: even when documents were drawn up

⁹⁹¹ Schuler von Libloy, *Materialien zur Siebenbürgischen Rechtsgeschichte*, p. 78 – 80.

⁹⁹² SJANS, *Magistrate - Testaments*, Folder H, Document no, 38, fol. 93r.

correctly, in the presence of appropriate individuals, they might still fall through the cracks of personal archiving.⁹⁹³

The fulfilment of external formalities such as signing the document should not a priori be taken as a sign of a testator's literacy, just as their absence did not mean that the testator was illiterate. The provision requiring the signature of the testator was not regularly observed, even in testaments committed to paper by another person. Many testators signed "with a led hand", due to physically debilitating illness, in which case the document bore the mention "cum manu aliena" near their signatures. Many apparently self-written testaments, where the witnesses had signed at a later date, or in an entirely different hand, do not include the testator's signature. Still, other final dispositions included the testator's signature and seal, while noting that the same individual "could not write."⁹⁹⁴ Such comments were however entirely unsystematic, and rather than speculate on literacy on their basis, I refrained from delving into the issue here.

The differences between codicils (which disposed of only part of the estate), Church-valid wills with fewer formalities (only made bequests to a particular share of the estate), and last-wills proper (with the inclusion of the institution of an heir) were not clearly spelled out in the *Statuta*, but rather left at the decision of the will writers and legally-knowledgeable friends of the decedent. Because an invalid formal will might be still upheld as a codicil, the so-called "codicillary clause" was introduced as a means of ensuring that formally-deficient wills would still stand as documents of lesser judicial importance. This was not exceptional for the Transylvanian Saxon milieu, but rather characterised most of the early modern European milieu.⁹⁹⁵

When Florentina Löw approached her two witnesses, Johann Georg Veinholdt, a goldsmith and Michael Eisenberger, a *passementerie* maker, with the request to hear and commit to paper her disposition, these initially acquiesced "in accordance with their spiritual debt." However, 9

⁹⁹³ SJANS, *Magistrate - Registers*, Register of estate divisions no. 108, 1759-1760, p. 76: "es produciert aber Hl. Johann Hertel dermahlige Pfarrer in Groß Scheuern ein Testament de dato 1752 d 19 July welches derselbe nach seines vatter Hl. Johann Hertel Weißbeckens Todt bey seinem Schrifften gefunden, nach deme nun dieses denen Erben vorgelesen worden, so verlanget die 2theils Erbin exmission biß auf den 3ten Tag welches derselben nicht abgeschlagen worden."

⁹⁹⁴ SJANS, *Magistrate - Testaments*, Folder B (2), Unnumbered document, unnumbered folio, Will of Johanna Friederika Berger, 1797. The testatrix had previously had a joint will drafted with her husband, Johann Balthasar Berger, prior to his death. At that time, her signature bore the note "cum manu aliena."

⁹⁹⁵ Jansen, "Testamentary Formalities in Early Modern Europe", p. 28-29, 34.

days before her passing, when Löw explained to her witnesses what she desired, the witnesses “replied that all testaments must be so composed, so as to be in agreement with our Statutes; otherwise, they were in vain and could only cause burdensome trials”. At this, the would-be testatrix responded that

“what I did, was founded with good forethought, for which I have my own reasons, and this is no testament; but rather I am making a gift only during my lifetime, of that which I have, to those whom I wish, without making it so that they are my heirs.”⁹⁹⁶

The absence of the institution of an heir from the Saxon statutes on testamentary devolution likely made the choice of legal instrument in accordance to one’s purposes a confusing matter for testators and witnesses alike. Uncertainty about the distinctions between various forms of dispositions was frequently evidenced by the presence of the codicillary clause in its most usual form, such as that included by Martin Waed in his will, drafted in 1768:

“and this testament hereby in the best and abiding form and manner, as such, should or shall come to pass according to law or custom, and [I] will or desire, that everything will be upheld firmly and unchangeably, and namely in the form of a testament, codicil, or in another shape, of a last will, whichever may or can be the strongest one.”⁹⁹⁷

While this formulation did not appear with the same frequency as for instance references concerning the boundaries of testamentary dispositions as per the Saxon laws and statutes, it was nevertheless backed by a long history. One of the first wills in the sample in which it figure was that of Johann Georg Ambschel, most likely drafted in 1747 by the testator himself. Ambschel noted, in a brief German sentence interspersed with Latin terms, that his instructions were to retain their power either “as a solemn testament, or as a codicil, or in a sufficiently valid legal form.”⁹⁹⁸ The codicillary clause also featured in a majority of wills devised over the seventeenth and eighteenth centuries in the Austrian Crownlands.⁹⁹⁹

⁹⁹⁶ SJANS, *Magistrate - Testaments*, Folder F (7), Document no. 20, fol. 37r. The passementerie maker or *Possamentierer* made various trimmings and decorative items to be attached to fabric, in an activity similar to crocheting.

⁹⁹⁷ SJANS, *Magistrate - Testaments*, Folder V,W (29), Document no. 26, fol. 50r.

⁹⁹⁸ SJANS, *Magistrate - Testaments*, Folder A (1), Document no. 5, fol. 5v: “Und diese mein letzter ernstlicher Willen soll wo nicht als ein solenis testament, iedoch als ein Codicill oder in quaumque validissimi juris forma seine Kraft und Würdigung haben.”

⁹⁹⁹ Leopold Auer, “Reichshofrätliche Testamente, Sperr- und Verlassenschaftabhandlungen im Haus-, Hof-, und Staatsarchiv”, in Thomas Olechowski, Christoph Schmetterer (eds.), *‘nach allen rechten vnnnd gebreichen der testament’*. *Testamente aus der Habsburgermonarchie. Alltagskultur, Recht, Überlieferung*, Wien: Verlag der Österreichischen Akademie der Wissenschaften, 2011, p. 14: “Ebenso stereotyp findet sich meist zur Absicherung der

Witnesses often knew more about the limits of testamentary property devolution than the testators they attended to, and took the tasks entrusted upon them seriously. This was evidenced for instance in 1763, when Catharina Binder, married Czekelius, summoned two individuals to hear out her final disposition through which she bequeathed to her spouse “a half of my third to remember me by, as well as the silver belt, as a present”. The witnesses had then proceeded to question the testator in solitude and in the absence of her spouse,

“whether she might have been instructed, or compelled by someone, to which she replied, that it is her own free and good will; which we wanted to additionally certify, with our applied sigils and our own handwritten name signature, though to our and our own without any disadvantage.”¹⁰⁰⁰

In this case, Catharina Binderin had exceeded her testamentary freedom by bequeathing a valuable belt – the item of highest worth in most households, aside from houses in the city – in addition to a third of her share of the marital estate. Binderin was not an exceptional case in the eighteenth-century urban milieu. While it might be argued that a woman might not have been precisely aware of the boundaries of testamentary freedom, in other cases the lack of this knowledge was peculiar. Writing in 1724, the pastor Johannes Klein recounted that he had previously made a prenuptial contract with his wife, Maria, to apply in case they would not be blessed within their marriage with children. According to this contract, after Klein’s passing, his wife would remain in possession of those goods which she had brought to the common estate, in addition to receiving a third of the goods they had acquired during their marriage. Klein then noted that he had been unaware that

“according to the laws and usual customs, I did not have the power to give two advantages [shares] to my beloved wife, to the detriment of my own [relatives], who could have agreed to this issue. I had not sufficiently reflected on the issue at the time as a young man, and did not [intend to] bring prejudice to the laws or wound the statutes with something legally impracticable, because

Gültigkeit des testamentarischen Verfügung die Formel „wann auch diese disposition nicht wie einen solemis testamenti haben möchte, solle sie doch jure codicilli kräftig und beständig sein.“

¹⁰⁰⁰ SJANS, *Magistrate - Registers*, Register of estate divisions no. 112 (Upper City), unnumbered folio, estate division of Catharina Czekelius (nee Binderin), 19th July 1763: “Erstlich verlasse meinem werten ehe Schatz; auß mein drittheil ein zweytheil zum andenken, den silberin Gürtell, als ein Geschenk - und denen Testament Zeugen verlasse ich einem jeden 1. fl. welches dieses Testament krafft und Standt haben soll. Weilen wir unterschriebene dieses Testament angehoret, haben wir sie alleine, in Abwesenheit ihres Ehe-Mannes befragen wollen, ob sie von jemanden angewiesen, oder gezwungen sey worden, worauff sie geantwortet, es sey ihr eigner freier undt gutter Willen; welches wir auch zu mehrer Krafft, mit unser auffgedruckten Petschafft; undt unser eignenhändiger Nahmens unterschrifft; haben vefertigen wollen, doch uns undt den unsigen ohne Nachtheil.”

my siblings are and shall remain intestate heirs (*haeredes ab intestato*), whose goods cannot be taken away, or redirected ... in case one of the siblings should pass without children.”¹⁰⁰¹

Klein had then retracted the prenuptial contract, and proceeded to craft another disposition that would appropriately balance the interests of their spouse with those of their extant kin. He could though not abstain from complaining that this original intention was simply a recognition of his wife’s rights to the considerable property she had owned prior to their marriage, “which made up most of our common estate”.

Regardless of who actually committed the will to paper, various testators felt it necessary to refer to the extant laws as arguments for their dispositions. Evidencing awareness of customary law and a more diffuse knowledge of the Roman background to will-making, testators navigated the scripts circulating at the time in Hermannstadt, picking and choosing at will various expressions of adherence to Saxon laws and customs. These served a dual purpose: on the one hand, their final dispositions appeared more secure when they were symbolically nestled in the broader landscape of Saxon customs, which had for centuries allowed the drafting of wills; on the other hand, by making explicit reference to ‘the laws of our land’, testators rhetorically situated themselves as members of the Saxon juridical community, drawing the legitimacy of their provisions from their position in this context.¹⁰⁰²

Spouses often grounded their provisions for their remaining half in the Statutes and ‘customs of the land’, while at the same time noting that these were not entirely just. In the standardized language of marital solidarity and gratitude, Johannes Falk bequeathed to his wife ‘a minimum’ of one third of his share of the estate, “as we are always allowed and permitted to do by the laws of the land.”¹⁰⁰³ Writing in 1790, Georg Friedsam likewise deplored that ‘because he had heirs of his bosom, and the laws do not allow him more’, he could only gift his wife with the customary third, though ‘he wished he would have been able to do more’.¹⁰⁰⁴ Many similar dispositions noted that the surviving spouse was not entitled to receive more than the customary share when other heirs existed, exhibiting some disappointment in the state of facts. Johann

¹⁰⁰¹ SJANS, *Magistratul Oraşului și Scaunului Sibiu – Judicat. Acte juridice neînregistrate, Pretenții, moșteniri. [Magistrate of the city and seat of Sibiu – Judicat. Unregistered juridical documents. Claims, inheritances]*, Document no. 501/1737, 1739, 1750, Will of Johannes Klein, in copy, dated 1724, f. 6r – 6v.

¹⁰⁰² Jakobiec, “Architectures of Benefaction”, p. 488, also notes that ‘An ambivalence in Polish hereditary law induced testators to evoke “norms and traditions” as well as God’s judgement to ensure the fulfillment of their wishes’.

¹⁰⁰³ SJANS, *Magistrate - Testaments*, Folder F (7), Document no. 24, fol. 46v.

¹⁰⁰⁴ SJANS, *Magistrate - Testaments*, Folder F (7), Document no. 25, fol. 48r.

Connerth, who had been active in the urban administration, noted with some concern in 1775 that ‘according to the laws of the land, in the absence of any bodily heirs [offspring], the female sex falls as a burden [to others]’. He had therefore provided that half of his estate was to devolve upon his wife after his passing, including the right to complete ownership of their shared house until her death. Only after his wife’s passing would his relatives be entitled to make any claims on this property.¹⁰⁰⁵ Still more testaments – up to one third for the entire period – simply made reference to ‘our Saxon laws’ and the ‘customs of our Saxon nation’. Other formal legal expressions, such as those attesting to the testator’s mental capacities at the moment of will-drafting, formed a special clause at the beginning of nearly every such document. Explicit references to the legal space of choice available to would-be testators served a clear purpose: to justify that the provisions contained therein had been committed to paper in full knowledge of the law, and that they should therefore be undisputable.

Unlike the great majority of testators in other eighteenth-century European milieus, Transylvanian Saxons in Hermannstadt generally eschewed the appointment of executors. The *Statuta* made no explicit reference to this role. Like the notion of crafting a mutual will or of conditioning the transition of property to a certain heir to the fulfilment of certain obligations, the appointment of executors was a medieval addition to Roman testamentary law.¹⁰⁰⁶ This meant that it was received to different degrees in various European contexts.

The duties of executors – to see that the testators’ wishes were carried precisely as they had been committed to paper and to distribute legates – had become the *de facto* responsibilities of the *Teilamt*.¹⁰⁰⁷ Testators appealed to this institution and to its representatives to safeguard their final dispositions, and to ensure that any conflicts surrounding their strategies, should they emerge, would be resolved according to their intentions. The appointment of executors did not preclude appeals to the *Teilamt* to fulfil its duties, nor the fact that spouses or friends were charged with

¹⁰⁰⁵ SJANS, *Magistrate - Testaments*, Folder C (4), Document no. 38, fol. 38r-38v. The provision does not seem to have been contested.

¹⁰⁰⁶ Rűfner, “Testamentary Formalities”, p. 31.

¹⁰⁰⁷ The *Teilamt* would auction off deceased testator’s properties, in order to pay their creditors. Other institutions, such as the neighborhoods, would supervise and aid with the burial, another traditional attribution for executors.

taking care of the burial, distributing bequeathed items, or paying outstanding debts without explicitly being designated as such.

When Simon Christian's will was opened by the probate officials, in the presence of his widow and his paternal relative Johannes Fuchs, at the former's request the secretary noted that the five other nieces and nephews, living in the neighbouring Saxon seat of Reps, had no reason to protest against her husband's final disposition. Nevertheless,

'the widow bound herself of her own free will, to conscientiously fulfil her deceased husband's will in all of the abovementioned respects, but merely asked that she be allowed a bit of patience, because no cash was left, until she could turn some things into money, so that she could then pay everyone their precise shares.'¹⁰⁰⁸

Johannes Fuchs agreed to this arrangement, and the secretary, on behalf of the *Theilamt*, also conceded to the widow's request. In all but name, Simon Christian's widow acted as her husband's executor, according to the consuetudes prevalent in much of Europe. In English milieus, for instance, to arrange a deceased individual's burial entitled one to also oversee the administration of the estate, acting as executor. Relatives, spouses, and other parties who had a vested interest in ensuring that their own shares were not reduced by the actions of others vied for this position during the seventeenth century.¹⁰⁰⁹

The explicit designation of executors was however prevalent in the same wills that tended to follow a different formal pattern than that employed by the majority of Saxon final dispositions. Catholic testators appointed executors to ensure that their pious bequests would be carried out in an unfriendly confessional environment. These could amount to high sums, and it was therefore paramount to make sure that a trusted individual oversaw their payment. Some evidence of their activity was preserved along with the dispositions they fulfilled. Paul Böhm, a citizen and master leatherworker, acting on behalf of Johann Georg Rittlinger in 1772, forwarded a petition to the governor of Transylvania, explaining that he was bound to 'make humble notice' of his efforts to fulfill Rittlinger's wishes. He had been 'reliably informed' that a farm belonging to a Herr von Abraham in Talmatsch would be put up for sale due to outstanding debts, and that Rittlinger, as one of Abraham's creditors, was owed the sum of 600 florins. He therefore petitioned the governor

¹⁰⁰⁸ SJANS, *Magistrate - Testaments*, Folder C (), Document no. 23, fol. 35v: "es macht sich aber Vidua freylichst verbindlich, ihres verstorbenen Mannes Willen in allen derbey benannten Stücke gewiß zu erfüllen, nur hält sie mit Bitte an, in so lange mit ihr Geduld zu haben, in denen kein baar Geld hinterblieben, bis sie einige Sachen zu Geld machen könnte, wo sie so dann jedem seinen bestimmten Geldes-Antheil gewiß erlegen wolte;"

¹⁰⁰⁹ Bonfield, *Devising, Dying, and Dispute*, p. 60.

directly, without going through the *Theilamt*, to receive the sum loaned out by his deceased friend after this auction, so that he could dispense Rittlinger's pious legates to the Jesuits, the Franciscans and the local monastery of the Order of Saint Ursula. Böhm was not successful in his endeavor, as Abraham's estate, though under sequester due to insolvency, would still remain tied up in protracted legal struggles for some time.¹⁰¹⁰ The fact that he had directly addressed the Governor and not the Magistrate could not have sat well with the urban institution.

Formally-appointed executors unrelated to the testator therefore inserted themselves between the individual, the heirs, and the urban administration, and, as empowered by the testators, took over the job traditionally assigned to the *Theilherren*. Executors were not however as foreign to the Saxon milieu as one might surmise. Between 1522 and 1565, before the codification of the Statutes, almost all of the cases of testamentary proceedings included the appointment of an individual to serve in precisely such a role. Even more, testators saw this role as essential to the security of their wishes, and named the highest urban officials to this position. Mayors, judges, and senators were alternately tasked with disposing of decedents' estates. This was such a common practice that sometimes testators omitted telling their executors that they had been charged with this office. In 1549, Petrus Haller, one of the most significant political figures of early modern Saxon Transylvania, and at the time mayor of Hermannstadt, convened the council in order to set things to rights regarding a certain dr. Sebastian's will. The testator had apparently appointed Haller and Mathias Armbruster as executors to his will, without notifying them of this.¹⁰¹¹ Both Armbruster and the testator had passed away, and it appeared that the testator's estate was dangerously burdened with debts. Haller therefore presented the situation before the council and had it recorded into the *Stadtbuch* in order to avoid any of the relatives' protests, in the event that unpaid creditors came knocking on their door. The testator's son also declared that he would lay no claim on either Haller or his successors.¹⁰¹²

What had apparently occurred during the latter half of the eighteenth century was practically a resurgence of medieval customs, such as the appointment of executors, influenced most likely by the increasing contact with other cultures of formality. This role no longer fit so well in the already cramped administrative process of property division and disposal of the city,

¹⁰¹⁰ SJANS, *Magistrate - Testaments*, Folder R (21), Unnumbered document, fol. 28r – 30v.

¹⁰¹¹ A former mayor of Hermannstadt himself.

¹⁰¹² Pakucs-Willcocks (hg.), "*zu urkunt in das Stadtbuch*", p. 187 – 188, doc. no. 255.

where the *Theilherren* were exceedingly active. Practically, executors were an unknown and unpredictable actor in an already politically and confessionally fraught context, and embodied the clash between medieval conceptions of will-making and an increasingly professionalized administration.

Still, there were cases wherein testators evidenced a blatant disregard for the Saxon customs, as these were envisaged in the eighteenth-century legal culture of Hermannstadt. Beginning with the late 1740s, some individuals started to institute universal heirs to their estates, employing certain devices and expressions that were peculiar in this milieu. These were a minority, tied together either by their adherence to Catholicism, their connections to the Viennese administration or the Hungarian nobility, or their own noble status.

This is not to say that such provisions did not occur before the middle of the century, as for instance Jacob Ettinger's will from 1736 attests to. A devout Catholic, Ettinger had bequeathed 20 Gulden to the local Franciscan establishment as repayment for masses to be held after his passing. He then noted that

“as far as the rest of my estate, either moveable or unmovable, is concerned, it should all pass to my most beloved consort Rosina Ettingerin, born Mayrin, considering the fidelity and love she has shown me, [I] appoint her as my universal heiress, so that she may own, dispose of and administrate this my estate after my passing as she wishes.”¹⁰¹³

Ettinger was most likely an incomer to Hermannstadt from one of the Austrian Crownlands (though not a *Transmigrant*). He also referred to his wife as ‘Ehe Consortin’, exhibiting a small shift in the language of marital solidarity almost universally employed by his Saxon counterparts, who usually referred to their spouses as ‘GemahlIn’. The term of ‘consort’ was also widely employed in Austrian final disposition, and appeared in every testament drafted by Austrian individuals in Hermannstadt. While in itself, it does not signal a different notion of will-making

¹⁰¹³ SJANS, *Magistrate - Testaments*, Folder E (6), Document no. 3, fol. 6v: “Was übrigens in meiner Vermögen vorhanden liegends davon ausgenohmmen, zu solchen allen benehne meiner liebste Ehe Consortin Rosina Ettingerin gebohrnen Mayrin in Ansehen ... mir erzeugten Treue, und Liebe, zu meiner Universal Erbin, dergestalten, daß solche mein Vermögen nach meinem Todt als ihr Eigenthumb besitzen und damit schalten und walten möge nach belieben.”

altogether, in correlation with the instatement of universal heirs, it suggests that a different model was followed when the final disposition was crafted.¹⁰¹⁴

Ettinger's disregard for the custom of the city (and the territory) that had welcomed him was not a singular occurrence. While he might have been unaware of the boundaries of Saxon testamentary freedom, others who employed the same model had no such excuse. A clear example in this sense was the will left by Michael Wayda in 1748. Wayda had been employed at as a counsellor at the Transylvanian aulic chancery in Vienna, where he had also set his final dispositions to paper. He was however a native of Hermannstadt, deeply involved in its administration, and could boast with experience in both "formal cultures". Unlike many of his contemporaries with ties to the Viennese provincial administration, he had seemingly not converted to Catholicism, as his testament also contained a charitable donation to the Evangelical poor house in Hermannstadt. Following several bequests to friends in the Austrian civil service and to two leading officials in Hermannstadt, he grounded his final disposition in the notion that 'the fundament of any testament is the appointment of a universal heir'. This entitled him to appoint his 'Ehe Consortin' Elisabetha (neé Mangesius) as well as his children – Michael and Elisabetha – as 'true and universal heirs' to all of his properties, either in Vienna or in Transylvania.¹⁰¹⁵ Furthermore, Waida eschewed the making of an inventory after his passing, because he 'had complete and conscious faith' in his wife, that 'she will not reduce the children's shares.' He did however appoint four executors, the same who had previously received bequests: the counsellor von Kosma and the 'Herr Agenten' Szilagy would deal with his properties in Vienna; Johann Georg von Reißenfels and Andreas von Rosenfeld, both senators in Hermannstadt, would oversee the devolution of his estate in Transylvania. All four were also charged with acting as co-tutors to his minor children, along with his wife.

Wayda had skirted the boundaries of testamentary freedom, though he had not quite breached them, having appointed both his wife and his minor children as heirs. This in theory

¹⁰¹⁴ See Auer, "Reichshofs-rätliche Testamente", p. 14: "Zu den immer wiederkehrenden Wendungen gehört auch die Form der Erbeinsetzung, die meist nach der Verfügung der einzelnen Legate erfolgt und mit Worten wie ,weillen entlichen die Erbs-Einsetzung das Grundfest eines jeglichen Testaments ist' eingeleitet wird."

¹⁰¹⁵ SJANS, *Magistrate - Testaments*, Folder V,W (29), Document no. 8, fol. 12v: "Neüntens. Das Fundament eines ieden Testaments die universal Erbs-Einsetzung ist, als will ich über all das ienige, als auch in Siebenbürgen, oder wo solches nur immer befindlich seyn wird, überbleibet, es seye beweglich, oder unbeweglich, gegenwärtigend zukünftig, und wie e simmer Nahmen haben mag, zu wahren und universal Erben eingesetzt, und bennent haben meine herzogliebteste Ehe-Consortin Elisabetha gebohrene Mangesiusin und meine eheleibliche Kinder, Michael, und Elisabetha, gleichwie ich dieselbe hiermit in optima iuris forma einsetze und benenne."

conformed to the Saxon legislation, despite the fact that the document itself attested to how deeply the Saxon counsellor had become embedded in the formal culture predominating in Vienna.

In other situations, the petitions and counter-petitions submitted by intestate heirs and beneficiaries of bequests showed that the issue of the *Erbeinsetzung* – or better said, its absence from the *Statuta*'s discussion of testaments, could lead to difficult reckonings and contentious estate devolution. A petition from mid-century submitted in a protracted legal cause by the unsatisfied intestate heirs showcases this issue very tellingly. In this situation, the spouse of an individual who passed without bodily heirs had been granted use of a piece of property during her lifetime. She had then claimed complete possession of it, and wished to pass it on further, as her own. This had brought to fore the issue of the difference between a bequest and the institution as heir.

In a reply to a counter-petition made by a legally-versed individual in the service of the widow, the heirs to the passage in the will, where the testator had bequeathed to his wife the properties in cause, asking whether their counterpart had simply equated the term 'wife' with that of 'intestate heiress'. Mustering the authority of the *Statuta*, the heirs noted that

“We are not in error. The Saxon municipal law [allows that] from all of the goods two thirds [go to] the husband, a third pertains to the wife. The woman, or wife, could in actual fact be understood as the heiress to her third, as little as her husband is seen as the heir to his two thirds.”

The heirs did however concede, “in order to be simple in words”, that the “wife could be called an intestate heiress”. They followed up, asking “what then could a wife inherit from her husband? Answer: her third”.¹⁰¹⁶ The real question was whether the assets her husband had bequeathed to her were included in her third, and therefore the widow had the right to dispose of them “at will” (*pro lubitu*). Had the other heirs been bequeathed something from the wife's legitimate share? Again, the *Statuta* proved helpful in clarifying this:

“According to the Saxon laws this is not permitted. The husband cannot withdraw the wife's portion through a testament, and cannot dispose of it as he wishes. This is also not to be suspected of the highly esteemed testator himself, and he has protected himself against such imputations: in the beginning of his will, he said he wished to testate entirely according to the allowance of all laws...”¹⁰¹⁷

¹⁰¹⁶ SJANS, *Magistrate – Judicat. Unregistered juridical documents. Claims, inheritances*, Folder no. 514, Petition of the Harteneck heirs from 1767, fol. 14v.

¹⁰¹⁷ SJANS, *Magistrate – Judicat. Unregistered juridical documents. Claims, inheritances*, Folder no. 514, Petition of the Harteneck heirs from 1767, fol. 14v – 15r.

As the testator had been clear in noting that these assets had remained to his wife only to help her care for herself for the duration of her life, and that the rest – “no more and no less than her third” – was to go to her as “her legitimate share”. The heirs rightfully drew the conclusion that the widow had received only the right to the usufruct of the properties, and not the right to dispose of them. She remained therefore ‘a usufructuary legatee’. Their counterpart had confounded the widow’s right to make use of the properties during her lifetime, with the ability to dispose of them as she pleased. At the same time, undermining their own argument, the heirs had noted that they would wager “a cask of wine” that the will in question had not named the widow “an universal heiress”, signaling that a place for the institution of the heir had been carved out in the Transylvanian Saxon legal fold, even as its possibility was being denied.

15.2. Probate

On the 19th of September 1796, the officials of the lower city *Teilamt* began the proceedings to divide the estate of the deceased belt-maker Samuel Binder. The belt-maker’s estate was valued at a considerable 15,459 Hungarian Florin, well over the average for the period, and the deceased had left a last will and testament. He was survived by his widow, Agnetha Binder, and four offspring. Three of his four children were male: a son was a prefect of the Gymnasium of Hermannstadt, one was “in Bohemia, for the time being”, and the third was a postmaster in the nearby post station of Stoltzenburg, and therefore a cogwheel of the provincial administration. After listing these details, and noting that the absent heir had empowered one of his brothers in writing to act in his stead, the *Teilherren* proceeded to compile an inventory of the entire estate held by the couple in communion of marital assets.¹⁰¹⁸ At the end of this 13-folio-long list, a negotiation process between the heirs began to unfold, wherein the main object of contention appeared to be the estimation of the house at 2500 Hungarian Florin. The postmaster Jacob Binder argued that he should be regarded as the “owner of the house, by law” as the youngest son, but that he was prepared to part with this prerogative if his siblings agreed to cover its value. Binder’s siblings did not agree to this, and countered that it was best if the matter of the house were decided upon only after their wandering brother had returned to Hermannstadt, given that he had

¹⁰¹⁸ SJANS, *Magistrate - Registers*, Register of estate divisions, Lower City, no. 255a (309), fol. 70ff.

announced in his letter that he was also prepared to take over the house, should Jacob decide he preferred a cash inheritance.

As the matter seemed settled for the moment, the *Teilhaerren* then divided the estate – excluding the house – into ideal shares between the heirs. After extracting the debts, each offspring received a third of the *Zweytheil*, amounting to little over 2000 Hungarian Florin, while the widow’s third along with her *Vorgab* amounted to 4011 H. fl. It was at this point in the proceedings that Jacob Binder voiced his general displeasure, which is worth considering at length:

“... the esteemed Jacob Binder, postmaster of Stoltzenburg, protests against the entire procedure in this affair, and insists absolutely on the written final disposition left by his deceased father, while his mother also let it be declared through him that she were not disposed to deviate from her departed spouse’s will, where it is explicitly said: that they, the heirs, should seek to balance their shares in unity and fraternity after their parents’ passing and each to be made the other’s equal in the division; and this [m.n. be achieved] without quarrel or strife, but rather in love and the fear of God through the drawing of lots and trust in God’s blessing, on whom everything depends, with gratitude to God the giver of all that is good, the little that is left by the parents be divided amongst each other in a Christian and friendly manner [...]”.¹⁰¹⁹

While it cannot be stated with certainty whether this was what the youngest son genuinely expected of the procedure of estate division, rather than a last-resort objection to an outcome that did not conform with his wishes, there is also no obvious reason to doubt that the underlined passage had left a strong impression on the heirs, once it had been read out. Moreover, copies of the testament were supposed to be provided to the parties involved, so Binder might have had ample time to study the document and focus on the passage in question. Jacob Binder may well have envisaged the estate division as his father had described it, and, despite the considerable sum he inherited, might have felt that the letter of the law – in this case, the testament – had not been followed. The officials of the *Teilamt*, silent up to this point in the written account of the proceedings, were quick to disavow him of this notion:

¹⁰¹⁹ SJANS, *Magistrate - Registers*, Register of estate division, Lower City, no. 255a (309), fol. 85r: “Hl. Jacob Binder Postmeister von Stoltzenburg protestiret wider den ganzen bisherigen Fürgang in diesem Geschäfte, und beharret absolut auf der schriftlich hinterlassenen Willensmeinung seines seel. Vaters so wie auch seine Mutter commissionaliter durch ihn declarireren lassen, als sie von dem hinterlassenen Willes ihres seel. Ehegatten nicht abzugehen gesonnen sey, wo es ausdrücklich laute: daß sie Erbnehmende sich nach Absterben der Eltern einig und brüderlich miteinander vergleichen und eines dem anderen in der Theilung gleichmahl werde, und zwar ohne Zank und Streit, sondern in Liebe und der Furcht Gottes durch Looßung und Vertraung auf Gottes Segen an dem alles gelegen mit Danksagung gegen Gott dem Geber alles Guten, da wenige was die Eltern hinterlassen christlich freundschaftlich untereinander auftheilen. p.p.“ The text is underlined in the original.

“The Office of Divisions explains that this untimely objection [i.e. after the shares had been divided] was especially striking, as it was unheard of and even less practical for the public Office of Divisions to partition a full estate through the drawing of lots, wherein the same partition would be cast into far too many difficulties, especially in the case of particularly-thinking heirs (*besonders denkende Erbnehmern*); however, if all heirs could come to an agreement according to the meaning of the deceased testator, [to divide] the entirety of this sizeable estate in love and fear [of God] without quarrel or strife through the drawing of lots, then it would likely be a particularly rewarding recompense to the Office for the future troubles it would have to negotiate; thus, all the esteemed heirs were conceded their preferred drawing of lots from the point of view of this Office of Divisions.”¹⁰²⁰

Unfortunately, what the heirs or the testator understood by the “drawing of lots” (*Looßung*) or what they imagined the role of chance would be in the settlement of shares are matters which escape the historical gaze, as the proceedings finished with this paragraph, and did not resume later on. The matter does not seem to have been revisited in the following years, as no other entries concerning the fate of the house and the solution proposed by the youngest son made their appearance.

This peculiar event serves as an alternative point of entry into what might appear as a series of monotonous and repetitive judicial records at first glance, which had more to do with figures and account balances than with human experiences and expectations. On the contrary, as Jacob Binder’s predicament shows, probate records constituted a canvass upon which many emotions, beliefs, and undercurrents of thought manifested themselves over the course of the eighteenth century. The procedures underpinning the transfer of wealth deserve equal attention, as they also shed light on a myriad of issues connected to individual and collective engagement with authority. Procedures were developed and refined over time, mostly in relation to the legal framework but

¹⁰²⁰ SJANS, *Magistrate - Registers*, Register of estate division, Lower City, no. 255a (309), fol 85r: “Es erkläret das Divisorat hierauf das dieses zur Unzeit angebrachte Einwendung besonders auffallend sey, indem nie erhöret, vielweniger practisch befunden worden, daß ein öfentliches Officium Divisor. durch Looßung eines sämtlichen Vermögens fürgehen könne, indem dasselbige in alzuvielen Schwierigkeiten, zumahlen bei besonders denkende Erbnehmern versetzt werden würde; sondern falls sämtlich Erbnehmende nach dem Sinn des seel. Erblassers in Lieb und Gefurcht ohne Zank und Streit untereinander durch das Looß bei diesem ansehnlichen Vermögen vereinigen können, es dem Officium eine besonders angenehme Entschädigung ihrer künftig zu beharende Unannehmlichkeiten sen dürfte; welchem zu folge denn sämtlichen Hl. Erbnehmenden ihre diesfällige beliebige Looßung von Seiten dieses Theilamts gern zugestanden wird.”

also at times independently from it. They were also the result of a constant process of negotiation and re-negotiation with families and kin regarding the boundaries of what was deemed an appropriate solution for each particular estate devolution. The present section explores the variety of outcomes included in the registers of estate division, showing that on the contrary, there was little chance involved in how wealth devolved.

As in the case of last wills and testaments, it is worthwhile to firstly explore the timing of probate compared to death in order obtain a view of the temporal boundaries of the process. As per the *Statuta*, widows were bound to undertake this process within one month of their spouses' passing or, in special cases, up to two months¹⁰²¹, while widowers were allotted up to one or two months, with special allowance for up to three months for “respectable men” (*ansehnlicher mann*).¹⁰²² How well were these terms kept in practice? This question was answered on the basis of the data samples discussed in the previous chapter, by following the same procedure: each deceased individual whose estate underwent probate was assigned a date from the respective event; then, for each individual where a link could be established to the burial records, a date of death/burial was also included; finally, the difference between these two dates was computed in days, in order to facilitate comparisons of distributions for various sub-groups. A date of death and thus a valid time span could be ascertained for almost 75% of individuals whose estates underwent probate from 1753 onwards. An examination of the distribution of events (*Table 11*) reveals that the overwhelming majority of probate events occurred well within the legally-prescribed temporal boundaries: half of all estates were divided within 40 days of an individual's passing. Overall, three thirds of all estates were divided within the maximum of three months prescribed by law, as allotted to “respectable men”.

¹⁰²¹ *Statuta*, 2. Buch, 4 § 5.

¹⁰²² *Statuta*, 2. Buch, 4 § 2.

Table 11. Time difference between death and probate (days)

Measures of spread	Difference between death and probate (days)
Minimum	0
Maximum	2484
Mean	91.6
Median	40
Std. Deviation	164
10th percentile	5
25th percentile	13
50th percentile	40
75th percentile	100
90th percentile	222
99th percentile	660

Source: author's calculations, *Historical Population Database of Transylvania and Probate Database of Transylvania*.

Nevertheless, as was the case for the timing of will-making compared to death, some outliers existed from this perspective as well. When, for various reasons, the division process was delayed unduly, remaining spouses did incur various types of fines: in 1780 Catharina Gayer was fined the amount of her *Vorgab*, roughly 4 Hungarian Florin, when she had the estate inventoried 3 years after her spouse's passing. What is more, the deceased Jacob Gayer had also contributed to this state of affairs, as he had likewise not notified the probate office after his previous spouse's passing in 1774. This had made it nearly impossible to adequately calculate the shares of the three minor children mentioned in the protocol, sired during the two marriages.¹⁰²³ It was rare that a penalty was not imposed when the surviving spouse delayed the division for several years, and there had to be good reason for the delay. The officers of the probate court showed themselves more understanding at times when mortality had increased excessively, such as during the 1738-1739 plague. This meant that during the following years, both remaining heirs and the probate office would have to double their efforts to ensure that minor heirs' interests were safeguarded. Nevertheless, the deferral of probate was not without end. An individual named Johann Schuster only notified the probate office of his wife's passing during the plague a full 8 years after the event,

¹⁰²³ SJANS, *Magistrate - Registers*, Register of estate divisions no. 301, Lower City, 1780-1781, p. 43-44: "Weilen die Wittib in 3 Jahren nicht getheilet, auch die erste Theilung vernachläßiget, so wird ihr die Fürgabe denegiret [...]"

despite the fact that minor children had survived their mother's death. As the probate officials recorded, the widower had justified his deferral by arguing that he had taken on the payment of debts which burdened the estate after his wife's passing, "little by little". As a show of good-faith towards his offspring and heirs, he produced a "written inventory of the estate as it had been at the time, but without a signature and a date". To corroborate this state of affairs, he also brought along "two honest men", both of whom presented themselves as burghers and weavers, who testified that they had been the ones to draft the inventory. When the officers of the probate court showed them the document, they again stated that this had been their work, "which they had put to paper immediately after the contagion, and before the city had been pronounced free, which the first witness had written in his own hand and the second witness had kept with himself until now." The reason for finally undertaking the official inventory and division procedure was that the widower had remarried two weeks prior, and as neither "his current wife nor her married daughter had anything against it", a proper inventory could be drafted, and the division of ideal shares sanctioned by the probate office.¹⁰²⁴

What these findings show is that early probate was incentivized, in addition to the probate process itself. In a quarter of events, heirs inventoried and divided the estates they were set to inherit less than two weeks after the burial of the deceased, showcasing the importance of the event for all of the stakeholders involved. The quicker the estate was inventoried, regardless of the outcome of the division between heirs, the more certain the preservation of the estate of the deceased in all its component parts. For those in the 10th percentile, the probate process must have come only a few days after burial, displaying a pace that was uncharacteristically fast for the urban bureaucratic infrastructure. Neither the gender nor the civil status of the deceased seemed to have strongly influenced how soon after death the probate process was undertaken (see *Annexes – Table*

¹⁰²⁴ SJANS, *Magistrate - Registers*, Register of estate divisions no. 270, Lower City, 1746-1748, p. 118: "sollen noch vor 8 Jahren als zu welcher Zeit oben benannte Frau Catharina an der Contagion d 15 August 1739 gestorben eine ordentliche Theilungs-Richtigkeit gehalten werden, der Viduus aber Johann Schuster aus vorgebrachten Ursachen, wie es nemlich die Schulden so dazu mahl zu bezahlen geblieben, nach und nach ab zu tragen über sich genommen, Ursach dieses verzugs gewesen, so leget derselbe heute an obgesätzten dato eine schriftliche Inventur deß jenigen Vermögens so sich dazumahl befunden auf, doch ohne Unterschrift und datum produciert aber zugleich zwey ehrliche Manner beyde burgerliche Wollen Webers vorgebend, daß solche vorgelegtes Inventarium aufesetzt, da nun solches ihren vorgezeugtes worden, gestehen sie daß das eben das Inventarium seye, welche sie gleich nach der Contagion ehe und bevor die Stadt völlig frey gesprochen, auf gesezt, sochtes auch erstere Testii mit eigener Handt geschriben, andere Testii dagegen solches bis ietzo bey sich gehalten, welches geschehen 2 Wochen nach der Hochzeit mit deßen ietziger Ehe Frau da ein die Vereehligte Tochter nichts darwieder hatt, so wird das Inventarium gestellet wie folget."

7, Table 8). Individuals who were married at the moment of death seemed to have had their estates inventoried and divided later on average than their widowed counterparts.¹⁰²⁵ When married individuals passed, in half the cases the estate underwent division within 51 days after death; probate commenced for widowed persons' estates a little over a month after their passing (36 days). This may reflect remaining spouses' ability to manage the estate, especially in the event that young children were involved in the division, regardless of the surviving spouse's gender. When the individual who passed away was widowed, any extant minors were sometimes left without care and therefore the situation required speedy resolution: the estate had to be inventoried as quickly as possible, and a guardian appointed to manage it and protect the minors' rights.

A further indication of women's relatively strong position in this context is provided by the very limited differences witnessed depending on the gender of the deceased. While women's surviving heirs seemed to have taken on average between 5 and 10 days longer to divide the estate than those of men, these differences did not near the law-prescribed deadlines of 2 or 3 months, respectively. Widowed women in the Transylvanian Saxon urban milieu were likely regarded as able managers of their own affairs and were not incentivized to have the estate inventoried considerably earlier than their male counterparts. Both men and women put to use the extensive degree of autonomy they were allotted in order to handle various practical issues that arose after their spouse's passing, with the full assent of the officials of the *Teilamt*.

Only limited differences were visible in the timing of probate according to the deceased individual's social class, regardless of the particular lens through which these were examined (*Annexes – Table 9, Table 10*). The starkest difference was visible between the lowest category of unskilled workers and the remaining groups: when the deceased belonged to the unskilled worker group, the estate division was undertaken much earlier on average than when the deceased had been part of the elite, (lower) middle class, or the skilled and semi-skilled groups. In half the cases, the surviving heirs of individuals in the unskilled category notified the probate office and commenced the inventory procedures 17 days after death; in two thirds of cases, the division was made roughly within 2 months of the decedents' burial. For the other groups, in 75% of cases, the

¹⁰²⁵ Where a living spouse was mentioned explicitly in the probate records, or in the burial entry. This status was cross-checked with the payment of the *Vorgab* from the estate, the 6% share awarded to either surviving spouse when no other contradictory and explicit provisions were made in this sense. A provisional "ever-married" category was used for those individuals where no spouse was listed in the probate proceedings, who had legitimate children (designated as such), and who were not explicitly ascribed the "widow/er" status. These were then incorporated into "widow/er" category, after the linkage process.

division was made within 3 to 4 months from the decedent's passing. Within these remaining categories, the elite and those for whom no class status could be assigned corresponded to the lengthiest intervals between death and division (up to 117 days), the duration dropping with 10 days to 1 week for each class in decreasing order of importance.

Despite the apparently limited effect of social class in the timing of probate, the decedent's involvement in the administrative milieu rather than mere belonging to the elite category seems to have been decisive in several cases. This was not however an effect of one's class as such, but rather resulted from the hazy boundaries between public and private affairs, emphasized throughout the century in numerous contexts. Part of Joseph II's inquiry into the workings of the Transylvanian administration had revealed for instance a common practice in record-keeping, whereby public and private record-keeping intersected to detriment of public order:

“If a clerk, secretary, or someone else from the Government, who must have documents from the governmental archives in his home owing to the office he holds, passes away, is retired, or is relocated to another position, then the documents cannot be obtained either from him or from his widow; on the contrary, these remain with the widow, and after her passing, go to her children.”¹⁰²⁶

Expectedly, blurry boundaries between one's private affairs and one's public office were not encountered only in the provincial administration, where the matter was explicitly but slowly tackled from the 1770s onward. Those employed in the municipal administration who were in charge of supervising various urban accounts – as there were several different *cassae* operating at the same time – generally kept their records among their own papers, periodically ceding documents as well as any cash receipts to higher supervisory offices such as that of the Mayor. Cash receipts were not necessarily kept separately from one's own finances, which could lead to considerable difficulties when one passed and the estate had to be inventoried and divided. These issues had not entirely been resolved by the late eighteenth century: in 1796, the estate of an urban official who handled the transactions with wood from the forests possessed by the city (*Holzassa*) was divided five years after his passing, “because of various (wood) accounts which had been left uncorrected”. His heirs – two adult offspring and the widow – had already successfully divided

¹⁰²⁶ Bozac, Pavel, *Die Reise*, p. 150: “Wenn ein Referent, Secretarius, oder wer anderer vom Gubernio, so Amts wegen aus dem Gubernial-Archiv Acten bey sich zu Hause haben müste, mit Tod abgegangen, jubiliret, oder zu einer andern Stelle befördert worden, so hat man von ihme, oder dessen Witwe die Amts-Action keines Wegs abgefodert: sondern sie blieben bey der Wittwe, und nach dieser Absterben bey ihren Kindern.” One such case was mentioned at p. 152.

the estate *de facto* between themselves, and only notified the *Teilamt* of this final outcome.¹⁰²⁷ In the same year, after the passing of Georg Fundi, an employee of the customs station, the probate process uncovered a variety of “Litteralien” – likely official documents – belonging or pertaining to various individuals. As per the *Teilamt*’s instructions, these were registered and the ensuing list made public so that all the parties whose “documents and written certificates (*Urkunden*)” were found in the decedent’s archive could receive notice and collect them from the widow. Parties involved were bound to provide the widow with a written confirmation of receipt.¹⁰²⁸

The issue did not necessarily grow in difficulty with the value of the decedent’s estate or with the prestige and power of the decedent’s position. In 1761, the estate of Stephan Waldhütter von Adlershausen underwent probate. Waldhütter von Adlershausen had served the Saxon public and the Habsburg rule as Count of the Saxon Nation, Royal Judge of Hermannstadt, and councilor on the Government of province, all three offices being merged into one officeholder. He was also a Catholic, and the first non-Lutheran head of the Saxon nation to have been directly imposed by Vienna to this position without election.¹⁰²⁹ The decedents’ estate had been valued at 65,533 Hungarian Florin, of which 10,916 (16%) was in cash. The entire estate was worth more than the annual tax levy on the entire Seat of Hermannstadt, valued at around 49,000 Florin (*Annexes – Table 1 – Contribution levied in Transylvania and shares assigned to the seat of Hermannstadt, 1720-1740*). The majority of the debt incurred by the estate was represented by the salary received by the deceased – likely in advance per year – and by an unstated number of legal fines and fees “which were owed to the public.”¹⁰³⁰ These sums, which amounted to 7166 Florin, were very rapidly placed under sequester by the *Teilamt*, without any further notice as to what they pertained

¹⁰²⁷ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, Upper City, fol. 62: “daß nach Ableben ihres Vaters Hl. Michael Dendler bürgl. Schneidermeisters und Holtz Commissairs schon das 5te Jahr vefloßen, und wegen verschiedener von ihme unberichtigt gebliebener Holtz Rechnungen zu keiner Theilungs Richtigkeit leangen könne. Da sie nun aber all diese Schwierigkeiten beygelegt, sich selbe mit der Frauen Wittwe und Mutter Susanna gebohrene Schelker in Güte verglichen hätten, und für alle in Hinsicht sich ergeben könnenden Anstände haften wolten; als wird diesfälligen Erklärung auch von Seiten des amtes begnehmiget und zur künftiger Wissenschaft dem Theilungs Protokoll einwerleibet.”

¹⁰²⁸ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, Upper City, fol. 62: “n Absicht der vorfindungen Litteralien wird die Verfügung getroffen, daß selbe zuförderst gehörig registriert und sodann ein Publicandum in und vor der Todt diesmal erlassen werde, womit sämtliche Partheyen, so dem Verstorbenen eingie Documenta und schriftliche Urkunden antworteten, sich selbige abholen und nach deren Empfang der Wittwe gehörig quittiren mögen.”

¹⁰²⁹ On the issue, see Sever Oancea, “Die ‘Wahl’ des Sachsengrafes Stefan Waldhütter von Adlershausen”, p. 81-103.

¹⁰³⁰ SJANS, *Magistrate - Registers*, Register of estate divisions no. 117, Upper City, fol. 23-39, fol. 38v: “Hiervon warden defalciert und in Sequestro behalten erstlich das inter cellar Comitialis Sallarium, wie auch einige dem Publico praetensive restierende Birsagien, so zusammen austragen H.fl. 7166.40”.

to, on what basis they had been calculated, or how this solution of sequestration had been achieved. As no heirs were mentioned, and the estate was divided into two equal shares, it may be assumed that either two offspring or two equally ranked kin were set to inherit. The matter stands as evidence for the increased attention paid by the *Teilamt* – and likely the entire Small Council – to those probate cases wherein the deceased had potentially damaged the pecuniary or political interests of the Saxon nation.

What were the other coordinates of a typical probate event, beside its timing? Similar to the drafting of last wills, the probate procedure overwhelmingly involved the presence of the *Teilhaerren* at the residence of the deceased, given the need to draft a detailed inventory of the entire estate as it was found at the moment of passing.¹⁰³¹ The *Statuta* also emphasised the presence of a male heir of the deceased spouse, when a member of a couple died and children were involved. All heirs were notified in advance and reunited at the premises, either on their own or through representatives whom they had empowered – generally in writing – to act in their stead. Given the high rate of migration to the city from the neighbouring villages, there were a considerable share of cases wherein kin from neighbouring villages had to travel to the city to witness the proceedings. In other situations where the heirs had become part of the “provincial imperialist” group and had travelled further away, letters were exchanged with local kin, friends, or acquaintances who could keep them abreast of the events and represent their interests.

Legal representation of interests within this context, in conjunction with the already existing ties between individuals working in different milieus – the provincial, the military, and the Saxon “national” – added a further layer of complexity both to ostensive allegiances and to friendships. It also shows the perceived power of personal intervention at the right time and through the right individuals. In 1763, Philip Jacob Riegler, a young *Führer* (*Führer*) of the 1st Szekler Infantry Regiment stationed in Csíkszereda wrote to Johann von Harteneck, a scribe to lower city *Teilamt*,¹⁰³² to obtain clarification on his father’s situation. He had heard contradictory rumours, according to which his father was bed-bound with the expectation that he would soon pass, as well as that he already „rested in the Lord.” Being unable to quickly travel to Hermannstadt

¹⁰³¹ A very brief of procedure from a legal standpoint is provide by Müller in *Stuhle und Distrikte*, p. 278-279. See *Statuta*, 2. Buch, 4 § 2, 5.

¹⁰³² On Johann von Harteneck, see Herbert, “Der innere und äußere Rath”, p. 469.

to obtain confirmation, he wrote to Harteneck – likely at least an acquaintance, despite the deferential tone employed – to ask that the *Teilherr* “remember me on account of my mother’s share (*meinem Mütterlichen*)”. It appears that after his mother’s passing, Riegler had not been able to reach a compromise with his father and believed he was still owed a non-trivial sum of 75 Hungarian Florin. Of Harteneck he asked not only confirmation that his father had passed, but also to “undertake the division immediately, and ask about everything under oath to the smallest detail, to see whether anything had been concealed, or already taken away”; “if the division has already passed”, Riegler asked, “concerning my own things, that all be given to a man which you should find trustworthy, but that I be notified who took my things and cash in custody, and how much I have received in total.” Finally, Riegler asked, if at all possible, that he be sent “the large picture with the Mother of God, which is encased in glass”. In exchange, along with lifelong gratitude, he also promised to remember Harteneck’s service and bring along some of the cheese the area was apparently well-known for.¹⁰³³

As a sign of the importance of the division in the urban (political) economy, all heirs were typically carefully protocolled at the beginning of the division, following a pre-set formulary. However, though heirs’ names and occupations – for men – and civil status – for women – were recorded, their relation to the deceased was not always explicitly stated. Especially in the case of children stemming from different marriages, it was only towards the last decade of the century that

¹⁰³³ SJANS, *Magistrate - Registers*, Register of estate divisions no. 112, Upper City, unnumbered folio (letter in envelope located between folios 106 and 107): “Wohledlen Ehrenvest, sonders Wohlweise Herr Theil-Herr,

Nachdeme ich allezeit meine Zuflucht zu euer Weißheit genohmen, und gleichwie Deroselben meine Umstände alle gar wohl bekannt seyn, als bitte gehorsambst mir die Gnade zu erzeugen, wiellen ich von einigen vernohmen, daß mein Herrn Vatter auch den Todt krankligen sollte, theils aber auch vor eine gewisse Nachricht erhalten, daß er wirklich schon in Herrn entschlaffen seye, als habe unterthänigst bitten wollen wegen meinen Mütterlichen nicht zu vergesse, welches annoch lauth hier in Copia begleitenden Abschrift des Herrn Doctoris von Sutey beliebigst zu ersehen, daß ich noch 75 fl 03 d vor Gott und der Welt mit gerechten zu fodern, sollte mein Vatter mit Todt abgegangen seyn, so bitte nun mein Mütterliches vor, dann nun das Vätterliche gleich anderen Kindern; ich werde nich nur allein die an mir thuende Gnadt in ein unsterbliches angedenckten setzen; wann ich in einer Zeith von 2 Monathen nacher Herrmannstadt kommen sollte, werde nicht vergessen, mit etwas Tartoffeln Mauerachen, und Csiker Käß auf zuwarten. Solte wie schon gesagt, mein Vatter wirklich in der That mit Todt abgegangen seyn, so bitte die Theilug nur gleich vozunehmen, und alle auf das genaueste sub juramento zu befragen, ob sie nichts verstecket, oder allbereits weggetragen; wann die Theilung borbey, so bitte, waß das meinige anbelangt, einen Mann, welchen sie vor gut befinden, alles das meinige zu übergeben, mir aber zu beruthen bleiben, wer der jenige, da meine Sachen, und Geldt in Verwahrung genohmen, und wie will auf mir in Summa gekommen ist. Schlußlichen bitte mir, wann es möglich ist, das große Mutter-Gottes Bildt, welches in Glaß ist, zuzuschreiben, ich werde lebenslänglich erzeugen, und beweisen, daß ich bin, und zu ersterben verlange Eueur Wohlweißheit.

Czik Szereda d.13ten October 1763
Gehorsambste deine Phil. Jacob Rigler fourier v. 1ten Szekler Inf. Regiment”

most records began to clearly distinguish between offspring from the current or previous marriage. Female offspring who were married when their parents passed were sometimes mentioned alongside their spouses, the sons-in-law of the deceased, likely in allusion to the legal unity that obtained between man and wife in the public domain, according to Schuler von Libloy.¹⁰³⁴

Thus, after all heirs had gathered at the residence of the deceased, the probate process could commence. At this moment, three pathways opened up: if a testament existed, then it could be opened and read aloud to all those present by the *Teilhaeren*; if the deceased had been guardian (*Tutor, Vormund*) of minor children, regardless of their parentage, the accounts for the management of these children's estates were reviewed (*Tutel revision*); finally, if all heirs were of age, it was possible to entirely bypass the pending inventory through the balancing of shares between heirs, or the so-called process of *Vergleich*. However, when the testator had no bodily heirs – through which children are implied – the mere notification that a will existed seemed to have sufficed. Surviving spouses and kin were mentioned alongside the testator, as having engaged to follow the instructions of the will.

These ideal-typical pathways could intersect in practice, and further separate into different threads on the basis of various factors. If the deceased had fulfilled their role as guardian properly, and all of the ward's inventory could adequately be accounted for as a separate part of the decedent's estate, the *Teilhaeren* could proceed to the inventory. If, on the contrary, items or sums were missing from the original share of the minor in question, these were chalked up as so-called "defects", to be remitted from the decedents' estate prior to the settlement of any other debts. The priority awarded to minors' rights signalled the main purposes of the *Teilung* itself: to ensure that property as part of the collective urban patrimony was not squandered, and that minors – future adults – were cared for from their own funds, rather than becoming a burden on the thinly-financed urban orphanages. Likewise, even when a will existed, the protocolling process did not open with reading out the final disposition to the assembled heirs. A sign of idiosyncratic record-keeping, sometimes the only indication that the deceased had left a testament was the mention of bequests (*Legaten*) being disbursed or the payment of the testamentary witnesses.

After this initial stage, the inventory process itself was begun. Over the course of the late seventeenth and early eighteenth century, the order of actions had changed significantly. According to a joint resolution of the Small and Great Councils from 1642 which spelled out the

¹⁰³⁴ Schuler von Libloy, *Rechtsgeschichte*, vol. II, 1858, p. 219-220.

order of procedures, the estimation of the value of real estate came last;¹⁰³⁵ in all eighteenth-century probate records examined for the present work, real estate was the first thing assessed, with the greatest degree of detail. Among all other categories of items, this assessment was likely the most contention prone. It also clearly showed the specific sociability of probate, which involved an entire suite of trustworthy individuals and corporate actors vested with local-level authority. Neighbourhoods had a vested interest in overseeing the transfers of houses occurring in their midst, as one of their tasks was the strict supervision of public order in their slate of the urban milieu.

Thus, neighbourhood heads or stewards – *Nachbahrhannen* – were tasked with assessing the monetary worth of decedents’ homes, as they were deemed most knowledgeable and reliable arbiters of its value. The assessment was not always a straightforward matter: some houses had already undergone a division process, and parts of the building had been estranged by selling to other individuals. This was the case for a 1773 division: two thirds of the house had been sold some years before, and were well-maintained; the remaining third had fallen into such dereliction that it needed to be torn down and rebuilt entirely.¹⁰³⁶ In other situations, heirs who were unsatisfied with the neighbours’ appraisals brought in their own specialists – bricklayers and carpenters – from other neighbourhoods to conduct an independent evaluation. When this raised the price of the property, the *Teilamt* conceded to the higher independently made assessment.¹⁰³⁷

Following the evaluation of real estate, other items were listed both in the order of their value, as well as according to their place in the household economy: after houses and other landed real estate, regionally-specific pieces of jewellery such as the Transylvanian Saxon *Spangengürtel* were often valued highest within the economy of the entire estate.¹⁰³⁸ Jewellery was followed by

¹⁰³⁵ Schuler von Libloy, *Rechtsgeschichte*, vol. II, 1858, p. 222-223.

¹⁰³⁶ SJANS, *Magistrate - Registers*, Register of estate divisions no. 295, Lower City, 1772-1773, fol. 127v: “In Absicht daß das Hauß zertheilet, und davon das 2Theil an Hartmann verkaufft worden, so hat daßselbe nicht können gewöhnlicher maßen geschätzt werden, vielmehr werden von dem L. Contract Stipulierten Hfl. 700 - ufl 50 aus der Ursach herunter geschlagen, weilen dieses Hauß Theil vom dieser Zeit an geschwächet, unb baufälliger werden muß, dem Contract jedoch kan nichts von seiner Gültigkeit benohmen warden.”

¹⁰³⁷ SJANS, *Magistrate - Registers*, Register of estate divisions no. 129, Upper City, 1778-1782, p. 23: “Das Hauß aestimiret von beyden Nachbarhannen pro 370 - da Johann Schellin mit dieser Schätzung nicht zufrieden, wird solches durch Maurer und Zimmerleuth auch der Nachbahrhannen aus der großen Margareth Gaßen [m.n. *a different neighbourhood*] aestimiret lauth Attestat 450 fl. da obgedachte noch nicht zufrieden gewesen, sind von Divisorat noch fl. 50 zugesetzt, folglich 500.”

¹⁰³⁸ See for instance the late 19th century belts in the collection of the ASTRA Museum in Sibiu [<http://clasate.cimec.ro/lista.asp?tip=1246-Cordon-femeiesc>, accessed 20.07.2020]. Silver belts were also frequently gifted through testament in the Hungarian urban milieus during the late middle ages, according to Katalin Szende, “From Mother to Daughter, From Father to Son? Inheritance and Movables in Late Medieval Pressburg”, in Finn-Einar Eliassen, Katalin Szende, *Generations in Towns: Succession and Success in Pre-Industrial Urban Societies*, Newcastle upon Tyne: Cambridge Scholars Publishing, 2009, p. 64.

high-value personal clothing made of superior fabrics, metal-made items used inside (generally kitchen and table-ware), and furniture. Other items made of fabric that belonged to the administration of the house rather than to the clothing category, such as carpets, linen, sheets, etc. were registered separately. The inventory moved then to items and tools employed in one's trade or in agriculture: despite the social stratification described in the earlier chapters, there were very few estate inventories which did not include agricultural implements, thus suggesting that most individuals directed their efforts in this field as well, even when they practiced a craft or trade. Tools employed in agriculture were also a staple of inventories of well-situated individuals, who held public offices: in these cases, it was likely that it was not the deceased who had directly toiled in the field or the garden, but rather serfs or hired workers. Weapons also figured in inventories, but where they were registered depended on their value and how extensively they were decorated, etc. A cursory examination of the probate divisions in the sample suggests that weapons were found primarily in households where the deceased had either been part of the elite and (lower) middle-class groups, or had served the city by ensuring public order (the *Trabanten*, *Szabadascher*, *Thorhütter*, etc.). Craftsmen's workshops were inventoried, but not itemized, instead being assessed as a single unit under the heading of "*Handwerkzeug*". Where the breadth and complexity of the estate exceeded the capabilities of the *Teilhaeren*, specialised appraisers in the same occupational field as the deceased were called in. In 1791, for the inventory and appraisal of the merchandise left after the passing of Johann Bordolli, an Italian merchant hailing from Como, the service of three local merchants was requested: one inventoried and valued the merchandise; two others reviewed this document, while also checking the balances of Bordolli's account books. After the financial records were put to order and all public accounts settled, Bordolli's estate amounted to some 25 390 Hungarian Florin.¹⁰³⁹ Merchants, and especially Greek merchants, were sometimes held responsible by the urban authorities in assessing values of commercial wares and, up to the end of the seventeenth century, to turn wares to ready cash. Some outright rejected this responsibility. Regardless of the presence of native Transylvanian Saxon merchants in Hermannstadt, at the end of the seventeenth century, there was a noticeable reluctance to deal with the assessment and commodification of foreign wares. In 1694, when a Greek merchants' debts

¹⁰³⁹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 138, Upper City, 1790-1791, p. 63. The same Johann Bordolli had purchased full burgher rights in 1783, declaring his profession as "mercery seller" (Gallanterie-Handler).

had to be paid off in wares rather than cash, the Small Council noted that “we do not know how to sell them, and we would be stuck with them and suffer great loss”.¹⁰⁴⁰

The final part of the inventory comprised the listing of the decedent’s actives, whether in cash or in kind. Towards the last decade of the eighteenth-century, when record-keeping had grown more unitary in this respect, the year wherein the debt was contracted, the debtor, and the interest accrued were registered separately. Within the total value of the estate, any sums that had been given to particular offspring were virtually re-integrated in the entire sum under the category of *Vorempfang*. The only exceptions were sums which had gone towards supporting children’s education, especially abroad, as this category of monetary gifts were excluded from the final calculations. Otherwise, the costs of weddings or other significant financial aid awarded by the parents to children needed to be taken into account when calculating the final share allotted to each heir. The last category to be mentioned in the inventory of actives was cash. Most probated estates had little, if any cash. The presence of high amounts of cash was in many cases correlated with the presence of many – and valuable – active debts: those who had money to lend out were also likely to have cash at hand.

Having completed the inventory of actives, a thorough chronicle of all debts which burdened the estate was undertaken. Under the heading of the so-called *Passiva* rested all the financial obligations of the decedent’s estate after their passing, regardless of purpose or scope. Thus, for probate events where the *Passiva* explicitly included entries described as “Legat” or mentioned the payment of testamentary witnesses, the existence of a testament could be inferred. However, the *Passiva* category itself is generally misleading, if one attempts to delineate actual debts incurred on the estate from legacies made in a testament: the typical entry only contains information on the person to whom a certain amount of money was to be paid out. If no indication was given as to whether the sum represented a contracted debt and the individual was therefore a creditor, or whether the sum was a testamentary gift and the person a bequest receiver, then these two very different types of entries cannot be distinguished. This is also the case for sums owed to institutions, which participated extensively in the informal credit networks of the eighteenth century: for instance, a legate to the Evangelical orphanage can hardly be distinguished from a debt owed to the same institution. Fortunately, towards the final decades of the century, debts

¹⁰⁴⁰ Mária Willcocks-Pákucs, “‘This is their profession’: Greek merchants in Transylvania and their Networks at the End of the 17th century”, in *Cromohs, Cyber Review of Modern Historiography*, Vol. 21, 2017-2018, p. 41.

which had been contracted some years prior to the division of the estate and had also incurred interest (between 6 and 10% yearly), included an itemized charge for the interest under the respective entry. As bequests could not incur interest, from the 1790s, these two categories of *Passiva* can be more easily distinguished. It was only during the probate events sampled from the early 1740s, following the wave of plague, that the testamentary legates were clearly separated from debts, and a separate disbursement occurred, under the heading of *executio testamenti*.

The *Passiva* also included several categories of debts incurred after the passing of the deceased, which could also potentially distort the image of the balances of accounts: the costs of the funeral and those of the division process itself, with the addition of various extraordinary costs. Reconfirming the relatively brief time span between probate and death, most inventories also included sums due to local physicians and apothecaries. Likewise, domestic servants' wages counted among expenses which had remained unpaid and needed to be settled before the division proper could be undertaken. Most servants were paid between 1 and 2 Hungarian Florin a month, according to the limited exploratory sampling undertaken in this respect. Moreover, when the probate process commenced, some had not been paid for over a year.¹⁰⁴¹

A prescribed order wherein debts were supposed to be settled had been introduced through the 1772 bankruptcy ordinances.¹⁰⁴² Thus, in the event that the estate did not stretch enough to cover all debts to the entirety of their amount, debts were assigned into four classes according to the order of their importance: the first class included the levy owed to the state (the *Contribution*), the wages of any employees or subordinates, any judicial fees – i.e. the fees incurred by the probate process –, the costs of the burial, as well as any other liberal professionals who had served the bankrupt individual in his final hour (i.e. physicians and pharmacists).¹⁰⁴³

A second category of creditors included the spouse of the deceased, any minors over whose estate the deceased had exerted control as guardian, as well as individuals to whom the deceased had pawned off items, in case the value of the item was less than the sum received. Churches were also included as creditors in this group, along with any legacies and pious bequests the deceased might have made, which were to be paid out before the settlement of any other debts from inferior

¹⁰⁴¹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, Upper City, 1796-1797, fol. 190: "Dienstbothen Lindlohn pro 10 Monath 13.68 H. fl.," Register of estate divisions no. 294, Lower City, 1768-1770, fol. 200: "Dienst Mägd Lohn 13.85"; Register of estate divisions no. 312, Lower City, 1797-1798, fol. 80: "Vor 2 Jahren und 5 Monath schuldiger Dienstlohn 52 H.fl."

¹⁰⁴² Reproduced by Schuler von Libloy in *Rechtsgeschichte*, vol. II, 1868, p. 268-276.

¹⁰⁴³ Schuler von Libloy, *Rechtsgeschichte*, vol. II, 1868, p. 268-269.

classes.¹⁰⁴⁴ Three other classes comprised all other categories of potential creditors who could prove in writing that they had made loans to the deceased. The traces of the implementation of the new bankruptcy norms begin to be visible only in the 1780s and 1790s. When the estate was worth too little to cover all debts, the first class of creditors were satisfied in full – if at all possible – while the latter received an amount proportional to what they had been owed from the remaining estate. This could mean for instance that only a small percentage of a particular debt was reimbursed; heirs who were left with nothing more than what had been inventoried could not be held liable for bankruptcies of estates which they had been set to inherit, provided they had not explicitly taken on the responsibility of settling the debts themselves.

The repudiation of estates heavily burdened by debts could be undertaken under certain conditions, as the *Teilamt* proceeded to inventory the active and passive parts of the estate prior to making heirs commit to their inheritance. According to the *Statuta*, should an individual come to inherit an estate that was overburdened by debts, they were bound to make a complete inventory of all items found in the decedent's estate – as *Findzettel* or *Fundzettel*. When such an inventory was completed in orderly manner and in the presence of notaries (one of the few mentions that the *Statuta* makes of the presence of notaries), then the heir could safely assume the indebted estate, and be bound to pay to the creditors nothing more than its worth. According to this scenario, creditors would be paid back on a first-come, first-served basis. If no creditors presented themselves after the matter was publicised, then the heirs could safely remain in ownership of the estate without having to cover any debts from their own pockets. If the inventory was not made within the allotted 30 days – a special case for indebted estates – or if the heirs did not explicitly repudiate the estate and heirship in an allotted time frame they had received to think things through, then they became responsible for all debts, and had to disburse all creditors to the entirety of their amounts owed.¹⁰⁴⁵

In many cases, widows and widowers were the ones to assume this responsibility and were therefore awarded the entirety of the estate, having engaged themselves to settle the due payments “little by little”. Even when the balance of accounts between active estate and debts owed was positive, sometimes the resulting sum was too low to actually be worth dividing. In 1788, after the passing of the Wentzel Hubatschek, doorman and house servant in the Gubernium's residence

¹⁰⁴⁴ Schuler von Libloy, *Rechtsgeschichte*, vol. II, 1868, p. 269.

¹⁰⁴⁵ *Statuta*, III. Buch, 3 § 5.

(*Gubernial Ianitor*), the balance of accounts resulted in 24 kreuzer, a little under a quarter of a Hungarian Florin. The entry noted that “according to the Municipal Laws, the widow is to receive the *Vorgab*, but seeing as this, as well as any division among the children is almost impossible”, the *Teilhaeren* decided to leave the entire estate in the charge of the widow and her eldest son, Anton. They were tasked to handle the settlement of debts themselves, in the knowledge that “the little that is left will certainly be of great need for the raising of the younger children.”¹⁰⁴⁶

Thus, what remained after all debts were settled was the dividable estate, on the basis of which all shares were calculated. Firstly, the widow or widower’s *Vorgab* was calculated, at the standard rate of 6%, and then deduced from the total sum.¹⁰⁴⁷ Another share of the remaining estate also fell to the widow for the care of minor children, likely when these were very young: the so-called *Kinderzucht* could also be extracted from the estate prior to the division of shares. In the probate events examined, it generally ranged between 16 and 18 Hungarian Florin, and corresponded rather to a set sum calculated on the basis of the number of children and how many years they would require care. The *Statuta* had created a tiered system for the provision of the *Kinderzucht*: for children who were not yet one year old, the widowed mother was supposed to receive the sum of seven Gulden; for children who were in their second year of life, six Gulden, and so on, until children who had reached seven years of age were entitled to one Gulden per year, to be remitted to their mother directly for their care. If children passed away within the year when the *Zucht* had already been allotted, then the widow was liable to pay back whatever sums had remained unspent.¹⁰⁴⁸ The *Kinderzucht* was taken from the *Zweyteil* directly, after shares had already been allotted, as the *Zweyteil* was the share which devolved to the children in the event of a father’s passing.¹⁰⁴⁹ In some cases, the entirety of the remaining estate could to the widowed

¹⁰⁴⁶ SJANS, *Magistrate - Registers*, Register of estate divisions no. 136, Upper City, 1788-1788, fol. 33: “Da also der Vermögens Stand deductis Passivis nur in kr. 24 besteht, und hirvon noch denen Municip. Gesätzen der Fr. Wittib die Vorgab zu gut kommen solte, diese aber so wohl, wie auch die Auftheilung unter die Kinder fast unmöglich, so wird der Fr. Wittwe, und dero älter Hl. Sohn Anton das vorbeschriebene Vermögen zu Tilgung der vorgedachte Passivorum überlassen, und das sehr wenige überbleibend, gewiß zu fernerer Erziehung der kleineren Kinder sehr nöthig seyn wird.”

¹⁰⁴⁷ In some of the probate records kept in the early 1740s, the *Vorgab* was explicitly referred to as *Dos* or *Dote*. See for instance SJANS, *Magistrate - Registers*, Register of estate divisions no. 266, Lower City, 1740-1740, p. 2, 14, 913.

¹⁰⁴⁸ *Statuta*, 2. Buch, 4 § 10.

¹⁰⁴⁹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 67, Upper City, 1721-1724, fol. 28: “Kinder Zucht der Mutter hiervon von 2theil – 18 fl.”

mother under the title of *Kinderzucht*.¹⁰⁵⁰ This category of expenses appears rarely in the records after the 1720s.

Thus, the final step of the probate could be reached, namely the division of shares between the heirs of the deceased. The intestate legislation in the *Statuta* had clearly spelled out the order of kin in the inheritance process, as well as the position of the widow relative to any remaining offspring. The third or *Drittheil* went to the widow, in addition to the *Vorgab*; the two-thirds or *Zweytheil*, amounting to 66 % of the entire estate, was divided between remaining heirs. Children's shares were divided equally, the reason for which anything they might have been previously gifted needed to be clearly included in the inventory. Although this was the ideal-typical standard procedure, in some cases a different order of operations was pursued: first the entire estate was divided into the *Drittheil* and the *Zweytheil*, the *Vorgab* was calculated and added to the widow's third, and then all the debts burdening the estate were divided among the heirs proportionally to the amount they had inherited.¹⁰⁵¹

It was at this point in the probate process that a different pathway of wealth devolution could appear. In many cases when a will was made, what can be termed the "spousal legate" – the remaining spouse receives a third of the decedent's share – constituted an alternative to the widow's *Vorgab*. There is a wealth of examples to demonstrate the way in which widow's rights by intestacy were balanced to testamentary-prescribed devolution. Regardless of the gender of the deceased, and reflective of the communion of goods obtaining within the couple, the widowed spouse had free choice of whether to follow the letter of the testament or, upon ascertaining the value of their incoming *Vorgab*, disregard the provisions of the decedents' will. In 1769, after the passing of the backer Andreas Irtell, the probate proceedings included mention of a final disposition which granted the widowed Agnetha a third of the deceased's *Zweytheil*. According to the protocol, "the co-heirs [...] have left her the free choice, whether to remain in the abovementioned fashion with the *Vorgab*, or whether after several days to make use of the testament". It appears that Agnetha, "after thorough consideration" had decided that she wished to receive her due according to her departed spouse' wishes.¹⁰⁵²

¹⁰⁵⁰ SJANS, *Magistrate - Registers*, Register of estate divisions no. 67, Upper City, 1721-1724, fol. 38, wherein only 7.25 Hungarian Florin were left as dividable estate.

¹⁰⁵¹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 121, Upper City, 1772-1774, fol. 154.

¹⁰⁵² SJANS, *Magistrate - Registers*, Register of estate divisions no. 294, Lower City, 1768-1770, fol. 147r: "Dieweilen die mit Erben bey vöriegen Schluß die freye Wahl gelaßen, ob sie nach obiger Ahrt bey der Vorgab verbleiben oder sich auch nach etlichen Tügen des Testaments gebrauchen wolle, so hat sie nach reifferer Überlegung unter heuttigen

Oral or nuncupative wills which had remained unwritten were also announced at this point in the probate proceedings, generally by the witnesses or those who had taken part in the drafting of the document. However, offspring and kin could also be the ones to present the matter to the *Teilherrn*, although their involvement in the official drafting of a will would have been limited, as per the *Statuta*. For instance, two sons attested to their mother's final disposition regarding the bequests made to her grandchildren: should any of them pass, then their siblings would inherit; no item would devolve upon her former daughter-in-law, who had separated from her husband.¹⁰⁵³ Oral or nuncupative wills could even have greater legal power than written final dispositions wherein part of the formalities had not been followed: in 1784, the estate of one Agnetha Theil was supposed to devolve upon her brother and only living heir, a cantor in Klein-Schelken. He had also received a "Donations-Schrift" – likely a final disposition – which entitled him to an additional 196 Hungarian Florin, which the deceased had held as a share in one of the houses in the city. Nevertheless, given that the document had only been signed by one witness along with the decedent's son (likely also deceased in the interim), it could not "be regarded as valid." Despite this setback, "what the deceased had revealed through spoken word to her brother" still retained validity: thus, all orally made bequests were upheld, while the written document could not be accepted as legally-binding.¹⁰⁵⁴

A relatively high share of events eschewed the inventory and explicit division of shares altogether, resulting in two different but similar outcomes: either testaments existed and went broadly uncontested for various reasons, such as the absence of bodily offspring or the limited number of entitled kin, who were satisfied with lump sums as *legitima*; either adult children and the widowed spouse came to an agreement amongst themselves that precluded the need for an

Tag gegen das Officio Divisorato und miterben zu letzteren erklärt, und das Off. Div. zu dem Ende beruffe, nun ihr lauth Testament [g...] zu leiten."

¹⁰⁵³ SJANS, *Magistrate - Registers*, Register of estate divisions no. 311, Lower City, 1797-1797, fol. 82r: "Nach geendigter Theilung erklären Hl. Georg Sontag und Hl. Andreas Urbanus daß ihre seel. verstorbene Mutter auf ihrem Sterbette mündlich verlassen habe: woferne eine von ihren Enkeln, als den Kindern ihres verstorbenen Sohnes Simon, mit Tod abgehen solte, so solle des verstorbenen Erbtheil dem noch lebenden zukommen; stürben aber beide Enkeln, so sey der ganze Erbfall wieder an ihre Kinder als die Urbanusische Erben zurückzufallen, und nicht an die Mutter ihrer Enkeln, welche von ihrem verstorbenen Sohn getrennet worden."

¹⁰⁵⁴ SJANS, *Magistrate - Registers*, Register of estate divisions no. 132, Upper City, 1783-1786, fol. 84: "Als nach Ableben der Seel. Agnetha verwittibten Theilin, gebohrene Dinkler, wird ihre Verlassenschaft inventiret, und dem einzigen Bruder Petrus Dinkler Cantor in Kleinschelken als Universal Erben überlaßen. Erstlich hat dieselbe auf dem Hause Michael Schneider Kürschner in der Neu Gaßen [...] annoch 196 Hfl. Wird eine Donations Schrift produciret, welche aber weilen nur ein Testis nebst dem Sohn unterschrieben, nicht vor gültig angenommen worden kann. Was aber die Verstorbenen ihrem leibl. Bruder mündlich offenbaret, hat derselbe zu entrichten [...]"

inventory. In the latter situation, the records noted that the heirs had reached a *Vergleich*, literally a balance in their shares. Finally, when only one heir existed – a child of the deceased – and the value of the estate was extremely low, no inventory was made. This did not necessarily satisfy remaining sole heirs: in 1773, after Susanna Niedlich had only been survived by her son Martin, the *Teilamt* recorded that “no description of the very little or extremely small would be required.” Despite being spared the expense of the inventory, Martin had angrily complained that “he would still have to cover passives”, suggesting that he had only grudgingly assumed responsibility for the estate and all its burdens.¹⁰⁵⁵

In these cases, the office of estate divisions was notified as per the law, and only a nominal fee, generally between 1.2 and 2.4 Hungarian Florin, was paid. The *Vergleich* could involve not only living heirs, but also the heirs and the creditors of the estate. The process of settling debts could span a longer time frame, while the surviving spouse or heirs engaged themselves to cover the sums owed. The negotiations involved in the *Vergleich* process reflected a different facet of the relations between widowed individuals, their in-laws, as well as parents and children. The hallmark of the *Vergleich*, regardless of content, was a performative one: in a well-practiced sequence of gestures, the parties shook hands in a friendly manner in the presence of the *Teilhaeren*, who dutifully committed this to the protocol.¹⁰⁵⁶ The handshake served as a physical mark that the negotiation process had been completed, and that all parties had vowed to fulfil their obligations.¹⁰⁵⁷

As the final part of the division, the guardian (*Tutor, Vormund*) to any minor children in the decedent’s care was established. In the overwhelming majority of cases, the remaining spouse was selected for this part. Very few deceased as well as very few testators expressed contrary intentions, leaving word that some other individual serve in this capacity. In exceptional situations,

¹⁰⁵⁵ SJANS, *Magistrate - Registers*, Register of estate divisions no. 295, Lower City, 1772-1773, fol. 122r: “Dabey auch daß Martinus Niedlich der einzige Sohn seye, folglich keine Beschreibung vom dem sehr weniger oder überaus kleinen Vermögen erforderlich wäre, vielmehr klaget der Sohn, daß er noch Passiv-Schulden zu depurieren hätte, als wird ihm alles zugestanden.”

¹⁰⁵⁶ For instance, the gesture is described in SJANS, *Magistrat – Registre*, Register of estate divisions no. 295, Lower City, 1772-1773, fol. 113: “Hierauf produciret Michael Bisch Wollenweber und des Verstorbenen Schwager einen Aufsatz a Hfl. 273 - wobey auch einen Obligation a Hfl. 25 mit einbegriffen ist, und offerirert aus Mitleiden, sich mit des Verstorbenen gehabten Effecten, Kleidung, und Werkzeug, ohne den Verlag d. Holtzzeich, zu begnügen. Vidua entschließet sich, ihme solches willig folgen zu lassen, dancket demselben, und geben sich in Freundschaftlichen Wohlwollen die Hände.”

¹⁰⁵⁷ On the politics of gestures, see for instance Michael J. Braddick, “Introduction: The Politics of Gesture”, in *Past & Present*, Vol. 203, Special Issue 4, The Politics of Gesture: Historical Perspectives, p. 9-35.

surviving mothers were bypassed in the establishment of guardianship by the *Teilhaeren*. This decision was likely made on account of the size and complexity of the estate, rather than owing to any distrust in the mother's capacities. Highlighting the complexity of women's position as managers of their own affairs, widows who had remarried after the passing of their spouse were sometimes replaced as guardians. Thus, though the *Teilamt* acknowledged Elisabetha Speckin's rights "according to the laws and to nature [...]" to maintain the guardianship over her daughter as the biological mother, they nevertheless awarded the *Tutel* to her brother-in-law, Jacob Michael. Elisabetha had not only re-married, but also found herself "in a blessed state" – i.e. pregnant – and "ridden with other great household-related cares" and had herself agreed to renounce the guardianship over her daughter. Her replacement was entrusted with all accounts of the new ward's estate, and for his future efforts, which included the provision of all manner of "care and other homely comforts" to his niece, would be rewarded with the entire lower storey of a home owned by the family in the city.¹⁰⁵⁸

Worth mentioning is that on other occasions, so-called *Mitbesorger* or co-tutors were appointed by the *Teilamt*. The surviving parent – usually the mother – remained a "natural guardian" (*tutor* or *tutrix naturalis*), while the co-tutor was tasked with aiding in the management of the minors' estate. Nevertheless, widows retained control over the estate, and were provided with co-tutors primarily as an aid, rather than as a complete replacement.¹⁰⁵⁹ Generally, co-tutors or tutors appointed by the *Teilamt* were male kin of the decedents' minor children, such as brothers-in-law.¹⁰⁶⁰ Officially-appointed guardians were awarded a high degree of trust both by

¹⁰⁵⁸ SJANS, *Magistrate - Registers*, Register of estate divisions no. 132, Upper City, 1783-1786, p. 59: "Den Gesetzen und Natur Gemäß, gebührete nun der Frauen Elisabetha Vermählten Spekin als der leibl. Mutter die Tutel der Tochter Maria Elisabeth, da aber dieselbe in eine von Gott gesegnete Ehe, und andern große Häußliche Sorgen versetzt worden, so wird war derselben die Sorge, welche einer leibl. Mutter auf ihre Kinde zustehet, nicht abgenommen, die Tutel aber mit Einwilligung dieselben, und derer Herren Anverwandten, den Herrn Jacob Michaelis als Leibl. Schwager also übergeben; daß er die gänzliche Besorgung und Rechnung das Lauth Theilbrieff dem Pupillen zugefallene Erbtheil über sich haben, demselben die Kost und andere hauß bequemlichkeiten entrichten solleM wofür ihme Hl. Michaelis zum recompens vor diese Mühe die untere gelegenheiten das Linzigischen Hauses, welche er bißher und auch dermahlen besitzt, ohnentgeltlich übergeben wird. Doch aber mit diesem Vorbehalt, daß er Hhrr. Michaelis oder Tutor vom dem zu besorgenden Erbfall ohne Vorwissen derer Herrn. Anverwandten, und Frau Mutter nichts veräußern, und ohne dem hiesigen Löbl. Magistrat davon Meldung gemacht zu haben, und Capital anzulegen befügt seyn soll."

¹⁰⁵⁹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 313, Upper City, 1799-1805, p. 65: "Die Wittwe bleibt Tutrix Naturalis ihrer Kinder und Hl. Andreas Schön bürgerl. Tuchmacher Meister wird ihr als Mitbesorger des Pupillar Vermögens von dem Theilamt an die Hand gegeben."

¹⁰⁶⁰ SJANS, *Magistrate - Registers*, Register of estate divisions no. 283, Lower City, 1757-1759, fol. 44v: "Dieses zu besorgen wirdt der leibl. Schwager Andr. Hihn bürgerl. Schloßer Meister pro Tutore bestellt."; fol. 144r: „Pro Tutore bey der Kinder wird Hl. Gottfried Hertel als Leibl. Schwager ab officio bestellt wobey er verspricht den Kindern vor die Kost nichts anzurechnen."

the community and the family of the deceased. In an urban space split by confessional and geographical provenance, which drew some 8-9% of its citizenry from the Holy Roman Empire, some individuals were guardians-of-choice for particular smaller communities still regarded as a foreign element within the Transylvanian Saxon body politic. This was the case for instance in 1797, when Adam Abt, a local citizen and German shoemaker, was appointed tutor by the *Teilamt* on at least three occasions to orphans whose deceased fathers had likewise been long-distance migrants to Hermannstadt.¹⁰⁶¹

Some of the differences between various groups were levelled during the probate process, while others were re-emphasized through the procedures which have been discussed. From an economic standpoint, probate exacerbated economic differentiation, as it incurred fees. In situations where estate values were very low and the surviving heirs could barely cover funeral expenses and other debts, the levy charged by the officials of the *Teilamt* was an additional blow to an already weakened system. The introduction of adult heirs' right to eschew the inventory process altogether and simply notify the office that they had reached a balanced devolution sometime in the second half of the eighteenth century meant that the fee incurred by this process could be reduced, if not eliminated altogether. In the very few events where a *Vergleich* had been reached prior to the 1750s, an inventory was still compiled, and thus a full fee still charged.¹⁰⁶²

How much did the typical probate process cost? In practice, the expenses incurred through this process varied greatly. At the lowest level were those who only notified the probate office about their agreement, who paid either 1.20 or 2.40 Hungarian Florin. In order to examine the extent of the variation in this respect, a sub-set of 175 probate events was selected from several complete years of registration (*Annexes – Table 11*). Thus, for almost half of the cases examined, the fee incurred ranged between 3 and 3.48 Hungarian Florin. While this was not necessarily a high cost, it was nevertheless almost triple to what an unpropertied individual from the city had to pay in order to become settled (1.20 H.fl.). Compared to the tax situation as it was recorded in the 1720 conscription (*Chapter 8 - Table 7 – Income and tax distribution measures in Hermannstadt, 1720*), an estate division which cost over 3 Hungarian Florin meant an additional 10% levy on an

¹⁰⁶¹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, 1796-1799, Upper City, fol. 84, 85, 152.

¹⁰⁶² Within the sample of probate records, some 219 events were explicitly described as a “Vergleich”. Only 10 of these had occurred prior to 1752.

individual's annual income for those decedents who had earned in the lowermost quantile. At the 90th percentile, the probate fee incurred reached 13 Hungarian Florin, roughly what those in the 60th percentile of income paid in annual taxes. The top 1% in terms of probate fees paid between 9 and 12 times what the majority paid, with fees ranging between 27 and 36 Hungarian Florin.

At the lowest levels, these fees likely contributed to inequality by further impoverishing those for whom the average sum represented 10% of the annual income. At the highest levels, they merely reflected the breadth of the estate and the ensuing complexity and span of the procedures which had to be followed. The highest tax paid for probate – at 36 Florin – was roughly the equivalent of the overall annual contribution paid by the 90th percentile of income earners in 1720. Larger estates, whose inventory spanned dozens of folios and were sometimes written in several hands – and thus by several different scribes – were more expensive, but likely made less of a dent in the decedents' estates than 1 or 2-page inventories made for poorest urban dwellers. The same relation obtained between the value of the probate process and an individual's wealth as did between the overall contribution and the value of one's annual income. As the following chapters will show, the differences between the estates probated was much larger than the 12-times increase in the probate tax.

A noticeable rise in the complexity of procedures was reflected by the increased itemization of probate costs for those estates which required more than a simple inventory, and which spanned more than 1-2 folios. The clearest example of complex procedures and the high costs they entailed is that of auctions. Over the course of the century, as indebtedness grew into an increasingly pressuring issue, which was only partially tackled by the 1772 ordinance, more and more urban estates had to be auctioned off in order to cover bankruptcy cases. A separate office of judge for bankruptcies was likewise established, further signalling the importance of the matter. This official was explicitly mentioned towards the late 1780s, when heavily indebted estates such as that of Daniel Gottlieb Fabritius, a citizen and coppersmith, were assigned "to a separate register" by Carl von Scharffenbach, the so-called *Cridal Richter*, or bankruptcy judge.¹⁰⁶³

When an auction was organized, the costs for probate rose steeply. After the passing of Samuel Adami, a correspondence clerk at the Government office in 1793, the probate fee reached 19

¹⁰⁶³ SJANS, *Magistrate - Registers*, Register of estate divisions no. 136, Upper City, 1788-1788, p. 36: "Wird des abgelebten Daniel Gottlieb Fabritius bürgl. Kupferschmidts Vermögen ad Chartam separatam aufgenommen Titl. Cridal Richter Carl v. Scharffenbach laut Verordnung übergeben. Dient zur Wissenschaft."

Hungarian Florin and covered the “legal hold, inventory, auction and negotiations”. An additional 8 Florin were paid for extradited copies of the proceedings. Finally, 4.80 Florin covered the payment of the so-called *Tambour*, likely an individual who held a post similar to that of town-crier, and by means of beating on a drum announced the time and date of the future auction, in order to draw as large a crowd of interested parties as possible. Each day of announcements incurred a 1.20 Florin fee on the estate.¹⁰⁶⁴ In another case, the fee for the probate and auction which reached 26 Hungarian Florin included an extra Florin for “some items found in an foreign chest” as well as an unpaid tax for a property which had been purchased by the deceased.¹⁰⁶⁵ Auctions also included a publication cost, as towards the end of the century they were also advertised by means of small *Zettel*, which announced the time and place a particular estate would be sold. This did not preclude advertisement by word-of-mouth through the *Tambour*, but might have reached those interest more easily.¹⁰⁶⁶ Thus, through auctions and public advertisement, the probate process had the potential to bring individuals who did not have a direct stake in the estate together, while simultaneously dissolving the estate into its component parts. What is more, auctions were deeply embedded in the framework of early modern consumption, as sources for a household-variety of items which could find use for many decades after their deceased owner’s passing.¹⁰⁶⁷

In the context of eighteenth-century Hermannstadt, auctions also seemed to have been the preferred method for dealing with foreigners’ estates, thus re-affirming the differences between *Stadtkinder* and those who found themselves in Hermannstadt owing to the translation of the city into a provincial capital. Foreigners’ estates were always inventoried in Rhenish Florin over the course of the second half of the eighteenth-century. This hallmark of the deceased individual’s relationship to the political urban milieu was also a practical necessity, as foreigners’ next of kin

¹⁰⁶⁴ SJANS, *Magistrate - Registers*, Register of estate divisions no. 141, Upper City, 1793-1793, p. 8: “Theilamts Gebühr für Speer, Inventier, Licitation, und Verhandlung Ufl 19, für den Steph. D. Adamischen Theilbrief 3 Ufl, für die Sam. Adamische u 2. extract 5 Hfl., dem Tambour 4 Tage 4.80 Ufl.“

¹⁰⁶⁵ SJANS, *Magistrate - Registers*, Register of estate divisions no. 135, Upper City, 1786-1788, p. 157: “Divisor Gebühr, Petschieren, Inventier. u. Licitation 26 Hfl, Detto bey inventierung denen fremden in einer Küste vorgefundenen Sache 1, Detto Theilbrief 3, Hausverkauf Aldamasch 3.30 Hfl.”

¹⁰⁶⁶ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, Upper City, 1796-1799, p. 185: “Publications Gebühr 1.38, Tambour Gebühr pr. 1 Tag 0.60, Theilamts Gebühr pr 3 Tage 6, Theilamtdieners Gebühr 1.44”.

¹⁰⁶⁷ See for instance Ilja van Damme and Reinoud Vermoesen, “Second-hand consumption as a way of life: public auctions in the surroundings of Alost in the late eighteenth century”, in *Continuity and Change*, Vol. 24, Issue 2, 2009, p. 275-305.

living outside the boundaries of Transylvania had to be notified of their due inheritance, and perhaps remitted the decedent's effects or their cash value.

Small-scale networks of care sometimes became visible when foreigners passed away, and left minor children. For instance, after Sigismund Enyedi, a correspondence clerk at the Provincial Exchequer passed away in 1796, the probate process commenced involved two members of the Hungarian nobility. One of these was also a clerk in the provincial administration, and had been appointed as guardian to Enyedi's 9-year-old daughter, Barbara, through the intervention of one of the Counts of the Haller family, at the time lord lieutenant in one of the neighbouring counties. Enyedi's entire estate was auctioned off to cover his debts which amounted to 397 Hungarian Florin. His passives included one year and two weeks' worth of rent to the sum of 31.5 Hungarian Florin, a total of 19 Florin incurred by the auction itself, and a maid servant's due wages valued at 24 Florin. Enyedi was also a rarity within the provincial administrative system, as he was a Calvinist: among the passives, some 12.68 Florin were owed to the "Reformed clergyman" who had performed the burial of the deceased.¹⁰⁶⁸

Estate divisions were also political events, in that they involved property and rights to its administration. One could seek to undergo probate or be listed in the protocols in various affairs involving property as a means of solidifying one's position in the urban social fabric. Such was for instance the case in 1797, when one of the members of the Small Council notified the probate officials that he had been appointed as procurator by Maria Stephan, widow of the Greek merchant Constandin Stephan, her daughter Elisari and her son-in-law, Athanasi Dinu (likely also a Greek merchant). The senator who intervened on their behalf had approached the probate office in the following matter: as the protocol recalled, the widow requested that an official estate division be made,

“as her husband had passed away several years prior, and until present time she had not divided [the estate] in an orderly manner with her children – Elisari and Dumitrachi, so that damages might not be incurred on these children and to the avengement [compensation] of her oversight”.¹⁰⁶⁹

¹⁰⁶⁸ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, 1796-1799, p. 66-75.

¹⁰⁶⁹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 311, Lower City, 1797-1797, p. 61: “erscheinet Hl. Constitutus Procurator Daniel Gräser coram offo Divisor. in Namen des Athanasi Dinu und seiner Weibes Elisari hiesigen griechischen Handelsman und respectie Tochter und Schiwegersohn der Maria verwittibte Costandin STEphan und verlanget daß ihr Mann schon von mehreren jahren verstorben sie angehalten werden möge, weilen sie bisher mit ihren Kindern als Elisari und Dumitrachi nicht ordentlich getheilet zur Schadlos haltung dieser Kinder und zu einiger Ahndung dieser ihres Versehens laut bishering Usuanz in ge... Fällen ad Analogiam Leg. Stat. Lib. 3 Tit 3

What is more, the widow petitioned that the probate office follow “the usual procedure in these cases”, in analogy with the paragraph 5 of the 3rd chapter of the 3rd book of the *Statuta*, which regulated the inheritance of estates burdened by debts and under what circumstances the heirs could repudiate their rights without being held liable.¹⁰⁷⁰ This section of the *Statuta* was not however part of the broader discussion of inheritance, but rather figured in the larger discussion of contract and loan law, which would have been familiar to any merchant who operated out of eighteenth-century Hermannstadt. It is plausible that the widow and her heirs were the ones to invoke this particular section, rather than the more general discussion of succession in the second book, to request that an inventory be drafted “by analogy”. The use of this provision – which handled relations between estates and creditors - rather than requesting an inventory on the basis of intestate law proper, was likely meant to circumvent any opposition the probate office or the Small Council might have voiced. In 1797, the status of Greek merchants as homeowners in Hermannstadt was still hazy from a legal perspective, as the 1781 Concivility Edict had been suspended, but not repealed entirely. By the beginning of the nineteenth century, Greek merchants or their heirs, who had purchased homes and established themselves in Hermannstadt, would find themselves on much more secure footing than in the last decade of the eighteenth century.

Thus, the tactic adopted by Maria, widow of Constandin Stephan, was an explicitly political one, addressed to the probate office as gatekeeper of rights, requesting in fact acknowledgement of her and her children’s status as rightful owners and urban inhabitants. In this instance, the *Teilamt* acknowledged the claim and allowed the widow three weeks’ time “so that she might find an individual versed in law who she would have to speak for herself”.¹⁰⁷¹ Maria had engaged in ostensive “legal posturing”, emphasizing her rights to benefit from the same procedures as any other citizen in Hermannstadt by referring to the law of the Transylvanian Saxon political centre, rather than to laws that might have set her apart as the widow of a Greek merchant.¹⁰⁷²

§ 5 ihr dermaliges ganzes Vermögen aufgenommen, und unter sämtliche Erben ordentlich vertheilet werden möge; aterum reservat reservanda et protestand.”

¹⁰⁷⁰ *Statuta*, III. Buch, 3 § 5.

¹⁰⁷¹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 311, Lower City, 1797-1797, p. 61: “Die Wittwe bittet um Exmission damit sie sich auch einen Rechtsfreund welcher für sie zu reden haben werde, ausfinding machen könne. Resolutio: Es wird der Wittwe zu Aufbringung eines Rechtsfreundes ein 3 wöchentlicher peremptorischer Termin anberaumet.”

¹⁰⁷² On “legal posturing” in pluralist milieus, see Lauren Benton, “Historical Perspectives on Legal Pluralism”, in *Hague Journal on the Rule of Law*, Issue 3, 2011, p. 58.

The most significantly among its unwritten attribution was the *Teilamt's* function as mediator between heirs, offering counsel that was to their best interests from a legal perspective. The *Teilamt* was meant to approach matters impartially, but also followed a secondary goal, namely to minimise its own involvement and any tergiversations in the process of property devolution. Among other similar sub-departments of the Small or Great Councils, the *Teilamt* likely produced the highest number of records at the quickest rates. It is understandable that the probate officials attempted, to the best of their abilities, to avoid costly and protracted lawsuits stemming from property claims. As such, they offered support and arbitration to various parties, even well after the estates had been inventoried.

In December of 1796, following a claim submitted by a party who had a stake in the estate of the deceased weaver Simon Conrad – inventoried almost 4 months earlier –, the probate officials met “to put things to order and bring clarity”. The unnamed claimants’ contentions “were read through from point to point in the presence of both parties, and amicable propositions as to settlement were made”. However, the parties involved rejected all proposals, “and reserved themselves the right to pursue their matter further.”¹⁰⁷³ In other cases, the *Teilamt* officials were more successful in negotiating a settlement between heirs, sparing them further costs that would have been necessary, had the matter gone to trial. For instance, in 1776, after the passing of Michael Buldesch, master bricklayer, one of his sons made a claim on the remaining estate beyond his allotted share, submitting a written *Specification* according to which he had worked for his father – presumably in his craft -, and was therefore owed an additional sum. One of his elder brothers countered that his younger sibling had lived in their father’s home, and therefore had enjoyed better conditions and was owed nothing. The *Teilamt* insisted that a settlement be reached (*Vergleich*), and was successful in getting both parties to “shake hands” and agree to a compromise, but only “after manifold chatter”.¹⁰⁷⁴

¹⁰⁷³ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, Upper City, 1796-1799, fol. 80: “Confluiet das Theil Amt um auf dei von Simon Conrardt Wollenweber meister wider die unterm 27ten 7br d. J. gehaltene Theilung gemachte schriftliche Einwendung, die Sache zu berichtigen und ins klahren zu setzen; wodann in Gegenwart beyder Partheyen diese Beschwerden von Punkt zu Punkt durchgegangen und gütlich Vorschläge zum Vergleich gegeben werden, welche aber von den beyde Partheyen nicht angenommen werden und sich reservieren ihre Sache weiter anzuzuchen.”

¹⁰⁷⁴ SJANS, *Magistrate - Registers*, Register of estate divisions no. 124, Upper City, 1774-1776, fol. 383-385.

Finally, the contours of the *Teilamt*'s obligations and of its position as impartial arbiter also shined through in matters where the final wishes of a decedent contradicted extant laws, but the heirs were not part of the Transylvanian Saxon political fabric. In 1772, after the passing of Maria Theresia Schatten, her widower had produced a final disposition, in the presence of the decedents' siblings, Ignatius Kropf from Fogarasch and Anna Maria Lang from Carlsburg. The latter location was situated on county lands, and therefore the Transylvanian Saxon laws did not obtain in its milieu. The will was opened and read out, and the siblings, as legally-entitled heirs, were shown by the senior probate official that they had the power to contest the will, as they could argue that their legitimate shares had been reduced unlawfully. However, and rather unexpectedly, both siblings "showed themselves content with the testament". Therefore, the disposition was added to the protocol and the heirs were cautioned that if they decided to keep their own counsel, and did not speak against the testaments' provisions, they would not be allowed any further recourse in the future.¹⁰⁷⁵

Conclusions

The present chapter examined practices and procedures in the connected realms of will-making and probate, engaging with a variety of issues in order to convey a comprehensive but synthetic image of these two phenomena. It showed that will-making was usually a private affair, in that it occurred in the testator's own home, and that it was usually nuncupative or written oral wills which survived in this milieu. It also showed that a considerable deal of uncertainty existed concerning what the boundaries of will-making were, compared to other types of instruments to dispose of one's estate. In this regard, knowledge of estate division procedures and intestate legislation seemed to be more wide-spread.

Two major findings were revealed, concerning the timing of both will-making and probate in relation to one's death. Thus, it was shown that one third of testaments were made one week prior to death, while half of testaments were made within 3 weeks prior to the testator's passing. However, the range in this variable was relatively large, with testaments being made up to 10 years prior to death. Mutual or reciprocal wills between spouses exhibited the greatest time spans

¹⁰⁷⁵ SJANS, *Magistrate - Registers*, Register of estate divisions no. 121, Upper City, 1772-1774, fol. 47.

between drafting and one of the spouses' passing, which suggests that they were usually related to marriage, rather than to illness.

There was also a gender gradient to the timing of will-making, with the majority of women having wills drafted up to one month prior to death, compared to men, who left this matter for the final weeks before passing. Surprisingly, there was no discernible social gradient to the timing of will-making.

16. Who left wills? Death, probate, and testaments.

Introduction

The preceding chapters have clarified the social, economic, legal patterns of stratification present in eighteenth-century Hermannstadt, and were followed by an exploration of the legal, practical, and procedural coordinates of the will-making and probate processes. They have managed to provide a sense of what making a testament and undergoing probate meant for individuals and the urban authorities. The present chapter posits that a larger and still unanswered question looms over the issue of testamentary behaviour: who made wills?

Although at first glance this question comes with a relatively straightforward answer, based on a simple examination of the various attributes which situated individuals and households in eighteenth-century Transylvanian Saxon urban society, the present chapter argues that this is not necessarily the case. On the contrary, to answer the question of “who made wills?”, one must first answer its opposite – who did not? In other words, if making a last will and testament is understood as a type of vital event – and therefore the resulting “behaviour” is regarded as a demographic behaviour – it then follows that the focus of the question should shift to include all potential testators. Just as studies of historical later-life mortality differentials examine all adult deaths past 50 years of age,¹⁰⁷⁶ or fertility limitation behaviours are generally studied within the context of couples,¹⁰⁷⁷ making a last will and testament should be examined as an event through which all

¹⁰⁷⁶ Rick J. Mourits, “Later-Life Mortality and Longevity in Late-18th and 19th Century Cohorts. Where Are We Now, and Where Are We Heading?”, in *Historical Life Course Studies*, Vol. 4, 2017, <http://hdl.handle.net/10622/23526343-2017-0001?locatt=view:master>, accessed 20.07.2020.

¹⁰⁷⁷ Recently, the decline of fertility as a result of clearly discernible strategies assumed by couples has shifted to emphasize the role of gender and individual agency of women *and* men within couples in curbing fertility. See Angelique Janssens, “Gendering the Fertility Decline in the Western World”, in Angelique Janssens (ed.), *Gendering*

legally empowered adult individuals could potentially pass.¹⁰⁷⁸ Generally, in order to canvass an historical population to its greatest possible extent, birth or marriage records would be chosen.¹⁰⁷⁹ For the purposes of the present analysis, the closest sources which contain the entirety of the potential testator population are registers of death and burial. As chapter 14 on sources and sampling has shown, both probate records and testaments are easily linkable to burial records. Parish registers which record an individual's death and burial offer the best odds of matching an individual's last held time-variant attributes – occupational or class status, civil status, last names –, which should be identical to those recorded in probate records and very likely to those written down in testaments. As discussed in chapter 14, most one in four deceased individuals of Lutheran or Roman Catholic denomination who died in Hermannstadt during the second half of the eighteenth century can be traced to a probate record. Even though establishing the same kind of link between testaments and death is more problematic for several reasons already discussed, the burial registers represent the broadest population into which testaments can be nested.

Moreover, unlike most studies in historical demography, the present endeavour benefits from a much-needed intermediary-level resource, namely the probate records. These provide additional information, such as the extent of a household's wealth, debt, etc., which can help further contextualise why some individuals left wills while others did not, and also allow the creation of sub-sets for the study of particular patterns. Thus, the combination of testament-probate-burial record clears a hitherto unexplored pathway into how testators – and therefore the act of making a last will – fit into the social fabric.

The present chapter first examines the social class gradient of all three abovementioned groups, in order of their magnitude, by employing the two lenses of HISCLASS and SOCPO used to delineate two possible social-class stratification models for eighteenth-century Hermannstadt.

the Fertility Decline in the Western World, Bern, Berlin, Bruxelles, Frankfurt-am-Main, New York, Oxford, Wien: Peter Lang, Series *Population, Family, and Society*, Vol. 7, 2007, p. 1-23.

¹⁰⁷⁸ As per the *Statuta*, testaments could be made by male or female individuals who were of legitimate age, and were neither deaf, dumb, nor otherwise mentally incapacitated.

¹⁰⁷⁹ Birth and marriage records are the starting-point for creating linked datasets suitable for individual life-course analysis. Birth cohorts are widely employed in historical demographic studies, as the sets of constraints and opportunities which shaped the course of one's life were not only temporally determined in general, but rather started from birth. Likewise, birth cohorts represented the 'whole population' for which to study phenomena such as migration. See for instance Eilidh Garrett and Alice Reid, "Introducing 'Movers' into Community Reconstruction: Linking Civil Registers of Vital Events to Local and National Census Data: A Scottish Experiment", in Gerrit Bloothoft, Peter Christen, Kees Mandemaakers, Marijn Schraagen (eds.), *Population Reconstruction*, Springer, 2015, p. 263-283. Birth cohorts are also used for instance in the study of later-life mortality, as in Mourits, "Later-Life Mortality".

It also explicitly compares the stratifications evidenced by burial records, probate, and testaments with the cross-section of (taxpaying) society in Hermannstadt revealed by the 1750 fiscal conscription, as a means of ascertaining both the reach of the conscription and the specific biases exhibited by each of the other sources employed. Secondly, the gender and age distributions for all three groups will be discussed comparatively.

The chapter proceeds to explore another relevant criterion which might have pushed testators into their conceptual box, namely what can be termed “family circumstances at the time of the event”. At this stage, the analysis explicitly engages with the way in which the composition of a deceased individual’s family can be compared across probate and testaments.¹⁰⁸⁰ The notion of “family circumstances” is employed as the most appropriate umbrella term for the information provided by probate, and, to a lesser measure, testaments about the following aspects: the existence of an individual’s spouse, the existence of any minors who were entitled to inherit in the descendant line, the existence of various categories of entitled kin as spelled out in the *Statuta*, or the existence of offspring who were entitled to a share of the estate but were already of age and no longer under the authority of the *pater familias* (i.e. married daughters, etc.). Moreover, both sources enable the analysis to glean the extent of childlessness within both categories of individuals/couples and examine its impact on the boundaries of the testamentary group.

Two other factors are included in the analysis as a means of discerning whether and how mid-level contextual issues shaped the group who made wills, as opposed to those who eschewed this pathway: the first is wealth at probate. The second is the interaction between a deceased individual’s gender or age with the social class gradient, family circumstances, and wealth (partially as a function of social class belonging). By superimposing these issues, it is possible to discern not only what distinguished will-makers from their counterparts, but also to operationalise will-making in eighteenth-century Hermannstadt as a clearly delineated historical object, which can be used to tackle other topics in the future. The chapter’s explicit aim is to show that beyond broadly similar discussions of individual agency and collective structure based on a selected few case-studies, even granted their theoretical prowess, there were a series of deeper but less transparent patterns that largely determined the who, how, and why of testamentary behaviour.

¹⁰⁸⁰ Burial records are not included in the analysis of family circumstances as they provide an idiosyncratic perspective into the issue: only the civil status is regularly recorded, and solely in the case of female decedents. Thus, for almost half the population, the civil status at death remains unknown. Moreover, burial records do not mention the existence of any offspring, collateral kin, etc., that could make them comparable to probate or testaments.

16.1 Death, probate, testaments and social class

Modern mortality differentials have been extensively researched over the past few decades, adding to the fast growing body of literature that elucidates how health and status intertwine, regardless of what theoretical or heuristic lens the latter is viewed through.¹⁰⁸¹ Urban mortality has been especially privileged within the temporal context of industrialization, often in connection to changes in living standards and improvements in public health and sanitation.¹⁰⁸² Likewise, infant and child mortality have drawn the lion's share of attention in this context, as significantly lowered death rates among these groups were readily visible in a relatively short time-span.¹⁰⁸³ Adult – or later-life mortality – is comparatively less extensively studied.¹⁰⁸⁴ While the present chapter does not engage directly with mortality in the strict demographic sense, as it does not aim to calculate mortality rates, it is nevertheless worthwhile to briefly outline the two major orientations in the literature which engages with the relation between holding a particular social-economic status and one's chances of dying. This serves as a good introduction not only to the situation described for Hermannstadt, but also to the ways in which individual attributes (social status and class) interacted with a vital event.

There are two main hypotheses concerning the long term relationship between mortality and social-economic status (or SES): on the one hand, it has been argued that differences in mortality between classes were and remained constant regardless of historical context, implying that health and class were so intimately entwined that “there is a historical inevitability of social differences in mortality”,¹⁰⁸⁵ on the other hand, extended studies spanning several centuries and examining pre-eighteenth-century data have shown that the social gradient in mortality witnessed

¹⁰⁸¹ A comprehensive overview of the social differentiation of mortality over the very *longue durée* can be found in Tommy Bengtsson, Frans von Poppel, “Socio-economic inequalities in death from past to present: An introduction”, in *Explorations in Economic History*, Vol. 48, Issue 3, 2011, p. 343-356.

¹⁰⁸² Some of the latest approaches have been outlined for instance by Bernard Harris and Jonas Helgertz, in “Urban sanitation and the decline of mortality”, in *History of the Family*, Vol. 24, Issue 2: *Urban Sanitation and the decline of mortality*, 2019, p. 207-226.

¹⁰⁸³ See for instance Joseph Molitoris, Martin Dribe, “Industrialization and inequality revisited: mortality differentials and vulnerability to economic stress in Stockholm, 1878-1926”, in *European Review of Economic History*, Vol. 20, Issue 2, 2016, p. 184-185, which finds that the social class gradient of parents by HISCLASS still had an extremely high effect on infant and child mortality well into the twentieth century.

¹⁰⁸⁴ An exception is Mourits, “Later-life Mortality”.

¹⁰⁸⁵ Bengtsson, van Poppel, “Socio-economic inequalities”, p. 345.

both periods of convergence, as well as of divergence. Moreover, these also emphasized the importance of contextual factors in determining how one's social status and one's odds of dying interacted.¹⁰⁸⁶

For eighteenth-century Hermannstadt, one way to ascertain the social gradient of the deceased groups is to compare the class distribution of those adult individuals who were buried in the city between 1753 and 1800 to the nearest cross-sectional source which covers an extensive number of active adults: the 1750 conscription. As discussed in chapter 8, it is likely that the conscription was not a faithful mirror held up to Hermannstadt's social fabric. The extent to which it distorted this image nevertheless remained opaque in the absence of an appropriate term of comparison. The sample of adult deaths from the Lutheran and Catholic central parishes provide the required counterpoint: even if burial records included adult individuals who were not household heads and therefore unlikely to be included in the fiscal census, both sources covered the entire active adult population in the city proper.

Table 12 shows a comparative distribution of individuals conscribed in 1750 and all adult decedents included in the parish record sample by class status, according to the HISCLASS 5 classification system.¹⁰⁸⁷ A number of stark differences are revealed by this comparison, which shall be briefly discussed. Firstly, it is apparent that the census underrepresented some social classes while over-representing others. The clearest example is visible in the case of the elite and the lower middle classes: the elite constituted fewer than 2% of taxpayers in the census, but accounted for over 9% of adult deaths; although in the case of the lower middle class, the differences were less pronounced – 2.7% in the census and 9.5% in the decedent group – they remained highly visible.

¹⁰⁸⁶ Bengtsson, van Poppel, "Socio-economic inequalities", p. 346-347.

¹⁰⁸⁷ Figures for the census are taken from Chapter 8, Table 5. Complete distributions by HISCLASS 5 and SOCPO for the decedent group are also provided in the *Annexes, Table 12, and Table 13*.

Table 12. Social class distributions of 1750 conscription and adult deaths in the sample, 1753-1800, by HISCLASS 5

HISCLASS	1750 conscription		Deceased adults 1753-1800	
	N	%	N	%
Elite	26	1.71	719	9.43
Lower middle class	42	2.76	729	9.56
Skilled workers	988	64.91	3391	44.48
Self-employed farmers or fishermen	0	0.00	26	0.34
Unskilled workers	65	4.27	521	6.83
No code in HISCLASS*	401	26.35	2238	29.36
Total	1522	100.00	7624	100.00

Sources: author's calculations, *Historical Probate Database of Transylvania*, and *Historical Population Database of Transylvania*.

At the same time, skilled workers were expectedly over-represented as taxpayers compared to the share they held among the deceased adults, which presumably was closer to their real share in the urban social fabric. The skilled worker group comprised the craftsmen so highly praised by the Transylvanian Saxon political discourse as the hard kernel of the nation's taxpayer corps. Although they held a very respectable share of all adult decedents, constituting almost 45% of all adult deaths, their share in the census was more than 20% higher. This has two implications: on the one hand, skilled workers bear the majority of taxes in the city (as per the census); on the other hand, they also bore a heavily disproportionate amount of taxes compared to their real share in the urban fold. Even accounting for the third – ¼ of individuals for whom no class status could be ascertained in either source, the difference remains striking. The under-representation of the elite and lower-middle class groups, which comprised primarily individuals in the urban *cum* national leadership or members of the ecclesiastical hierarchy, was equally important: the real share of the elite as exhibited by the burial records was almost five times higher than in the census; likewise, individuals in the lower middle class were underestimated more than threefold in the census. The single category about which the present endeavour can only speculate are the unskilled workers group. The over-representation of unskilled workers in the burial records compared to the census might point in two directions: the share of unskilled workers in the social make-up of the capital

grew over time, and thus the percentage increase compared to the census reflects this expected growth; likewise, it is possible that the social class did indeed play a part in determining one's mortality, but was predominantly confined to this lowest social stratum. It is highly likely that day-labourers and others similarly occupied, who were classified as "unskilled", also had precarious livelihoods and difficult living situations, especially in terms of living quarters, factors which would have incurred a penalty on their survival.

What is more, the difference between those without codes in the two categories was owed to two distinct reasons: in the census, most individuals for whom no class belonging was known were widows, with very few being part of the urban elite; in the burial records, on the contrary, a sizeable share of those adults who had no occupation listed and therefore received no HISCLASS code were the Austrian Protestant exiles. It is readily apparent that Transmigrants had exceedingly higher mortality rates than any other group: between 1754 and 1758, they accounted for an average of 8.7 % of all adult deaths, a share which ranged between 5 and almost 12%.¹⁰⁸⁸ Excess mortality among Transmigrants for this first transport organised by the Habsburgs during Maria Theresia's reign is supported by all extant narrative accounts.¹⁰⁸⁹ The extent of this excess mortality is difficult to calculate. The number of adult Protestant exiles who were deported to Transylvania during the first phase of Maria Theresia's reign reached some 2300 in total¹⁰⁹⁰, of whom at least 1000 perished on the way.¹⁰⁹¹ Another third was recalled to have lived precariously as "day-labourers" without means.¹⁰⁹² It is clear that Transmigrants made up a disproportionate share of the deceased compared to their real size in the urban fabric during this decade. The overwhelming majority of Transmigrants were recorded in burial registers without any occupational status, owing to various reasons, among which was also the fact that most did not manage to survive long enough to achieve any kind of occupational title. Despite these differences between the compositions of the "no code" groups in each source, which reflect the nuances of the urban social fabric from different perspectives, the sample of deceased adults constitutes an appropriate benchmark for the comparative measurement of social class distribution.

¹⁰⁸⁸ 1754 - 33 deaths (5.7%), 1755 - 44 deaths (7.6%), 1756 - 67 deaths (11.6%), 1757 - 52 (9%), 1758 - 54 (9.3%).

¹⁰⁸⁹ Steiner, *Rückkehr unerwünscht*, p. 280-289.

¹⁰⁹⁰ Steiner, *Rückkehr unerwünscht*, p. 284.

¹⁰⁹¹ Buchinger, *Die Landler*, p. 341-342.

¹⁰⁹² Buchinger, *Die Landler*, p. 342.

The following section compares the social class distribution of the burial group to that of the probate and testament groups, in order to flesh out the specific biases these sources exhibited, as a preliminary foundation to a broader discussion concerning testamentary selectivity. Over the past decade, the matter of class bias exhibited by historical probate records has begun to feature prominently in economic history, particularly within the framework of discussions of historical inequality.¹⁰⁹³ This is not to say that probate records were not employed as historical sources in earlier decades, or to deny the salience of earlier approaches. What distinguishes very recent approaches from older discussions is their willingness to engage directly with the matter of bias, rather than to simply dismiss it as fact and therefore assume that what probate reveals must have been to some measure representative of a smaller or larger segment of society. Certainly, within this complex discussion, which cannot be expounded at length here, regional specificities of probate records and authors' main methodological and theoretical arsenals also play a part.

Various methods are employed to deal with the specific biases displayed by probate, partially as a function of different disciplinary approaches, and partially owing to different analytical goals. The Swedish probate model, which is arguably the closest conceptually to that encountered in the Transylvanian Saxon milieu, was rendered compulsory in 1734. As on the Royal Lands, probate was also used to settle outstanding debts and to ensure a balanced division of shares between heirs. As opposed to the present case, Swedish probate events also incurred a 0.25% estate tax to fund poor relief.¹⁰⁹⁴ The social bias has been dealt with in this context by weighing or adjusting the share of a certain class revealed by probate to its real share in society, as revealed by a reliable and complete cross-sectional source, such as yearly mortality tables with social class information. Thus, a more balanced distribution towards those with lower value estates and generally of lower class belonging can be achieved. Age is likewise taken into account and weighed for.¹⁰⁹⁵ Although this approach is commonly used in economic history with a focus on probate for longer time spans – several centuries – , yielding important findings, the present study

¹⁰⁹³ An excellent overview of the problems of previous approaches is provided by Sebastian A.J. Keibek in “Correcting the probate inventory record for wealth”, *Working Paper No. 28* – March 2017, *Cambridge Working Papers in Economic and Social History*, Cambridge Group for the History of Population and Social Structure & Queen's College, p. 9-12.

¹⁰⁹⁴ Bengtsson et al., “Aristocratic Wealth and Inequality”, p. 31-32.

¹⁰⁹⁵ Bengtsson et al., “Aristocratic Wealth and Inequality”, p. 33-34, note. 29. See also

does not weigh social classes because its aim is solely to examine what the social bias of probate was, rather than to be able to extrapolate major findings on the distribution of wealth.¹⁰⁹⁶

Another related approach recently employed for English probate uses two main variables: household wealth and the ratio of probated estates relative to the entire number of known households, by social-occupational group. Based on these indices, the probability that a household would undergo probate can be established, through the construction of a composite probate probability function.¹⁰⁹⁷ Given the enormous amount of data with which English probate research operates, and the existence of printed archival indexes for medieval and early modern probate records in many local archives, this approach is likely the most appropriate one for the Anglo-Saxon context. However, like the previously mentioned approach employed for Sweden, its ultimate aim is to be able to make broad statements concerning the actual distribution of wealth within society.

The current research does not have such lofty goals. Rather, it builds on the theoretical tenets in which these approaches were rooted to compare the social class distribution of the testator and the probate group in eighteenth century Hermannstadt to the group of adult deceased. As opposed to other studies which aimed to alleviate wealth bias by setting higher age thresholds – generally at 20 years of age – the present study allows room for the specifics of testamentary behaviour, which might also involve individuals younger than 20.¹⁰⁹⁸ What is more, both previously mentioned approaches also worked with published mortality data, which is yet to be derived for eighteenth-century Transylvania.

Table 13 provides a comparative view of social class distribution according to HISCLASS 5 across all three event types. Contrary to what might have been expected, the comparison between the sample of adult deceased and probated households reveals that the elite group was under-represented among those who underwent probate: over 9% of decedents were ranked as part of the elite, while a little over 6% of individuals in this group had their estates inventoried at the time of their passing. Within the testament group, the elite was slightly over-represented compared to the total decedent group: 10.3% as opposed to 9.4%.

¹⁰⁹⁶ Recent studies which employ this method are Bengtsson et al., “Aristocratic Wealth and Inequality” and “Wealth Inequality in Sweden, 1750-1900”.

¹⁰⁹⁷ Keibek, “Correcting the probate inventory record”, p. 13-20, explains the method at some length.

¹⁰⁹⁸ See for instance Thomas Piketty, Gilles Postel-Vinay, Jean-Laurent Rosenthal, “Wealth Concentration in a Developing Economy: Paris and France, 1807-1994”, in *The American Economic Review*, Vol. 96, Issue 1, p. 240, note 13.

Table 13. Social class distribution of testaments, probate events, and adult deaths in samples¹⁰⁹⁹

HISCLASS 5	Testaments		Probate		Deaths	
	N	%	N	%	N	%
Elite	65	10.3	158	6.0	719	9.4
Lower middle class	106	16.8	698	26.4	729	9.6
Skilled workers	232	36.8	1104	41.8	3391	44.5
Self-employed farmers or fishermen	0	0.0	2	0.1	26	0.3
Unskilled workers	11	1.7	86	3.3	521	6.8
No code in HISCLASS	216	34.3	594	22.5	2238	29.4
Missing	0	0.0	0	0.0	0	0
Total	630	100	2642	100	7624	100

Sources: author's calculations, Probate Database of Transylvania and Historical Population Database of Transylvania.

However, it should be taken into account that members of the clergy and their direct family members (spouse and offspring), who were extremely well placed in terms of income, and were also very likely well-situated in terms of wealth. The magnitude of their estates would have potentially skewed the overall distribution significantly. This “elite of the elite”, as the clergy might be referred to, were not included in the present sample, which is based only on urban probate conducted by the offices of estate division under the leadership of the Small Council. As the previous chapters have noted, a separate ecclesiastical probate court operating from the Evangelical Chapterhouse of Hermannstadt deal with the estates of clergymen and their families. Thus, separate probate registers were kept by the ecclesiastical authorities for the clergy and their direct heirs. Though limited in number, the inclusion of the clergy into the comparison would likely tip the balance for the elite's share further in the direction of probate records. This has important consequences for any analyses that might to aim to trace for instance conspicuous consumption and the presence of luxury items in estate inventories.¹¹⁰⁰ At the same time, some

¹⁰⁹⁹ The data is derived from the samples discussed in Chapter 14. See Annexes, Section 1 - Tables For other descriptive statistics. Each sample covers different periods: testaments range between 1720 to 1800, probate records range between 1720 and 1800 with a stark emphasis on the period after 1750, and death records cover the second half of the eighteenth century (1753-1800).

¹¹⁰⁰ Also noted by Keibek, “Correcting probate”, p. 21-22 who casts doubt on the validity of much of previous research which uses probate inventories as representative of a larger population without clearly operationalizing the issue of

members of the elite likely escaped the gaze of the probate office entirely, if heirs required that no inventories be made and no other legal issues compelled it.¹¹⁰¹ From the perspective of the social selectivity of will-making, the differences in the shares held by the elite between the testaments and overall deaths remains relatively low, suggesting that testaments were not an eminently or essentially elite activity and not somehow intrinsically tied to elite class-belonging.

The lower middle class was over-represented in probate records compared to overall deaths: the number of members of this group who had their estates probated was almost threefold that of adult deceased (26.4% compared to 9.5%). In the testament group, the lower middle class held a middling share, 10% lower than in the entire probate sample but still almost twice as high as in the entire death count. Skilled workers, the next in the class order, figured in similar shares both in the probate and the decedent groups. It appears that for a great majority of skilled workers, probate was undertaken. Thus, probate data on wealth and assets of skilled workers can be regarded as largely representative for the entirety of this group, at least from this perspective. In the testator group, skilled workers figured most prominently compared to any other class, constituting a share that was very near that reached by skilled workers who had their estates probated (36.8% compared to 41.8%).

Both self-employed farmers and unskilled workers were under-represented in the probate and testament groups, compared to the decedent group. It is likely that any urban inhabitants from the city proper who engaged in agriculture aside from working in of a craft or trade would have listed themselves as craftsmen rather than as farmers. The fiscal conscriptions support this distinction, placing those engaged in agriculture as a primary occupational sector firmly outside the city walls. The absence of farming from the attributes of testators does not however mean that none owned plots of land or engaged in agricultural activity.

coverage. The clearest example is the ownership of clocks: unadjusted studies of probate considered that 1 in 5 laborer's household possessed this item; after correcting for wealth bias, only 1 in 20 laborer's household appeared to have owned clocks.

¹¹⁰¹ This issue was observed anecdotally during an in-depth study which aimed to ascertain the presence and prices of Oriental (Anatolian) carpets in eighteenth-century estate inventories from Hermannstadt, when several individuals who held offices in the upper levels of the urban or provincial administration who perished during the early 1770s were notably absent from any probate registers for the decade. It is likely that an inventory was not required by heirs and was not compulsory on other accounts. See Stephanie Armer, Oana Sorescu-Iudean, "Anatolian carpets in urban archives and probate records in early modern Transylvania: typology, spread, values" (provisional title), in Anja Kregeloh (ed.), *Die anatolischen Teppiche der lutherischen Stadtpfarrkirche in Bistritz/Bistrița (Siebenbürgen) im Germanischen Nationalmuseum/The Anatolian rugs of the Lutheran Parish Church in Bistritz/Bistrița (Transylvania) in the Germanisches Nationalmuseum*, Nürnberg: Verlag des Germanischen Nationalmuseums, 2021 (under press).

Unskilled workers, though under-represented by a factor of two between each group (1.7% of testaments, 3.3% of probate events, and 6.8% in deaths), nevertheless made an appearance in both the testamentary and probate categories. Given the potential over-representation of the unskilled worker group in the death records owing to class-based mortality differentials, it is possible that the share of unskilled workers' estates which underwent probate was close to the actual share this category held in Hermannstadt's urban milieu.

Testaments wherein no occupational status could be ascertained covered a higher share, compared to probate and death records. This was owed partially to the slightly different time spans covered by the three samples, which prevented the linkage of pre-1753 testaments with a probate event or a burial, which might have enabled the analysis to fill some gaps concerning the social class belonging of testators. The fact that a testator's occupational status was rarely announced explicitly during the first half of the century contributed to this situation.

Overall, the social class gradients of testaments and that of overall deaths were extremely similar for the first two classes – the elite and the lower middle class –, compared to either the testament-probate or the probate-death pairs. The direction of the gradient for deaths remained the same for testaments, which suggests that will-making was an act or event through which most decedents could indeed pass, regardless of the occupational source of their status. This pattern applied to the three largest shares, namely the elite, the lower middle class, and the skilled workers, who accounted for 63.9% of testaments and 63.5% of the deceased. For the unskilled workers, leaving a last will seems to have been an overall exceptional situation. Nevertheless, probate was a rather different issue, displaying a starkly divergent gradient compared to both deaths and testaments. Undergoing probate was actively sought by skilled workers and disproportionately by the lower middle classes, while some elite households preferred to eschew it entirely. Thus, despite the fact that probate registers include notifications of last wills and testaments – and thus the probate event sample also includes some wills with or without inventories – these two events were not experienced at the same rates by all of the urban social fabric.

16.2. Death, probate, and testaments: the gender and age factors

A second factor to be taken into account in delineating the profile of will-making as a demographic event is gender. From a legal perspective, the *Statuta* did not distinguish between men and women in terms of their ability to leave a final disposition: although the communion of

marital goods was unequally shared, with the *Zweytheil* (2/3) going to the husband and the *Drittheil* (1/3) to the wife, each spouse was allowed to freely dispose of one third of their own virtual share.

A side-by-side comparison of gender distributions of the testament, probate and deceased groups (*Annexes – Table 15*) reveals that male individuals held the majority in all three contexts. Nevertheless, there were probate events and testaments wherein more than one decedent was involved: when both members of a couple passed away (2.6%), the event was assigned the label “multiple deceased”; when two individuals made a joint will (6.8%), the testament received the label “multiple testators”. Although the existence of these events somewhat skews the distribution, the percentage-wise differences between the two genders in each context remain important. Thus, while men outnumbered women by 3% in the burial records, this percentage rose to 9% in probate records and dropped back to 3.7% in the case of single-authored testaments. Women and men engaged in will-making almost equally, nearly matching the gender distribution noted for the comprehensive burial sample. While of course, this balance may lean towards one or the other in other confessional contexts – or even outside the city walls – in the case of the urban Lutheran and Roman Catholic populations, there was no strong gender aspect to the broad pattern of leaving a last will and testament during the eighteenth century in this milieu. As in the previous situation of social class belonging, the probate sample appears to delineate itself differently compared to both testaments and burial records. Though the difference between events wherein the deceased was male and those where the deceased had been female is still relatively small at 9%, the discrepancy between it and the other two contexts suggests a different pattern. Thus, probate was sought more often when a woman had died than in cases when the decedent had been male, regardless of any other individual attributes. This may point to other underlying factors which remain still unelucidated, such as the composition of the category of heirs in each instance of death or the age of the decedent. At the same time, it may also suggest that when the female deceased had been married and thus the surviving spouse was male, inventory and probate were more likely to be eschewed entirely when this was possible from a legal perspective. This signals that the surviving spouse would have been regarded as more responsible in administering the remaining estate, thus adding a gender bias to probate which does not appear at first glance.

Closely tied into the gender distribution is the age at which each type of event was experienced. Owing to the extensive presence of highly detailed age data for the deceased,

predominantly in the Lutheran burial records but to a certain extent also in the Roman Catholic register, it is possible to reconstruct a detailed age distribution for the widest group in the analysis. Even if linkage between testaments and burial records is limited owing to reasons already discussed – different time span covered, difficulties in matching of individuals with the same first and last names who died within a 1-3 year period from the date of the will, etc. – the age distribution of testaments can also be computed indirectly.

The following approach was taken in order to obtain the age distribution for testaments. Firstly, the timing of probate relative to one's death was taken into account. This time-span was quite brief, as previous chapters have also shown: probate was begun within 3-4 months of death for three thirds of cases, regardless of the decedent's gender (*Annexes - Table 7 and Table 8*).¹¹⁰² Secondly, although the exact date of death is only known for some 37% of testators, in the majority of cases death occurred within a maximum of 1.5 years after leaving a last will and testament. For male testators where a death event could be positively identified, three thirds left a testament no later than 80 days prior to their passing. Furthermore, the time span between the drafting or signing of a will and the date of probate is known in a majority of cases, as the probate date was generally written down by the division officials on the final folio of the testament, after it had been opened and read to the assembled heirs (*Annexes – Table 15*). Half of testaments went to probate within 2 months after they had been written or signed; of these, half (25th percentile) were probated within 20 days of writing or signing.

The chronological sequence of events was the following: having a will committed to paper, then the death and burial, followed by the commencement of probate procedures. Thus, for testators, death must have occurred prior to probate but after the writing of the testament. Given that probate was usually undertaken very soon after death (within 3-4 months), it follows that the age at death listed in the burial records coincided with the age at which the testament was made, in the overwhelming majority of cases. Certainly, outliers existed in all situations, but there is little reason to doubt that there was a systematic multi-year bias in the age distribution of testaments, compared to that evinced by the burial records.

The comparison of the distribution of age at death for the three groups is provided in the *Annexes – Table 16*. Age at death was separated by gender in all three cases, with the probate and

¹¹⁰² Civil status made a slightly larger difference, but even then, probate was undertaken more rapidly than the law prescribed (within 2 months after the death of a married man, within 3 months after the death of a married woman).

testament groups also including the third category of “multiple deceased” or “multiple testators” for those events where an estate was divided after the passing of a couple, or when a couple made a joint and reciprocal will. For the largest sample based on burial records, the distribution of age at death seems to be in line with the latest findings concerning adult mortality.¹¹⁰³ There was only a very slight gender-incurred difference in the distribution, with half of male individuals passing 1.5 years later than women. Differences disappeared at the 75th percentile mark, as well as the 99th percentile mark. Thus, the eldest 1% of both men and women lived to at least 84 years of age.¹¹⁰⁴

The distribution of the age at death mentioned in probate records (*Annexes – Table 16 – part B*) reflects the specifics of this type of event and its legal contours: ages were higher for those in the 10th and 25th percentiles compared to the entire decedent group. This was likely owed to the fact that probate was mandatory primarily when the decedent left behind minor children in the descendent line. As further analyses will show, the wide majority of individuals whose estates were probated were also married, which was further conducive to higher ages. Although ages at first marriage have not been calculated for eighteenth-century Hermannstadt,¹¹⁰⁵ because of the stark differences between the age at death for individuals who underwent probate compared to the overall decedent group, it may be assumed that most had been married at least once, which would account for the age gap. A further indication of this is the fact that differences between probate and the overall death samples were most visible in the youngest groups. Thus, the youngest women whose estate underwent probate (at 10th percentile) were 4 years older than their counterparts in the entire decedent group (26 years vs. 22 years). For men, the differences were even more staggering: the youngest 10th percentile of men in the probate group were aged at most 34 years, a full 12 years older than their counterparts in the burial group. Individuals who had their estates probated were thus a specially delineated group within the entire adult population of the city from the perspective of age as well. Nevertheless, these differences were levelled out as one advanced with age: both men and women in the probate sample were on average only one year older at the middle of the distribution (50th percentile), compared to their counterparts in the entire decedent group. The top 1% were not on average older than their counterparts in the entire burial group, and

¹¹⁰³ N = 6920 for which gender and age at death were known, out of 7624.

¹¹⁰⁴ Mouritz, “Later-life Mortality”, p. 4-8. The present study has calculated neither later-life mortality (life expectancy after 50) nor longevity (the top percentage of long-lived cohort members), but rather focused solely on the distribution of the variable age at death.

¹¹⁰⁵ Nor for any urban milieus in eighteenth century Transylvania, to the author’s knowledge.

thus probate did not display a significant bias towards the elderly at the median and highest ages. On the basis of probate research conducted in other European milieus, probate would not necessarily have evinced a significant age bias in favour of the elderly, but.¹¹⁰⁶ In Sweden and England, the elderly had higher odds of having their estates probated simply because they had more time to accumulate possessions and thus achieve higher-value estates, which made it all the more important for surviving family and kin to seek an official overview of the estates' devolution.¹¹⁰⁷ This shows how starkly the contours of probate differed as a function of different legislative frameworks through which it had been institutionalised.

On the other hand, testators generally displayed significantly higher ages at death compared to both probate and the entire decedent group. The eldest 1% of male testators were the only ones who deviated from this pattern, with an age at death of 81.6 years, almost 3 years younger than their counterparts in the burial and probate groups (84, and 83.9 years respectively). The majority of female testators were also much older than the majority of male testators: the top 25% in terms of age left their final dispositions at ages 79.6 or older; the top 1% was at least 90 years old, 6 years older than the top 1% in the entire decedent group. The first half of the testator group, regardless of gender, was on average 7 to 10 years older than half of the decedent group (56 years vs. 49.5 years for men, and 58 vs. 48 years for women). Women displayed the most visible variations between the three groups, with testators having much higher ages at death: at the 10th percentile mark, the youngest female testators were aged up to 36 years, while the youngest female decedents from the probate group were aged 26 or less, with the entire decedent group at this level being 22 or younger. Young men were also unlikely to leave wills: in the 10th percentile of the distribution, testators had up to 37 years, and were 4 years older than their counterparts in the probate category, as well as 12 years older than their counterparts in the entire decedent group. If the age at death is assumed to have been close to the age at will-making, as demonstrated earlier, then it follows that testators were much older than the overall decedent population. This supports the notion that will-making should be regarded as type of vital event, which could also indirectly reflect a certain demographic transition from a certain household or family configuration to

¹¹⁰⁶ See Sebastian A. J. Keibek and Leigh Shaw-Taylor, "Early modern rural by-employments: a re-examination of the probate inventory evidence", in *Agricultural History Review*, Vol. 61, Issue 2, p. 257; Keibek, "Correcting the probate inventory", p. 10-11.

¹¹⁰⁷ According to Keibek, "Correcting probate", p. 12, higher estate values positively and very strongly correlated with odds of having one's estate probated in England.

another. Although leaving a last will and having one's estate undergo probate were strongly related from a processual, chronological perspective, as a result of the flow of documents directed by legal procedures, in fact they were two very different phenomena, which involved two very different sets of actors.

16.3 Death, probate, and testaments: civil status and family circumstances

In order to further tease out the specificities of will-making within the wider framework of the transmission of property, what I have termed “family circumstances” were taken into account. Given the specificities of the sources employed, this variable has a primarily legal meaning, and carries limited demographic information. What is more, in the absence of information on household structure and composition, the data provided by probate records and testaments currently represent one of the pathways into this issue.¹¹⁰⁸

It was possible to investigate individuals' civil status at death across all three groups – testaments, estate divisions, and burials – only for women, because for no civil status was listed for over 87% of all male decedents from the burial sample.¹¹⁰⁹ On the contrary, for women, civil status was absent only in roughly 21% of burials, signalling the increased importance of this social marker for women, compared to men.¹¹¹⁰ All in all, civil status was only known for roughly 45% of all decedents in the 1753-1800 sample. Although they are somewhat more straightforward in this respect, neither probate records nor testaments provide a complete overview of decedents' civil status at death, exhibiting a similar trend of gender bias in descriptions of individuals. Nevertheless, for probate records, the initial description of the decedents' family circumstances contains some clues as to whether the deceased had ever been married: for instance, when children who bore a deceased father's surname were mentioned, it may be safely assumed that they had

¹¹⁰⁸ Ōri, “Census and census-like material”, p. 5.

¹¹⁰⁹ Total male adult deaths = 3924, of which 3444 (87.7%) had no civil status listed.

¹¹¹⁰ Total female adult deaths = 3684, of which 768 did not have civil status listed (20.8%). The same pattern was employed in a wide variety of late medieval and early modern testaments. See for instance Lucie Jenny Laumonier, “Childless Families in Languedoc in the Fourteenth and Fifteenth Centuries”, in *Journal of Family History*, 2020, DOI: 10.1177/0363199020938361, p. 4, who argues that in late medieval testaments in Languedoc, women were identified through their husbands' information, while men through their occupation, first name and surname. This issue has likely escaped the attention of demographers for various reasons, likely having to do with testaments' relegation to a category of non-representative and demographically-unrevealing sources, eschewed in favour of better records. That does not however mean that testaments do not also provide valuable demographic data.

resulted from a legitimate marriage; when no spouse was mentioned in conjunction to this situation, the label “ever-married” was created to distinguish these decedents from their married or widowed counterparts. This took into consideration the fact that individuals who were divorced – a rarity, but nevertheless present in the urban social fabric – were explicitly referred to as such. “Ever-married” individuals whose estates underwent probate could also be ascertained by the pattern of division employed: if no *Vorgab* was deduced prior to the division proper for individuals with legitimate offspring, the absence of a spouse (likeliest, through death) was corroborated. Functionally, “ever-married” individuals in the probate context are therefore highly similar to their widowed counterparts. Nevertheless, there exists in the probate records a high share of events for which the decedent’s civil status could not be positively inferred; these received the label “unstated”, and were treated as a separate category.

For testaments, civil status at death as well as the overall family circumstances were more difficult to ascertain with the same precision as in the case of probate. This was primarily owed to the different functions these records fulfilled, or could fulfil, from a legal perspective. In probate records, as previous chapters have shown, the unit of recording was the estate division event; thus, emphasis was placed on all the legal ramifications of the process, including whether the decedent had minor children, offspring in general, a spouse or, barring these categories, any ascendant (parents, uncles, etc.) or collateral kin (siblings’, siblings’ children, etc.). In intestate legislation, each successive category of heirs excluded the other: children excluded any kin, ascendant kin excluded descendent, siblings excluded cousins, etc. This applied to the decedent’s own shares of the estate, as the spouse’s share was separate and devolved in a different direction, i.e. towards the spouse’s children and kin.

From a formal perspective, the continued existence and validity of Church wills meant that a testator was not bound to make mention of their spouses or children, if they so wished. Church wills wherein only pious, charitable, or other personal bequests were made from the testator’s share of the estate were perfectly valid even if none of the heirs to the estate were nominated. Given the possibility that an estate could devolve both by means of a testament and through intestate law (depending on the share), the existence of such wills and their validation during probate must also be taken into account. Although it would have been highly unusual for a married testator to make no mention of their spouse – and in itself a matter to be analysed – the possibility cannot be entirely excluded. Thus, for a number of testaments, a testator’s civil status at death could not be discerned.

In some cases – especially for women – burial records could be used to supplement the information on testators’ and probated individuals’ civil status.

The same issues were encountered when attempting to ascertain the overall family circumstances for testaments, as opposed to probate records. The procedure employed was as follows: starting from probate records, three main categories of “family circumstances” were introduced as successive levels, according to the legal priority that the presence of each category implied. Because estate divisions were most clearly designed to protect the rights of minor children as heirs to the estate in conjunction with those of the surviving spouse, the category of “minor children” was introduced as the first level of “family circumstances”.

Secondly, the presence of offspring in the preamble of the division event without an explicit mention as to their ages or to the institution of a guardian received the label of “offspring – no age provided”. Finally, when the preamble clearly stated that the testator had “no bodily heirs”, a third corresponding value was provided. The first two values were not necessarily mutually exclusive, as a decedent could have both adult and minor offspring; when both criteria were met, the highest-priority one from a legal perspective prevailed over the other, i.e. the presence of minor children was deemed more significant than that of offspring in general. The presence of minor children as heirs in the direct descendant line – i.e. grandchildren – was treated the same as that of offspring, given the fact that grandchildren were to inherit in their parents’ stead through the right of representation. When doubt as to children’s status existed, I selected the “offspring – no age provided” variant.

In the case of testaments, matters were not always as clear-cut, given the same existence of Church-formal wills. However, given the legal contamination taking place between the different forms of final dispositions, the family circumstances of testators were very often explicitly noted, or could be ascertained from the presence or absence of certain kin, in combination with the pattern of testation proper. Thus, proceeding by elimination, if a testator mentioned *Zweytheils-* or *Drittheilsfreunden*, collateral kin who inherited in their respective lines and were satisfied with a lump sum towards the *legitima*, but made no mention of any offspring, then it followed that the testator had no bodily heirs. There was no reason to mention kin’s residual rights to the estate if it had direct heirs, i.e. if the testator had natural children (rather than stepchildren). In a consistent share of cases, the absence of bodily heirs – natural children – was also explicitly noted. Similarly, when a testator discharged legates to various collateral kin, in the ascendant, horizontal, or

descendant lines, without mentioning any children, it may be assumed that the latter did not exist. Kin and children were never mentioned side-by-side explicitly in the same document. In some cases, the testator had specifically designed to provide continued care to an ailing or disabled sibling, which might have occurred even if living children existed.¹¹¹¹ The value of “no bodily heirs” was also chosen to describe the testament in cause when the kin were mentioned alongside the testator’s spouse, and the entire estate was explicitly disposed of. As in the case of probate records, minor children and offspring for whom legal age could not be ascertained were distinguished between. The presence of grandchildren as bequest receivers led to either the option of “minor children” or that of “offspring no age given”, as from a legal perspective, any child in the direct descendant line functionally fulfilled the same role, excluding any collateral kin. Grandchildren were however a very limited presence within the “minor children” and general “offspring” groups.

The crosstabulation of civil status and gender distribution in the testament and probate groups, is provided in the *Annexes (Table 17)* and reveals several important gender differences. Firstly, the overwhelming majority of male testators (67%) were married when making their will; fewer than one third of male decedents had been married when they passed away and their estates were inventoried. Secondly, given the tenuous distinction between the widowed and ever-married groups, these can be collapsed into a joint, likely-widowed category. Widowed men held a share of 21% among male testators, while over 53% of men in the probate group had likely been widowed when their estate was inventoried. Thus, male testators were significantly more likely to have been married at the time the will was composed, while the differences between the shares held by those married and those widowed were lower in the case of probate records. This situation should be regarded as a reflection of the specific legal purposes towards which testaments and the probate process were employed. Testaments very often functioned as a means to provide and extend care for widowed female spouses, and thus testators were still married at the time the final disposition was drafted. On the other hand, probate proceedings were designed to safeguard

¹¹¹¹ SJANS, *Magistrate - Testaments*, Folder E, Document no. 7, Will of Susanna Ehrlich, fol. 24r: “so habe ich, in Betracht, daß mir Gott mit meinen itzigen Manne keine Kinder gegeben, und mein Sohn aus der ersten Ehe wenig nach mir gesehn, meine Schwester aber allezeit um mich gewesen und mir in meiner reimen Wirthschafft getreulich beygewanden, dabey auch des Lichtes ihrer Augen beraubet worden und nach meinem Tode eine elende verlaßene Person seyn würde.”

interest of heirs, and primarily those of children; widowed or ever-married male decedents were more likely to have sired a child, and thus the heirs compelled to go through the inventory of the estate. Children of widowed men were the most exposed from a legal perspective, and from the point of view of access to care resources: they were also motherless, and had to be quickly entrusted to the care of relatives along with the estate they had potentially inherited.

Even when the deceased was married, the remaining spouse could not always be counted on to assume the care of orphaned children, especially when the value of the estate was low and the debts it incurred transformed it into a burden. The following situation encapsulates why the probate process moved quickly in such events: in August 1764, after Catharina Drothloffin passed away, she left behind three orphans - a daughter and a son, possibly of age, as well as a one-year old son. Her spouse, a brick and tile kilnman (*Zieglermeister*), had preferred to disappear completely from the scenery than to assume responsibility for his one-year old son and two stepchildren. The value of the estate after debts were subtracted, which reached only 2 Kreuzer (0.02 Florin), likely had to do with the father's absconding. Although the probate office had hurriedly proceeded to inventory the estate in the presence of two neighbours, and then left it sequestered in the care of the couple's former landlord, it took some 5 months until it was auctioned off and all debts paid.

What was the situation of the children at this time? Nothing more was recorded about the two children from the mother's first marriage, who, it may be assumed, had entered service or found some means of supporting themselves. When the Small Council finally engaged itself to provide the necessary funds for his future care, five months after his mother's passing the one-year old had surprisingly managed to survive without any formal provision of care, as he was "still found among the Gypsies", likely in the care of the inhabitants of the city's suburbs.¹¹¹² The exceptional character of this situation showcases the gendered aspects of probate proceedings, as

¹¹¹² SJANS, *Magistrate - Registers*, Register of estate divisions no. 288, Lower City, 1762-1765, fol. 340-343: "nachdeme aber Viduus entweiche, und diese Verlassenschaft zu sambt seyнем Leibl. Kindt verlassen; so wirdt diese Verlassenschaft ab Offo Div. in Gegenwart Hl. Jacob Walentin und Martin Roth beyden Nachbahren inventiret, und bis zu weiterer Verordnung des Lobl. Magistrats bey dem Wirthen Paulus Fabritii in sequestro geloßen. Anno 1765 d. 23 Jan aber werde diese Effecten vermöge beygelegten Magr. resolution de dto. detto, an dem Meistbiethenden verkaufft, und derer hierauf gehafftete Passiv-Schulden wegen nachstehende richtigkeit gepflogen. [...] Sämtlich oben bezeichnte Gläubiger, werden zum Theil mit Effecten die sie Licitando a conto empfangen als mit Baaren Geldt, lauth beygelegter rabulatur bezahlet.

Vor daß arme sich noch bey dem Zigeyners befindliche Kindt, will der Löbl. Magistrat ferner Sorge, und zu freyer Erziehung daß nöthige aus der Almoßen Cassa ausweisen."

well as the potential impact of a parent's death for children who remained without clearly-designated guardians.

Less striking differences between civil status distributions were observed in women's cases. Almost one third of women who left wills and whose estate underwent probate were married prior to passing away. Nevertheless, the share of married women who were recorded in the burial registers is at least some 10% higher, which suggests that marriage by itself was not necessarily a sufficient motive to warrant either the making of a will or the commencement of probate processes. Further support in this direction is lent by the fact that widowed women (including those who had been labelled as "ever-married") accounted for over 55% of testators and almost 65% of females in the probate group. By comparison, widowed women only accounted for 32% of all deceased women in the burial sample. Thus, widows were over-represented in testament and probate groups compared to the entire death group; widowed women were more likely than married women to make a last will, and much more likely to have their estates inventoried after their passing, compared to married women.

The category of single individuals – who had never been married – was also distributed differently between events and genders. Shares of single testators were higher than shares of probated single individuals, for both genders: despite limited numbers, there were two times as many single testators among the male group compared to probate, and six times as many single female testators compared single women whose estates had undergone probate. For women, the share of single testators was very near to that encountered in burial records (3.9 vs. 4%), suggesting that nearly all women who died never having married left a last will and testament.

Thus, a diametrically-opposed relationship was observed between men and women in terms of civil status. Most male testators were still married, while most female testators were widowed by the time a final disposition had been drafted. For men, there was a pronounced difference in the civil status distribution between the testament and probate groups, with a majority of male testators being married, and a majority of male decedents in the probate registers already widowed at death (and thus probate inventory). The reverse was true for women: the majority of female testators were widowed by the time they had set their final dispositions to paper, while slightly less than one third (31.5%) still being married when this event occurred. The civil status distribution for women differed much less between the testament and probate contexts, with very close shares for both widowed (including "ever-married") and married women in both cases.

Pronounced differences were only visible for single women, who were unlikely to have their estates probated, as shown both by the differences in absolute numbers and those in the relative shares between the probate and the burial groups. The share of single women among female testators was nevertheless very high compared to the overall decedent group, signalling the priority of will-making for never-married women. Given the lack of definite civil status information for men in the burial registers, it is impossible at this point to establish whether single men, whose share among male testators similarly reached over 3%, were as keen on leaving final dispositions as women were.

Having canvassed the civil status distributions of the probate and testament groups, the examination may now focus on the structure of the decedents' families at their passing, expressed in the variable of "family circumstances". While a more in-depth approach to the issue that would further distinguish for instance between children from different marriages, children's gender, and the marital status of adult offspring would be a desirable goal for further research, the present inquiry deals only with the three major legal categories discussed earlier: minor children, offspring whose age was unclear, or situations wherein children as the "heirs of the body" (*leiblichen Erben*) were absent.

After breaking down both the probate events and the testaments according to the three abovementioned categories, a clear distinction between the two contexts emerged (*Annexes – Table 18*). Slightly over 45% of all testaments were made by individuals (or couples) who had no bodily heirs, while only some 5% of testators had minor children.¹¹¹³ Although the high ages of female testators (median age 58 years) may provide a partial explanation for the lack of minor children, age cannot have been the only factor at play in this distribution. Although unfortunately this issue has not been comprehensively covered in literature on will-making, a recent study of late-medieval Languedoc has shown for instance that 43% of ever-married or married testators were childless at the time of will-making.¹¹¹⁴ In other late-medieval milieus, such as Pisa, the share of childless testators reached 55% of the entire testator group. Nevertheless, as has been argued,

¹¹¹³ A similar figure of childless testators – without any living offspring – was ascertained for late-medieval Pressburg (Bratislava), as well as for medieval Buda. See Katalin Szende, "From Mother to Daughter, From Father to Son? Inheritance of Movables in Late Medieval Pressburg", in Finn-Einar Eliassen, Katalin Szende (eds.), *Generations in Towns: Succession and Success in Pre-Industrial Urban Societies*, Newcastle upon Tyne: Cambridge Scholars Publishing, 2009, p. 44-75, here p. 50, and note 21.

¹¹¹⁴ Laumonier, "Childless families", p. 4.

these high shares should not be reduced solely to the roles performed by will as counter-balances to intestate legislation, as they varied over time and were heavily context-dependent.¹¹¹⁵ For the present inquiry, the probate records serve as one appropriate means to contextualise this figure: although a very limited share of probate events in the Transylvanian Saxon context also involved wills, probate as such was primarily driven by the broader framework of intestate wealth devolution. The possibility that wealth could devolve both by testament and through succession law eliminated the theoretically stark opposition between these two contexts. Nevertheless, among all probate events, only 10.5 % involved individuals without bodily heirs. Despite the large share of events wherein the family circumstances could not be positively elucidated – 20.7% of probate and 24% of testaments – the differences between the two profiles remain stark in all respects. Five times' more probated individuals had minor children, compared to the share of 5% of testators. However, despite the high share of childless testators and the low share of those who had minor children when having a will drafted, there was a strong presence of (presumably adult) offspring in both milieus: 43% of probated estates involved offspring of any age, with 25.4% of testators leaving behind children which had reached maturity (presumably *aetas legitima*, rather than *aetas maior*). A consistent share of testaments thus had to do with either the presence or absence of (adult) offspring in the family, and were designed explicitly to deal with situations elicited by these two scenarios.

What is more, it appears that the dividing line delineating these two main scenarios – the absence or presence of adult offspring – was robust throughout the sample of testaments. A series of crosstabulations between family circumstances and the gender of the testator revealed that 43% of men and 45% of women were childless, while in over 58% of mutual wills, the couple had had no children. However, even in mutual wills, whereby a couple reciprocally bequeathed their shares in the estate, there existed some 16% of cases where the couple also had presumably adult offspring.

Some differences were exhibited when the two main family circumstance scenarios were examined in light of the testator's marital status. For instance, three thirds of single testators were explicitly childless, while only 26% of ever-married testators – likely widows or widowers – reported that they had not been graced with heirs of the body. Although a majority of married testators (51%) or widowed testators (40%) were childless, among widowed testators 30% reported

¹¹¹⁵ Laumonier, "Childless families", p. 6.

that they had adult offspring. Furthermore, the share of childless testators exhibited very limited variation according to the testator's HISCLASS group, ranging between 40% and 48% for elite and skilled workers, respectively.

An overview of probate records helps to further clarify the specificities of these two scenarios, by looking at what I have termed “event types”, in effect the main pathways along which the devolution of the estate could occur. The creation of this inferred variable also helped to delineate the probate group with which the quantitative analysis worked, by excluding other kinds of events recorded in the probate records, such as divorces, reviews of orphans' estate accounts, or notices that a petition or legal claim had been submitted in the case of a particular estate. Thus, as discussed in chapter 14 on sampling, only the events that had to do with the devolution of an estate after an individual's death were selected.

The main sub-category within this group and largest in numerical terms was the generic “division of estate upon death”. Within this category, the estate devolved to a large if not complete extent according to intestate succession law. This category also included a limited number of instances (112 out of 2407, less than 5%) where the decedent had left a last will and testament. However, in these situations the testament decided only part of the estate transmission (similarly to a codicil). In the great majority of cases, intestate succession law dictated the devolution of the estate.

A second category is relatively self-explanatory – “testament without inventory”, having been used to label those events wherein the probate office received notice that a decedent had left a last will and testament, and, barring any other interventions or counter-claims, the entire estate devolved per testament without the production of an inventory.

The third category – “Vergleich” – contained the events where the probate office was merely notified that the decedent's heirs had reached an agreement amongst themselves about the devolution of property, and that no inventory would be required. However, it was only possible to avoid the inventory and division process – even for testaments – when no minor heirs were involved in the proceedings.

As the analysis shows, the spirit of the law rather than the letter dictated the potential outcome of a probate event, along with the decedent's family circumstances (*Annexes – Table 19*) and gender (*Annexes – Table 20*). The absence of bodily heirs, though prevalent for testaments

without inventories, was also encountered for generic death divisions and in situations where the surviving heirs managed to balance the shares between themselves. The presence of minor children, which should have been encountered only in the “death division” group and perhaps that of the testaments without inventory – though it skirted the edges of legality in the latter case – was also encountered in the *Vergleich* category. This implies that the office of estate divisions agreed to informal arrangements among heirs even in situation where minors were involved, in direct contradiction of one of the institution’s main purpose: to safeguard the rights of minor orphans.

The first issue which stands when canvassing the potential outcomes of a probate event is the fact that the presence of adult or at least, older children was very strong in both the overall “death division” group and the *Vergleich* group, reaching slightly over 44% in each case. At the opposite side of the spectrum, only 14% of testators who had left a will which had been recorded in the probate register without having their estates inventoried had adult offspring. Thus, when the circle of heirs included adult offspring – and presumably excluded minors, only present in less than 4% of *Vergleich* cases – it was quite possible to eschew the probate process altogether, in exchange for a minimal fee. These informal arrangements which were not extensively verified by the probate office happened in over 65% of cases where the decedent had been female, as the heirs and presumably any remaining male spouses reached agreements that did not require formalisation (*Annexes – Table 20*). On the contrary, when a man passed away, chances were highest that a full inventory would be undertaken (55% of estate divisions). Although a *Vergleich* could also be reached when there were no bodily heirs, the testament was clearly the preferred option in this situation, with almost 36% of testaments for which no inventory was undertaken being recorded for childless decedents.¹¹¹⁶ Only one testator who left behind minor children also had their testament recorded in the probate register without any inventory of the estate.

¹¹¹⁶ This figure should however be subject to further research, as in 48% of cases of “testaments without inventory”, the family circumstances of the deceased testator were not made explicit in the probate records.

16.4. Probate and testaments: wealth gradients

Having charted these coordinates of the testation and probate process, it is worthwhile to enquire into the wealth of testators and those in the broader probate sample. Although as *Figure 6* in Chapter 14 on sources and sampling has shown, having a testament drawn up generally precluded the existence of a detailed inventory of the entire decedent's estate, with only 216 matches between the testament and the probate group, it is nevertheless possible to contextualise will-making as a social and economic phenomenon from this perspective as well.

Firstly, the spread of wealth was examined, both for the overall group (*Annexes – Table 21 – Overall estate value distribution in probate group*). Although the sample cannot be viewed as entirely representative in terms of the share of the overall wealth that each percentile group held – i.e. whether the 1% wealthiest held 10 or 50% of overall wealth – and thus it is impossible to contextualise the findings at this stage with those of other similar European studies, some preliminary conclusions concerning the overall distribution of wealth can be nevertheless be formulated. It should be emphasized at this stage that the probated estate was not always the property of a single individual, but rather, in cases where the testator was married, reflected a household's value. For the purposes of the present analysis, the estates of widowed or single individuals were only singled out at a later stage, as the examination of overall wealth remained essential. Individuals who shared an estate as a couple also shared a class status, and thus the separation of estate values by the individuals' civil status at death was only partially relevant to the analysis.

The overwhelming wealth disparity at overall level is the first issue that draws attention: the minimum of the value of a probated estate was a mere 2.2 Hungarian Florin, while the maximum reached the sum of 106,891.9 Hungarian Florin. Thus, the richest probated estate was worth more than 50,000 times the value of the smallest estate. The disparity between wealth distribution and income distribution as it appeared in the 1720 census is striking. While several individuals in the census were listed as having no income at all, those at the 10th percentile nevertheless earned up to 20 Hungarian Florin, with those at the top 1% of earners having an income of up to 286 Hungarian Florin, more than 14 times higher. Thus, the image of income inequality revealed by the census heavily underestimates the inequality of wealth, which was likely more significant in the day-to-day of social dealings and decision-making. It is worthwhile to

examine the outliers of estate values: valued at 2.2 Hungarian Florin was the estate of one Johann Veber, a widowed skilled worker who passed away in 1780 in the Upper City. Veber's family circumstances were unclear, as was the devolution of his estate: his debts reached 55 Florin, his creditors having incurred a loss in the absence of any clear heirs who would assume responsibility for the estate.¹¹¹⁷ At the opposite side of the spectrum stood the estate of Johanna Regina Werderin, a widow of the mayor of Hermannstadt. Inventoried in 1742, Werderin's estate was the only one in the entire sample to exceed the sum of 100,000 Hungarian Florin. To put its size into perspective, it could have covered the entire Seat of Hermannstadt's taxes to the Habsburg government for more than two years. Of the Werder estate, some 68% was in cash. If Johanna Regina Werderin also left a testament, it was not explicitly mentioned during the probate process.¹¹¹⁸

Yet the extremes were not the only points of interest: just as in the case of the income reported in the 1720 conscription, the differences between percentile groups also revealed stark economic stratification beyond the outliers. A steep slope was evidenced in this respect: 10th percentile had estates in values up to 74 Florin; the first and poorest quarter of estates reached up to 210 Florin; half of the estates probated were worth up to a hefty 631 Florin. It is clear that the extent of very low-value estates was somewhat underestimated. Nevertheless, even in this respect the substantial character of the top 1% estates, ranked at 19,945 Hungarian Florin, was significant, given that 90% of estates could boast with a value that was almost 5 times lower, at a comparable 3824 Hungarian Florin. Given that the value of the estate doubled or almost tripled in size from each quantile to the other – 210 to 631 to 1569 – the spread presented some similarities in the middle of the distribution with that of income.

How much did other factors play into the accumulation of wealth at passing? Expectedly, age at death positively correlated with estate values, but the effect was very limited; thus, individuals had a slighter chance to accumulate more with age, but this was negligible in comparison to other factors.¹¹¹⁹ The strongest gradient within the distribution seems to have been social class, as measured by HISCLASS (*Annexes – Table 22*). Even given the presence of a significant share of estates for which no class status could be ascertained (some 22% of all probate estates), there remained a visible gradient between the other groups delineated. Estates belonging

¹¹¹⁷ SJANS, *Magistrate - Registers*, Register of estate divisions no. 129, Upper City, 1778-1782, p. 191.

¹¹¹⁸ SJANS, *Magistrate - Registers*, Register of estate divisions no. 88, Upper City, 1741-1743, p. 108.

¹¹¹⁹ The correlation between estate value and age at death reported a value of 0.132, with $p < .001$.

to members of the elite witnessed the highest values among all groups, and a similar slope was encountered in the hierarchy: for each quartile in the distribution, the estate values doubled or even tripled. Thus, the lowest-value estates in the elite group were worth up to 554 Hungarian Florin, while half reached up 4335 Hungarian Florin. Those in the top 1% of the elite had estates valued at a minimum of 64,000 Hungarian Florin.

Similar gradients existed within the other groups, although on the whole estate values were lower than in the elite category. The lower-middle class estates ranged between a little over 100 Hungarian Florin at the lowermost level (10th percentile) to 757 Hungarian Florin at median level, and 3929 Hungarian Florin at the 90th percentile. The top-most 1% of the lower middle class estates were valued around 18,000 Hungarian Florin.

Although the distribution of estates owned by skilled workers displayed a similar slope, the differences between this group and the lower middle class were stronger at the upper levels of the distribution. For the first half of the distribution, estate values belonging the lower middle class and the skilled worker group were relatively close: at the 10th percentile, the lower middle class reached 104 Hungarian Florin and the skilled workers 69 Hungarian Florin; at the 25th percentile, the lower middle class reached 306 Hungarian Florin and the skilled workers 193 Hungarian Florin; at the mid-level, the lower middle class estates were valued at 757 Hungarian Florin and the skilled workers' estates were valued at 557 Hungarian Florin. Even at the 75th percentile, the lower middle class estates were valued only 300 Hungarian Florin higher than the skilled workers' estates (1648 H.fl. vs. 1352 H. fl). Thus, the wide majority of the lower middle class and skilled workers managed to accumulate similar-valued estates over the course of their lifetime. The dividing lines between these two groups in terms of estate values were even less stark than in terms of income, as evidenced in Chapter 8 (*Social class and income by HISCLASS*). It was only at the 99th percentile – the top 1% of estates – that differences became more pronounced, with those in the lower middle class category accumulating more than double of what their counterparts in the skilled group managed. However, the highest-valued estate from the skilled worker group was worth an estimated 79,195 Hungarian Florin, more than double what the maximum-value estate from the lower middle class group (at 34,726 Hungarian Florin). The richest skilled worker was a widowed coppersmith from the Lower City, who had passed at 57 years of age, and whose estate was inventoried in 1765.¹¹²⁰ The highest value for the lower middle class group was recorded in

¹¹²⁰ SJANS, *Magistrate - Registers*, Register of estate divisions no. 288, Lower City, 1762-1765, fol. 352.

an estate division protocolled in 1799, in the Upper City, which had belonged to Andreas Heßheimer, a merchant. Heßheimer was married, had reached 66 years of age, and left behind minor children, whereas his counterpart was only survived by presumably adult offspring. Despite the considerable worth of the estate, Heßheimer's position as merchant involved a number of various financial dealings that had incurred a staggering 11,354 Hungarian Florin in debt, amounting to almost one third of the entire estate.¹¹²¹ Thus, age, civil status, and social class did not intersect in precisely the same ways for skilled workers and those in the lower middle class, with one's professional pathway determining one's ability to accumulate only to a certain extent. As successful or productive a merchant might be, there existed the possibility that a craftsman – with potential ties to elite families, for instance – could accumulate more and faster.

By contrast, those in the unskilled worker group were placed firmly at the other side of the wealth spectrum, with overall low values at most markers: the first half of the unskilled worker group did not own assets over 111 Hungarian Florin; three quarters managed to accumulate somewhere around the sum of 350 Hungarian Florin, which placed them below the 10th percentile in wealth for the elite group. The overwhelming majority – 90% - of those whose occupation placed them in the unskilled workers group accumulated around 700 Hungarian Florin, somewhere between worst-off 10th percentile and the first quarter in the elite group (554 H.fl. and 1907 H. fl, respectively). The top 1% of unskilled worker estates accumulated around 3545 Hungarian Florin, 20 times less than their counterparts in the elite group, 5 times less than those in the lower middle class, and almost 3 times less than those in the skilled worker group. Nevertheless, this value placed them squarely within the top values for estates in the overall group: at 90th percentile, estates were valued around 3824.1 Hungarian Florin (*Annexes - Table 22*).

The procedures followed for the probate of last wills and testaments, which were outlined in chapter 15.2, showed that unfortunately, in a wide majority of cases, it is impossible to state anything about the entire estate left by a testator. Leaving a testament often meant that the individual was childless, and that therefore an inventory was not required. In some cases where substantial bequests were made through the testament, testators explicitly eschewed the creation of a probate inventory. Drafting his will in 1775, the merchant Michael Rideli make bequests of

¹¹²¹ SJANS, *Magistrate - Registers*, Register of estate divisions no. 145, Upper City, 1796-1799, fol. 288.

over 5000 Hungarian Florin, but also explicitly required that no inventory of the entire estate be drafted.¹¹²² As long as bequests were discharged – even partially – the *Teilamt* did not always particularly insist on drafting an inventory, especially for those estates which contained an extensive number of low-value items, barely worth protocolling. Thus, information about the value of the entire estate could only be ascertained for 117 testaments, out of the total of 630.¹¹²³

How much explicative power do these 117 testaments hold, beyond their own circumstances? To what extent are estate value gradients noted for the larger probate group telling for the wealth distribution of wealth in the testament group? In other words, were shoemakers who left a will richer or poorer than their counterparts who merely had their estates inventoried? What differed between these individuals and their estates, and how might this issue be tackled?

Firstly, there is no clear indication that values of estates differed between the individuals in the overall probate sample and those in the testament group: in other words, a lower-middle class individual who left a testament could have certainly accumulated an estate of the same value as their counterpart in the probate group who had not left a testament.

It is worthwhile to address the reasoning behind this preliminary conclusion. As has been shown, estate values varied by the decedent's HISCLASS, in a gradient that was similar to that of income and taxes, but more pronounced. However, given that the HISCLASS was attributed to the entire household – i.e. women received their spouse's class, or, when an occupational title was listed, received its corresponding class – the estate value did not vary by individual-level characteristics. This was verified by overlaying the civil status of the deceased individual for each probate event with the value of the estate (*Annexes – Table 23 – Civil status and estate value*). The only instance where estate values deviated from the norm was for single, never-married individuals, who were also of lower ages. In these cases (22 out of 2642), the estate represented an individual's wealth, rather than that of a couple. Otherwise, differences between ever-married, married, or widowed individuals whose estates underwent probate were minimal, compare to the HISCLASS gradient.

A second way in which the relationship between estate value and individual-level variables was examined involved the inclusion of gender into the equation (*Annexes – Table 24 – Gender of*

¹¹²² SJANS, *Magistrate - Testaments*, Folder R, Document no. 30, fol. 59-66.

¹¹²³ For one testament, the gender of the testator could not be established. Thus, most calculations were made using a smaller sample of 630 rather than 631 testaments, as presented in chapter 14.

deceased and estate value). Although some differences were noticeable between estates left behind by women rather than by men, these were minimal for most of the probate events. At the middle of the distribution, women left behind estates worth around 150 Hungarian less than those left behind by men, a much smaller difference compared to those between HISCLASS groups. More pronounced differences were visible at the 90th and 99th percentile marks, where men outpaced women by approximately 1500 and 10,000 Hungarian Florin, respectively. Nevertheless, the gender gradients were overall not as stark as those observed for social class. The differences between female and male decedents' net worth was also likely a factor of the age gradient, as women whose estates were probated were on average older than men at the 90th and 99th percentile marks (*Annexes – Table 16*). A further indication that individual characteristics such as gender mattered less than household or family-level characteristics was the fact that in probate instances with multiple decedents (generally a couple, but sometimes a parent and an offspring), estate values followed precisely the same ranges as for male and female decedents.

These findings suggest that individual-level characteristics were not the essential factor behind estate values. This implies that other broader influences, such as family circumstances at death or a household's social class were more closely entwined with how much a decedent's estate was worth. The probate event sample and the testament sample displayed important differences in this regard, with almost half of testaments being drafted for childless persons, while the share of the childless in the entire probate group only reached 10.5%. Likewise, the presence of minor children among the heirs was decisive in distinguishing probate in general from testaments: in the larger group, 25% of probated estates/households had minor children; in the case of testaments, only 5% had minor children listed (*Annexes – Table 18*).

A further step was therefore to examine the distribution of the value of probated estates in the two major scenarios outlined above: when no bodily heirs were present, or when minor children were listed (*Table 14 – Distribution of estate values and family circumstances in probate sample*). While one might have expected that estate division with a higher estate value would associate with will-making and consequently with the absence of bodily heirs, the findings partially support the opposite conclusion.

Table 14. Distribution of estate values and family circumstances in probate sample

	no bodily heirs	minor children	offspring - no age provided	unclear
Valid	133	304	601	118
Missing	52	14	91	71
Mean	1698	1329	2043	1288
Std. Deviation	9305	2003	5133.8	2896
Minimum	9.6	12.5	10.5	6.2
Maximum	106891	12633.7	79195	19315
10th percentile	59.05	70.54	100	66.16
25th percentile	136	178	252	170
50th percentile	415	597	754	430
75th percentile	1092	1555	1786	951
90th percentile	2382	3234	4395	2501
99th percentile	10360	10803	21958	15323

Source: author's calculations, Probate Database of Transylvania.

A clear gradient was present in the distribution of estate values by family circumstances as well, with individuals who left behind children, regardless of age, also leaving estates worth more than those without bodily heirs. Those whose children were grown – or at least not minors – had the highest estate values, ranging from a little over 100 Hungarian Florin to almost 22,000 Hungarian Florin at the 99th percentile. Differences in the distribution of estate values were most pronounced between those with grown children and those without bodily heirs, who reported the lowest worth. Throughout the distribution, those decedents who left behind no children at all had reportedly owned estates at least 50% smaller in worth than their counterparts who had grown children. Those with minor children were situated in the middle of the distribution, from the point of view of estate values. Although outliers such as Johanna Regina Werderin skewed the maximum of the distribution within the ‘no bodily heirs’ group, the differences between all three groups were levelled at the uppermost 10% and 1%. At the 99th percentile, both those who left behind minors and those who had no heirs had accumulated estates worth around 10,000 Hungarian Florin. Among those whose offspring were grown, the top 1% had managed to accumulate twice as much before passing.

Thus, those without heirs of the body were not necessarily better off in financial terms at the end of life. The differences between groups may be explained at least partially by the association between age at death and gender, which would have precluded for instance the women in the upper age brackets of the sample from appearing among those who had minor children. However, individual-level factors, such as age or gender, with a weaker effect on estate values, seemed to have created less sharply-delineated groups than family or household-level characteristics. The strong relationship between social class, family circumstances, and estate values leads to the preliminary conclusion that testator's wealth distribution was presumably similar in the testament group as well. However, this should be moderated by the fact that the shares of the elite and lower middle class were higher among the testators than among those probated, which may work to modify the distribution of estate values.

This proposition was further questioned by examining the distribution of wealth within the testament group (*Table 15. Estate values in the testament sample – overall distribution and family circumstances*). Although the number of events analysed is relatively limited, some differences between testaments and all probate events are readily apparent. First, among the group of testators without bodily heirs, values at all levels of the distribution are higher than for the corresponding probate group: at the 10th percentile, testators had estates worth almost three times as much as their correspondents in the probate group (*Table 14*), at almost 150 Hungarian Florin as opposed to merely 59 Hungarian Florin. These differences persist throughout the 'no bodily heirs' category, although they decrease at the 25th, 50th, and 75th percentiles.

Table 15. Estate values in the testament sample by family circumstances

	no bodily heirs	minor children	offspring any age	unclear	all testaments
Valid	32	18	41	26	117
Missing	0	0	0	0	0
Mean	1222	5984	2643	2507	2738
Std. Deviation	1332	9580	4907	4946	5457
Minimum	75	95	62	77	62
Maximum	4658	34726	29274	23762	34726
10th percentile	148	202	174	181	154
25th percentile	240	698	404	258.5	308
50th percentile	781	2429	1001	754	936
75th percentile	2068	6307	3300	1864	2531
90th percentile	2942	15425	5331	6850	5776
99th percentile	4589	33265	22160	20141	28771

Source: author's calculations, Probate Database of Transylvania.

Thus, the overwhelming majority of testators without bodily heirs had higher estate values than their counterparts in the probate group. The relationship however reversed at the uppermost level of the distribution, with the top 1% of childless testators reporting estates worth less than half of those their counterparts who had left no testament. Nevertheless, at the overall level testators were better off than the regular childless decedent from this perspective.

These figures should however be regarded with caution, as the low number of cases in each category has the potential to present a somewhat distorted image. For instance, especially in the case of the economic elite, the fact that testation sometimes did not occur when no bodily heirs were present, despite staggeringly high estate values, worked to eliminate significant outliers which might have modified the overall distribution. Given the limited numbers of cases discussed, the inclusion of any estate had been valued at over 10,000 Hungarian Florin, - 65 throughout the probate sample -, would have likely skewed the image of wealth distribution in the testament sub-sample even further. In only 6 cases out of the 65 where estates were worth at least 10,000 Hungarian Florin, had individuals left testaments; the overwhelming majority of those who had managed to accumulate such comfortable sums had offspring (49), with only 3 individuals who were explicitly listed as having no bodily heirs. Four of the 11 cases with minor children left behind also included testaments, which suggest that the concern was not with the estate itself but rather

with its administration and the fate of minor heirs, who might be more easily taken advantage of in the absence of clear settlements.

On the opposite side of the spectrum, among the 990 probate events where estate levels were lower than 500 Hungarian Florin, only 41 contained mention of testaments. The majority of decedents were lacking bodily heirs, with only 3 having minor children.

The differences between the three possible family configurations also change within the testator group, as opposed to the probate group. Among testators, those with minor children had the highest overall estate values, while those who left behind older children had higher values than the 'no bodily heirs' group but lower than those with minor children. Again, this situation might reflect the slightly older population of testators as compared to their counterparts in the probate group. Overall, testators did leave behind estates of higher value than the overall probate group, across the board, from the 10th to the 90th percentile. Nevertheless, the differences between the testator groups and the overall probate groups were not as high as those between social class as encoded into HISCLASS, suggesting that at least part of the differing economic profiles of the testator group stemmed from its inclusion of a larger share of elite individuals, compared to the entire probate group, where elite individuals went under the radar in a non-trivial number of cases.

Final Considerations

To leave a last will and testament in eighteenth-century Hermannstadt meant to engage with an entire suite of issues, not all of which were transparent at first glance. Through the course of the present work, will-making in Hermannstadt between 1720 and 1800 has been elevated as a canvass, upon which political, social, and economic trends intersected to leave a myriad of patterns. The present thesis has explored the collective profile of testators, as a group apart, by re-embedding it into a successive series of contextual frames, from which it is often abstracted. As opposed to the major currents of historiographical enquiry which employ testaments as either textual evidence for agency, or as convenient carriers of general historical meaning and information beyond their own narrow scope, the present work has sought out to look at testaments as pieces of a larger mosaic.

On the one hand, will-making was a matter of politics, administration, and social class. In Hermannstadt, making a will, like any kind of engagement with authority after the Habsburg takeover at the end of the seventeenth century, indirectly reflected administrative renewal, state-building, as well as the entrenchment of political particularisms. Because will-making sometimes involved the devolution of property, and property rights were one of the essential, if not quintessential arguments in the arsenal of autonomy marshalled by the Transylvanian Saxon nation-estate, will-making was also politically potent, in that it could estrange property. The political importance of property devolution in the Transylvanian Saxon milieu, manifested in the emergence of the offices of estate division (*Teilämter*) around the 1570s and 1580s, meant that will-making in this legal environment was ensconced in a wide-ranging and revealing context of probate – i.e. the inventory and division of all decedents' estates, rather than just the proving of wills. It was also manifested in the narrow testamentary freedom, compared to the high shares of intestate heirs, which had concurrently worked to keep property within the political fold of the Transylvanian Saxon fold. It had not however kept the wealth from being accumulated “in the hands of the few”, as one Transylvanian Saxon petition of 1784 had claimed. On the contrary, both intestate and testamentary law had allowed the establishment of a hazily-delimited social class that stood at the forefront of national leadership. In the case of Hermannstadt, national and local urban leadership were so closely intertwined that to attempt to pull them apart meant to try to pull apart the very ‘national’ fabric.

Habsburg state-building and Transylvanian Saxon administrative practice, born of out custom were readable in both probate records as well as in last wills and testaments. Will-making also functioned as a barometer of legal transplants and practical “contamination” at the highest social levels. With the increasing advent and settlement of the Habsburg institutional system, the limits specific to Transylvanian Saxon testamentary law were gradually breached. Of pure Roman – Justinianic inspiration – testamentary law in the Royal Lands had lacked the essential institution of the heir, and intestate law with a high *Pflichtteil* had worked to moderate the Roman impact of testamentary freedom. At the end of the period, to read that a universal heir had been instituted by testament was no longer a highly unusual occurrence, but rather a usual way of dealing with estate devolution. Based on nineteenth-century Transylvanian Saxon legal scholarship, one would not have assumed that urban authorities at the heart of the Transylvanian Saxon body politic – Hermannstadt – had grown to accept the institution of the heir as an acceptable pathway for estate devolution.

Institutional turns and state-building worked in a myriad of other ways that indirectly shaped will-making. They presented opportunities for Transylvanian Saxon elites and upper middle classes to enter into networks of collegiality and friendship with non-Saxon or even non-Transylvanian individuals of similar levels. At the same time, the state-building initiatives directed against legal particularisms on which the nation-estate system rested were also noticeable at lower levels of the social hierarchy, among the great majority of skilled workers who constituted the core of the Transylvanian Saxon body politic. Non-Transylvanian and non-Saxon individuals of various backgrounds, trades, and abilities were either forcibly relocated, encouraged to settle, or supported in their migration efforts to Hermannstadt by Habsburg authorities, who viewed the province as a land where Protestantism could be allowed to survive, if not necessarily thrive. The confessional aspect was only one side of the issue, as the support of Protestant (and Catholic) skilled migrants from the Empire also meant a weakening of the extensive control over the social-occupational structure of the city exerted by the guild system.

The political turns of the eighteenth-century also directly reverberated in the field of welfare, again primarily at the uppermost levels. Pension systems for imperial civil servants, through to the lowest levels of the employees, were established during the late eighteenth century and also went into force in Transylvania. On the other hand, in the urban *cum* national administrative milieu of Hermannstadt, as the seat of the Transylvanian Saxon nation, state-

building initiatives to disentangle the political from the administrative, a difficult task. Habsburg inquiries – such as the wide-ranging the fiscal censuses of 1720 and 1750 – uncovered not only inequality and malpractices at the provincial level, but also ‘intangible elites’ in Hermannstadt. The immense income inequalities within the urban administration over the course of the eighteenth century were also discussed, as well as the pension plan for those who served the Transylvanian Saxon public in various roles, devised after Joseph II’s first visit to the city in 1773.

The elision of various tax-exempt individuals who formed the core of the national leadership from most fiscal burdens only became visible when it was counterposed to the entire population of the city, as revealed by the parish register of deaths. The legal, social, and economic meanings of the “elite” were rendered through an investigation which spanned into income, tax level, and wealth, through the inclusion of probate records and testaments into the equation. What is more, focusing on the burgher group in the 1720 and 1750 censuses, which formed a varying share of the entire population of Hermannstadt over the course of the century, issues such as migration to the city, the stability of its social-economic hierarchies, and the equitability of tax burdens were assessed. Moreover, the enquiry revealed foremost that the overarching legal labels employed in political rhetoric blended into more diffuse or alternately sharply delineated sub-groups, where one’s occupation, background, and gender played greater roles.

An inquiry into the practices of probate and will-making showed how much variation existed within this field, compared to the rather sparse legislative framework discussed in part 4 of the present work. It revealed that uncertainty regarding the potential of wills was visible under various forms, such as the often-encountered codicillary clause, and that the public/private divide from a legal perspective was no longer of essential significance for eighteenth-century wills, most of which were written versions of nuncupative dispositions. There was a spectrum of will-making, which ranged from the full extent of formalities and typical clauses such as the commendation of one’s soul and body, etc., to extreme sparseness, and to documents that resembled miss-assembled puzzles, where the canon-law, Roman law and usual legal language employed by scribes intersected to create hybrid shapes. The same public/private divide was overturned gradually through the intervention of the office of estate divisions, which oversaw decedents’ estate devolutions, through the emergence of practices such as the auctioning of decedents’ items. Certain corporate institutions in the urban milieu such as neighbourhoods, which both exemplified solidarity and exerted control, were also deeply involved in both the making of last wills and in

the inventory of the estate. Neighbours were conduits for administrative power in the fabric of the city, but also served testators by acting as witnesses or even materially safeguarding final dispositions until the commencement of probate.

Because testaments were merely one potential conduit for the devolution of wealth at death, testators were examined as a sub-group of individuals whose estates were probated between 1720-1800. The criteria and procedures employed in sampling were explicitly detailed and discussed, as well as the main reason behind this process, namely the creation of a sample that was foremost coherent and could withstand analysis. In order to place will-making and probate into a broader perspective that would reveal their specific characteristics, testators and decedents in probate events were examined as sub-samples of all deceased individuals record in the burial records of the Lutheran and main Catholic parishes of Hermannstadt. An exploratory and heuristic, step-by-step approach was employed.

Thus, slightly over 75% of individuals whose estates were probated between 1753 and 1800 – the time span of the burial records – were identified as having been buried in Hermannstadt during this interval. It was essential to find out the share of probated estates, if they were to be used for further research into historical inequality. In the sampled data, it varied by year, owing to the specificities of the sampling, but averaged around 25%. This meant that 1 in 4 adult individuals of Lutheran or Roman Catholic faith who perished between 1753 and 1800 had their estates undergo probate. Moreover, most estates were probated in the same year as the passing of the individual. The same inquiry also revealed testaments were not heavily used in Hermannstadt, as only a 3% yearly average of deceased disposed of their estate thusly. However, this share also varied significantly, reaching up to 8% in certain years. More importantly, because the existence of a testament was always included in the probate records in some form or other, it was possible to verify whether the archival fund of last wills and testaments with which the inquiry began was comprehensive. Given the existence of over 130 testaments which were not kept in loose-leaf form but only survived as textual notices in the probate registers, it may be argued that the *Magistrate-Testaments* fund presents a mangled image of testamentary practice and behaviour in the city.

A series of deeper but less transparent patterns that largely determined the who, how, and why of testamentary behaviour were elucidated in the final analytical chapters. The discussion of these patterns helped to clearly delineate the place that testaments held in the urban fabric.

Firstly, as regard to the timing of will-making, it was observed that most testaments were made shortly before death, with one third written no longer than a week prior to an individual's passing. While outliers existed in this field, with a testament being written up to 13 years prior to the testator's passing, the overall distribution revealed an image that was one of death-bed will-making.

Probate and testaments were expensive issues, but only for the lowest rungs of the economic ladder. An estate division which cost over 3 Hungarian Florin meant an additional 10% levy on an individual's annual income for those decedents who had earned in the lowermost quantile. At the lowest levels, these fees likely contributed to inequality by further impoverishing those for whom the average sum represented 10% of the annual income. At the highest levels, they merely reflected the breadth of the estate and the ensuing complexity and span of the procedures which had to be followed.

There was a clear class gradient to testation, as well as to probate. The elite group was under-represented among those who underwent probate: over 9% of decedents were ranked as part of the elite, while a little over 6% of individuals in this group had their estates inventoried at the time of their passing. Within the testament group, the elite was slightly over-represented compared to the total decedent group: 10.3% as opposed to 9.4%. However, some members of the elite escaped the gaze of the urban probate office, and likely skewed the distribution: the clergy's estates were inventoried separately, just as the clergy paid taxes – if any – separately. From the perspective of the social selectivity of will-making, the differences in the shares held by the elite between the testaments and overall deaths remains relatively low, suggesting that testaments were not an eminently or essentially elite activity and not somehow intrinsically tied to elite class-belonging.

Overall, the social class gradients of testaments and that of overall deaths were extremely similar for the first two classes – the elite and the lower middle class –, compared to either the testament-probate or the probate-death pairs. The direction of the gradient for deaths remained the same for testaments, which suggests that will-making was an act or event through which most decedents could indeed pass, regardless of the occupational source of their status. This pattern applied to the three largest shares, namely the elite, the lower middle class, and the skilled workers,

who accounted for 63.9% of testaments and 63.5% of the deceased. For the unskilled workers, leaving a last will seems to have been an overall exceptional situation. Nevertheless, probate was a rather different issue, displaying a starkly divergent gradient compared to both deaths and testaments. Undergoing probate was actively sought by skilled workers and disproportionately by the lower middle classes, while some elite households preferred to eschew it entirely. Thus, despite the fact that probate registers include notifications of last wills and testaments – and thus the probate event sample also includes some wills with or without inventories – these two events were not experienced at the same rates by all of the urban social fabric.

Gender also played a part in both testation and the inventory of estates. However, the relation was not as straightforward as for social class, because gender intersected with civil status and other individual or household-level characteristics, to form a more complex mosaic. Probate was sought more often when a woman had died than in cases when the decedent had been male, regardless of any other individual attributes. When the female decedent had been married and thus the surviving spouse was male, inventory and probate were more likely to be eschewed entirely when this was possible from a legal perspective. This signals that the surviving spouse would have been regarded as more responsible in administering the remaining estate, thus adding a gender bias to probate which does not appear at first glance.

Individuals who had their estates probated were thus a specially delineated group within the entire adult population of the city from the perspective of age as well. Nevertheless, these differences were levelled out as one advanced with age: both men and women in the probate sample were on average only one year older at the middle of the distribution (50th percentile), compared to their counterparts in the entire decedent group. The top 1% were not on average older than their counterparts in the entire burial group, and thus probate did not display a significant bias towards the elderly at the median and highest ages.

The distribution of the age at death mentioned in probate records reflects the specifics of this type of event and its legal contours: ages were higher for those in the 10th and 25th percentiles compared to the entire decedent group. This was likely owed to the fact that probate was mandatory primarily when the decedent left behind minor children in the descendent line. As further analyses will show, the wide majority of individuals whose estates were probated were also married, which was further conducive to higher ages. Although ages at first marriage have not been calculated for eighteenth-century Hermannstadt, because of the stark differences between the age at death for

individuals who underwent probate compared to the overall decedent group, it may be assumed that most had been married at least once, which would account for the age gap. A further indication of this is the fact that differences between probate and the overall death samples were most visible in the youngest groups.

Testators generally displayed significantly higher ages at death compared to both probate and the entire decedent group. The eldest 1% of male testators were the only ones who deviated from this pattern, with an age at death of 81.6 years, almost 3 years younger than their counterparts in the burial and probate groups (84, and 83.9 years respectively). The majority of female testators were also much older than the majority of male testators: the top 25% in terms of age left their final dispositions at ages 79.6 or older; the top 1% was at least 90 years old, 6 years older than the top 1% in the entire decedent group. The first half of the testator group, regardless of gender, was on average 7 to 10 years older than half of the decedent group (56 years vs. 49.5 years for men, and 58 vs. 48 years for women).

It follows that testators were much older than the overall decedent population. This supports the notion that will-making should be regarded as type of vital event, which could also indirectly reflect a certain demographic transition from a certain household or family configuration to another.

Moreover, a diametrically-opposed relationship was observed between men and women in terms of civil status. Most male testators were still married, while most female testators were widowed by the time a final disposition had been drafted. For men, there was a pronounced difference in the civil status distribution between the testament and probate groups, with a majority of male testators being married, and a majority of male decedents in the probate registers already widowed at death (and thus probate inventory). The reverse was true for women: the majority of female testators were widowed by the time they had set their final dispositions to paper, while slightly less than one third (31.5%) still being married when this event occurred. The civil status distribution for women differed much less between the testament and probate contexts, with very close shares for both widowed (including “ever-married”) and married women in both cases. Pronounced differences were only visible for single women, who were unlikely to have their estates probated, as shown both by the differences in absolute numbers and those in the relative shares between the probate and the burial groups. The share of single women among female testators was nevertheless very high compared to the overall decedent group, signalling the priority

of will-making for never-married women. Given the lack of definite civil status information for men in the burial registers, it is impossible at this point to establish whether single men, whose share among male testators similarly reached over 3%, were as keen on leaving final dispositions as women were.

Beyond the combination of gender and civil status, the legal composition of the household -i.e. were there offspring, minor children, or no bodily heirs at all - also displayed a very stark path, compared to other factors such as social class.

Slightly over 45% of all testaments were made by individuals (or couples) who had no bodily heirs, while only some 5% of testators had minor children. By comparison, among all probate events, only 10.5 % involved individuals without bodily heirs. Additionally, five times' more probated individuals had minor children, compared to the share of 5% of testators. However, despite the high share of childless testators and the low share of those who had minor children when having a will drafted, there was a strong presence of (presumably adult) offspring in both milieus: 43% of probated estates involved offspring of any age, with 25.4% of testators leaving behind children which had reached maturity (presumably *aetas legitima*, rather than *aetas maior*). A consistent share of testaments thus had to do with either the presence or absence of (adult) offspring in the family, and were designed explicitly to deal with situations elicited by these two scenarios.

When the circle of heirs included adult offspring and presumably excluded minors it was quite possible to eschew the probate process altogether, in exchange for a minimal fee. These informal arrangements which were not extensively verified by the probate office happened in over 65% of cases where the decedent had been female, as the heirs and presumably any remaining male spouses reached agreements that did not require formalisation. On the contrary, when a man passed away, chances were highest that a full inventory would be undertaken (55% of estate divisions). Although an informal settlement of shares could also be reached when there were no bodily heirs, the testament was clearly the preferred option in this situation, with almost 36% of testaments for which no inventory was undertaken being recorded for childless decedents. Only one testator who left behind minor children also had their testament recorded in the probate register without any inventory of the estate.

Slighter differences were visible in terms of overall wealth between the probate and the testament group. However, the distribution of total wealth among the probated estates showed an

extraordinary level of inequality compared to income inequality as measured in the fiscal census: the minimum of the value of a probated estate was a mere 2.2 Hungarian Florin, while the maximum reached the sum of 106,891.9 Hungarian Florin. Thus, the richest probated estate was worth more than 50,000 times the value of the smallest estate. It is also clear that the extent of very low-value estates was somewhat underestimated.

The strongest gradient within the distribution seems to have been social class. Estates belonging to members of the elite witnessed the highest values among all groups, and a similar slope was encountered in the hierarchy: for each quartile in the distribution, the estate values doubled or even tripled. Thus, the lowest-value estates in the elite group were worth up to 554 Hungarian Florin, while half reached up 4335 Hungarian Florin. Those in the top 1% of the elite had estates valued at a minimum of 64,000 Hungarian Florin.

However, among the other classes created through HISCLASS encoding, differences were not as pronounced. The wide majority of the lower middle class and skilled workers managed to accumulate similar-valued estates over the course of their lifetime. The dividing lines between these two groups in terms of estate values were even less stark than in terms of income.

Thus, age, civil status, and social class did not intersect in precisely the same ways for skilled workers and those in the lower middle class, with one's professional pathway determining one's ability to accumulate only to a certain extent. As successful or productive a merchant might be, there existed the possibility that a craftsman – with potential ties to elite families, for instance – could accumulate more and faster.

There is no clear indication that values of estates differed between the individuals in the overall probate sample and those in the testament group: in other words, a lower-middle class individual who left a testament could have certainly accumulated an estate of the same value as their counterpart in the probate group who had not left a testament.

Finally, the relationship between estate value and the variable of gender was examined. It was observed that women left behind estates worth around 150 Hungarian less than those left behind by men, a much smaller difference compared to those between HISCLASS groups. More pronounced differences were visible at the 90th and 99th percentile marks, where men outpaced women by approximately 1500 and 10,000 Hungarian Florin, respectively. Nevertheless, the gender gradients were overall not as stark as those observed for social class. The differences between female and male decedents' net worth was also likely a factor of the age gradient, as

women whose estates were probated were on average older than men at the 90th and 99th percentile marks. Individual characteristics such as gender mattered less than household or family-level characteristics was the fact that in probate instances with multiple decedents (generally a couple, but sometimes a parent and an offspring), estate values followed precisely the same ranges as for male and female decedents.

A clear gradient was present in the distribution of estate values by family circumstances as well, with individuals who left behind children, regardless of age, also leaving estates worth more than those without bodily heirs. Those whose children were grown – or at least not minors – had the highest estate values, ranging from a little over 100 Hungarian Florin to almost 22,000 Hungarian Florin at the 99th percentile. Those with minor children were situated in the middle of the distribution, from the point of view of estate values. Thus, those without heirs of the body were not necessarily better off in financial terms at the end of life. The differences between groups may be explained at least partially by the association between age at death and gender, which would have precluded for instance the women in the upper age brackets of the sample from appearing among those who had minor children. However, individual-level factors, such as age or gender, with a weaker effect on estate values, seemed to have created less sharply-delineated groups than family or household-level characteristics. The strong relationship between social class, family circumstances, and estate values leads to the preliminary conclusion that testator's wealth distribution was presumably similar in the testament group as well. However, this should be moderated by the fact that the shares of the elite and lower middle class were higher among the testators than among those probated, which may work to modify the distribution of estate values.

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Annexes – Tables and Figures

Annexes - Table 1. Contribution levied in Transylvania and shares assigned to the seat of Hermannstadt, 1720-1740

Year	Contribution required	Saxon nation's share	Hermannstadt's share	Hermannstadt's share (%)*
1720	605,175	254,450	49,000	8.1
1721	640,000	261,000	48,000	7.5
1722	590,000		46,189	7.8
1723	590,000		46,189	7.8
1724	635,000		46,189	7.3
1725	635,000		46,189	7.3
1726	635,000		46,189	7.3
1727	635,000	235,000	48,300	7.6
1728	635,000		46,189	7.3
1729	635,000		46,189	7.3
1730	635,000		46,189	7.3
1731	760,000		46,189	6.1
1732	760,000		46,189	6.1
1733	730,000		46,189	6.3
1734	767,806		46,189	6.0
1735	767,806		46,189	6.0
1736	767,806		46,189	6.0
1737	767,806		46,189	6.0
1738	587,806		46,189	7.8
1739	587,806		49,703	8.5
1740	537,806		46,189	8.6

Sources: Dickson, *Finance and Government*, volume II, table 6.2., p. 397-398; * All figures for 1720-1721, Saxon nation's share and Hermannstadt's share for 1727 from Gräser, "Steuer..." which included Gratskreutzer and Extraordinaria. The complete contribution required is lower by 35,000 in Graser for 1727 compared to the sum provided by Dickson; Figures for Hermannstadt's share 1722-1740, with the exception of 1727 and 1739, are a yearly average calculated by Herbert in "Der Haushalt Hermannstadts", p. 84; Figure for 1739 is Hermannstadt's contribution "pro hibernio 1739", according to Herbert, "Der Haushalt Hermannstadts", p. 85.

Year	Number events			Year	Number events		
	Lower City	Upper City	Total		Lower City	Upper City	Total
1720		27	27	1768	20		20
1721		25	25	1769	16		16
1722		25	25	1770	22	10	32
1723		28	28	1771		45	45
1724		9	9	1772	32	38	70
1730		14	14	1773	26	42	68
1731		26	26	1774	1	26	27
1732		55	55	1775	19	78	97
1733		9	9	1776	35	59	94
1739		49	49	1777	26		26
1740	84	3	87	1778		17	17
1741	35	6	41	1779		53	53
1742	28	31	59	1780	14	34	48
1743	23	17	40	1781	29	36	65
1746	19		19	1782	20	51	71
1747	36		36	1783	16	39	55
1748	3		3	1784	20	41	61
1752		6	6	1785	14	1	15
1753		40	40	1786		15	15
1754		44	44	1787		37	37
1755	22	36	58	1788	15	50	65
1756	23	31	54	1789	17		17
1757	44	44	88	1790		14	14
1758	50	50	100	1791	9	34	43
1759	11	42	53	1792	9	35	44
1760	35	54	89	1793	16	24	40
1761	40	36	76	1794		59	59
1762	25	44	69	1795		50	50
1763	9	84	93	1796	15	33	48
1764	5	25	30	1797	49	50	99
1765	4	33	37	1798	22	35	57
1766		71	71	1799	16	39	55
Total	496	964	1460		478	1045	1523

Annexes - Table 2. Complete sample of all estate division events used for qualitative analysis

Source: author's calculations, Probate Database of Transylvania.

Death Year	Adult deaths	Number probate events	Frequency of probate %	Death year	Adult deaths	Number probate events	Frequency of probate%
1753	47	40	85.11	1777	250	26	10.40
1754	160	44	27.5	1778	181	17	9.39
1755	151	58	38.41	1779	218	53	24.31
1756	155	54	34.84	1780	138	48	34.78
1757	196	88	44.90	1781	152	65	42.76
1758	226	100	44.25	1782	160	71	44.38
1759	92	53	57.61	1783	178	55	30.90
1760	113	89	78.76	1784	196	61	31.12
1761	80	76	95.00	1785	177	15	8.47
1762	141	69	48.94	1786	183	15	8.20
1763	144	93	64.58	1787	168	37	22.02
1764	105	30	28.57	1788	276	65	23.55
1765	101	37	36.63	1789	273	17	6.23
1766	115	71	61.74	1790	206	14	6.80
1767	136	0	0.00	1791	206	43	20.87
1768	118	20	16.95	1792	179	44	24.58
1769	115	16	13.91	1793	139	40	28.78
1770	127	32	25.20	1794	159	59	37.11
1771	114	45	39.47	1795	111	50	45.05
1772	167	70	41.92	1796	91	48	52.75
1773	156	68	43.59	1797	163	99	60.74
1774	218	27	12.39	1798	114	57	50.00
1775	279	97	34.77	1799	107	55	51.40
1776	291	94	32.30	1800	38	0	0
Total	3547	1371	41.97	Total	4063	1054	28.11

*Annexes - Table 3.
Distribution of
adult deaths and
probate events per
year, 1753-1800*

Source: author's calculations, Historical Population Database of Transylvania and Probate Database of Transylvani

Annexes - Table 4. Frequency of probate per year of death – linkage results

Death year	Probate year and death year					Linkage status		Total deaths
	Same year (N)	Same year (%)	1 year after death	2 years after death	>2 years after death	Total matched (%)	No match found (N)	
1753	11	23.40	2			27.66	34	47
1754	23	14.38	5			17.50	132	160
1755	35	23.18	6			27.15	110	151
1756	30	19.35	1			20.00	124	155
1757	65	33.16	17		2	41.84	112	196
1758	52	23.01	10			27.43	164	226
1759	27	29.35	14		2	44.57	49	92
1760	53	46.90	11	1	1	57.52	47	113
1761	42	52.50	3			56.25	35	80
1762	44	31.21	8			36.88	89	141
1763	43	29.86	4	1		33.33	96	144
1764	20	19.05	3			21.90	82	105
1765	17	16.83	16			32.67	68	101
1766	40	34.78				34.78	75	115
1767		0.00	1			0.74	135	136
1768	16	13.56	2			15.25	100	118
1769	13	11.30	7			17.39	95	115
1770	17	13.39	9	1		21.26	100	127
1771	27	23.68	12			34.21	75	114
1772	44	26.35	11			32.93	112	167
1773	51	32.69	4			35.26	101	156
1774	17	7.80	9		1	11.93	191	218
1775	66	23.66	14	2		29.39	197	279
1776	59	20.27	4			21.65	228	291
1777	12	4.80	1	1		5.60	236	250
1778	11	6.08	5		1	8.84	164	181
1779	33	15.14	8			18.81	177	218
1780	23	16.67	5			20.29	110	138
1781	33	21.71	5			25.00	114	152
1782	34	21.25	12	1		29.38	113	160
1783	28	15.73	11			21.91	139	178
1784	35	17.86				17.86	161	196
1785		0.00	2	1		1.69	175	178
1786	12	6.56	2			7.65	169	183
1787	21	12.50	4			14.88	143	168
1788	40	14.49	2			15.22	234	276
1789	10	3.66		3		4.76	260	273
1790	7	3.40	5	4		7.77	190	206
1791	23	11.17	6	3	1	15.53	173	206
1792	20	11.17	9	3	1	17.88	146	179
1793	11	7.91	3	4		12.95	121	139
1794	26	16.35	5			19.50	128	159
1795	22	19.82	2			21.62	87	111
1796	21	23.08	3			26.37	67	91
1797	50	30.67	5			33.74	108	163
1798	32	28.07	9			35.96	73	114
1799	22	20.56				20.56	85	107
1800		0.00				0.00	38	38
Total	1338		277	25	9		5962	7611

Source: author's calculations, Historical Population Database of Transylvania, Probate Database of Transylvania.

Annexes - Table 5.Characteristics of testaments in Magistrate-Testaments archival fund prior to sampling

Year	Provenance testator				Total	Language of testament				
	Unknown	Seat	City	Outside*		German	Romanian	Hungarian	Latin	Total
unstated		1			1	1				1
1660	1				1	1				1
1687			1		1	1				1
1693	1		1		2	2				2
1694			1		1	1				1
1697	1				1	1				1
1701			1		1	1				1
1704	1	1	1		3	3				3
1709			1		1	1				1
1710			1		1	1				1
1714			1		1	1				1
1717			2		2	2				2
1719	1				1	1				1
1720			1		1	1				1
1723		1	1		2	2				2
1724			4		4	4				4
1725			2		2	2				2
1726			2		2	2				2
1727			2		2	2				2
1728			5		5	5				5
1729			3		3	3				3
1730			5		5	5				5
1731			5		5	5				5
1732			13		13	13				13
1733			4		4	4				4
1734			8		8	8				8
1735			12		12	12				12
1736			6		6	6				6
1737			2		2	2				2
1738		1	2		3	3				3
1739		1	1		2	1			1	2
1740			2		2	2				2

1741		1	2		3	3				3
1742		1	1		2	1	1			2
1743		1			1	1				1
1744		1	5		6	6				6
1745		2	3		5	5				5
1746			2		2	2				2
1747		1	12	1	14	14				14
1748		3	10		13	13				13
1749		1	10		11	11				11
1750		4	6		10	8	2			10
1751		12	10		22	17	2	2	1	22
1752		7	5		12	12				12
1753		2	2		4	4				4
1754		3	4		7	6	1			7
1755		2	3		5	4		1		5
1756		8	2		10	8	2			10
1757		2	4	1	7	7				7
1758		3	2		5	2		3		5
1759		2	8		10	10				10
1760		4	9		13	12	1			13
1761		3	8		11	10	1			11
1762		9	11		20	16	4			20
1763		1	9		10	10				10
1764		8	8		16	14	1	1		16
1765		6	7		13	10	3			13
1766		2	14		16	15	1			16
1767		5	9	1	15	14	1			15
1768		5	12		17	15	2			17
1769		4	7		11	11				11
1770		8	10		18	15	3			18
1771		4	4		8	7	1			8
1772		12	5		17	13	3		1	17
1773		6	9		15	12	3			15
1774		6	11		17	16	1			17
1775		6	9		15	13	1	1		15
1776		7	14		21	20	1			21
1777		6	4		10	9	1			10
1778		7	3		10	10				10

1779		6	7		13	11	2			13
1780		5			5	5				5
1781		4	5		9	9				9
1782		4	1		5	5				5
1783		2	4		6	5	1			6
1784		1	3	1	5	5				5
1785		1	5		6	5		1		6
1786		2	2		4	3		1		4
1787			2		2	2				2
1788		3	10		13	13				13
1789		3	7		10	10				10
1790			17		17	17				17
1791		2	8		10	9		1		10
1792		2	11	1	14	12	1	1		14
1793		8	13		21	18	3			21
1794		3	19		22	21			1	22
1795		6	14		20	20				20
1796		9	4		13	12	1			13
1797		3	13		16	14	1	1		16
1798		2	9		11	10	1			11
1799		1	3		4	4				4
1800		1	4		5	5				5
1803				1	1	1				1
1806				1	1	1				1
Total	5	238	505	7	755	692	46	13	4	755

Source: author's calculations, Probate Database of Transylvania; SJANS, archival fund Magistrat - Testamente, all testaments prior to 1800.

**The category "Outside" for provenance refers to those testaments where the testator hailed from other localities than the villages situated in the seat of Hermannstadt.*

Annexes - Table 6.Frequency of testaments by year of death, linked data, 1753-1800

Year death	Total number	Deceased left will (%)	Deceased left will (N)
1753	47	0%	0
1754	160	1.88%	3
1755	151	0%	0
1756	155	0%	0
1757	196	2.04%	4
1758	226	0.88%	2
1759	92	7.61%	7
1760	113	4.42%	5
1761	80	6.25%	5
1762	141	4.96%	7
1763	144	3.47%	5
1764	105	4.76%	5
1765	101	3.96%	4
1766	115	6.09%	7
1767	136	6.62%	9
1768	118	7.63%	9
1769	115	6.09%	7
1770	127	7.09%	9
1771	114	1.75%	2
1772	167	2.40%	4
1773	156	2.56%	4
1774	218	4.13%	9
1775	279	2.51%	7
1776	291	2.41%	7
1777	250	2%	5
1778	181	2.76%	5
1779	218	2.75%	6
1780	138	0.72%	1
1781	152	1.32%	2
1782	160	0.63%	1
1783	178	0%	0
1784	196	0.51%	1
1785	178	1.12%	2
1786	183	0.55%	1

1787	168	0%	0
1788	276	2.90%	8
1789	273	1.47%	4
1790	206	4.85%	10
1791	206	3.88%	8
1792	179	3.35%	6
1793	139	7.19%	10
1794	159	6.92%	11
1795	111	8.11%	9
1796	91	3.30%	3
1797	163	6.13%	10
1798	114	3.51%	4
1799	107	0.93%	1
1800	38	5.26%	2
Total	7624	Average =3.03%	231

Source: author's calculations, Historical Population Database of Transylvania and Probate Database of Transylvania.

Annexes - Table 7. Time between death and probate by civil status of deceased (days)

Measures of spread	Deceased civil status			
	Married	Widow/er	Single	Unstated
Valid	528	955	7	66
Missing	0	0	0	0
Mean	98.85	90.41	15.42	58.92
Median	51	36	7	17
Std. Deviation	142.29	178.11	17.12	108.36
Minimum	0	0	4	0
Maximum	1792	2484	49	591
25th percentile	20.75	12	4	6.25
50th percentile	51	36	7	17
75th percentile	120	94	20	54.5

Source: author's calculations, Historical Population Database of Transylvania and Probate Database of Transylvania.

Annexes - Table 8. Time between death and probate by gender of deceased (days)

Measures of spread	Deceased gender	
	Male	Female
Valid	885	671
Missing	0	0
Mean	87.463	97.07
Median	38	43
Std. Deviation	157.76	171.92
Minimum	0	0
Maximum	2052	2484
10th percentile	5	4
25th percentile	13	13
50th percentile	38	43
75th percentile	92	113.5
99th percentile	648.28	698
90th percentile	209	232

Source: author's calculations, Historical Population Database of Transylvania and Probate Database of Transylvania.

Annexes - Table 9. Time between death and probate by HISCLASS 5 of deceased (days)

Measures of spread	HISCLASS 5 of deceased				
	Elite	Lower middle class	Skilled workers	Unskilled workers	No code in HISCLASS
Valid	75	356	524	45	530
Missing	0	0	0	0	0
Mean	116.307	91.531	80.263	88.911	100.134
Median	49	41	38	14	45
Std. Deviation	223.895	162.032	114.638	309.12	180.475
Minimum	2	0	0	1	0
Maximum	1610	1792	1024	2052	2484
25th percentile	13	13	13	7	15
50th percentile	49	41	38	14	45
75th percentile	114	96.5	96	54	117.75

Source: author's calculations, Historical Population Database of Transylvania and Probate Database of Transylvania.

Annexes - Table 10. Time between death and probate by SOCPO of deceased (days)

Measures of spread	SOCPO of deceased					
	Elite	Middle class	Skilled workers	Semi-skilled workers	Unskilled workers	No code in SOCPO
Valid	71	293	376	207	53	530
Missing	0	0	0	0	0	0
Mean	120.4	89.3	81.7	77.5	110.1	100.1
Median	53	43	37	38	17	45
Std. Deviation	228.9	131.3	146.3	100.3	317.8	180.4
Minimum	2	0	0	1	1	0
Maximum	1610	893	1792	647	2052	2484
25th percentile	14.5	13	13	12	8	15
50th percentile	53	43	37	38	17	45
75th percentile	114	104	89.5	92	63	117.75

Source: author's calculations, Historical Population Database of Transylvania and Probate Database of Transylvania.

Annexes - Table 11. Distribution of probate fees – sample measures

	Probate fee
Valid	175
Mean	6.27
Median	3.48
Std. Deviation	5.60
Minimum	2.40
Maximum	36.00
25th percentile	3.00
50th percentile	3.48
75th percentile	7.04
90th percentile	13.07
99th percentile	27.96

Source: author's calculations, Probate Database of Transylvania

Annexes - Table 12. Adult deaths by year and HISCLASS, 1753-1800

HISCLASS	Frequency	Percent
Elite	719	9.431
Lower middle class	729	9.562
Skilled workers	3391	44.478
Self-employed farmers or fishermen	26	0.341
Unskilled workers	521	6.834
No code in HISCLASS*	2238	29.355
Total	7624	100

Source: author's calculations, Historical Population Database of Transylvania.

**No code in HISCLASS contains 27% of adult deaths which did not have any occupational or status title listed, and therefore were left blank during the data entry process. These were initially labelled "missing" as per best practices for data management. For the purposes of increased comparability, the "No code" category and the "Missing" categories were merged.*

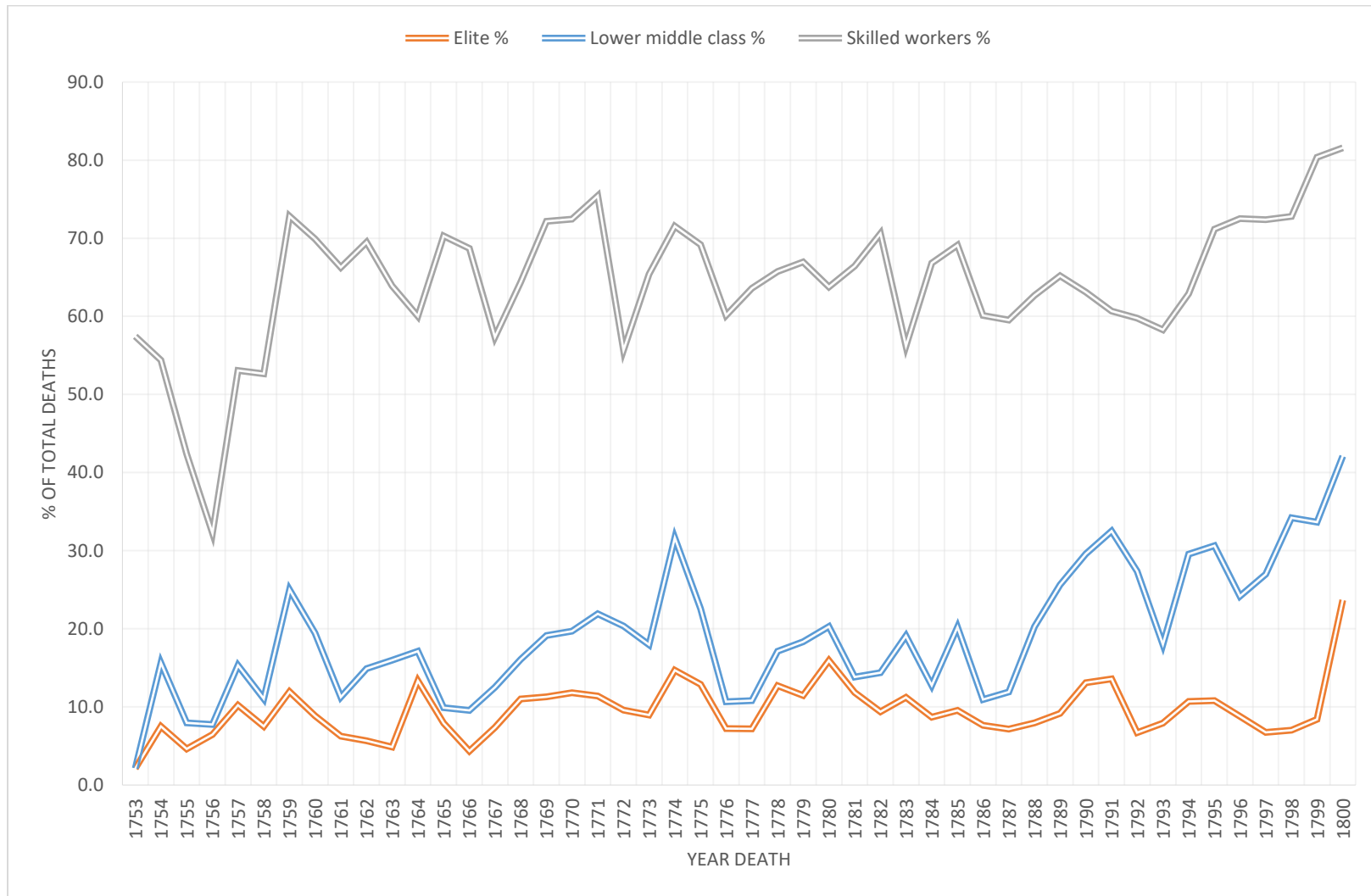
Annexes - Table 13. Adult deaths by year and SOCPO, 1753-1800

SOCPO	Frequency	Percent	Valid Percent
Elite	597	7.831	7.831
Middle class	690	9.05	9.05
Skilled workers	2159	28.318	28.318
Semi-skilled workers	1484	19.465	19.465
Unskilled workers	477	6.257	6.257
No code in SOCPO*	2217	29.079	29.079
Total	7624	100	

Source: author's calculations, Historical Population Database of Transylvania

**No code in SOCPO contains 27% of adult deaths which did not have any occupational or status title listed, and therefore were left blank during the data entry process. These were initially labelled "missing" as per best practices for data management. For the purposes of increased comparability, the "No code" category and the "Missing" categories were merged.*

Annexes - Figure 1. Class distribution of adult deaths by HISCLASS 5 for three highest classes, 1753-1800



Source: author's calculations, Historical Population Database of Transylvania.

Annexes - Table 14. Gender distribution in testament, probate, and burial record samples

Gender testament*	Number	%
male	305	48.413
female	282	44.762
multiple testators	43	6.825
Missing	0	0
Total	630	100

Gender probate**	Number	%
male	1401	53.028
female	1170	44.285
multiple deceased	71	2.687
Missing	0	0
Total	2642	100

Gender deceased***	Number	%
male	3924	51.577
female	3684	48.423
Missing	0	0
Total	7608	100

Sources: author's calculations, Probate Database of Transylvania, and Historical Population Database of Transylvania.

**Gender testament – joint and reciprocal wills wherein spouses bequeath a share of their estate to each other have been separated under the label “multiple testators”, as the initiative of testation could have belonged to either spouse.*

***Gender probate – estate divisions which were undertaken after two individuals – a couple – had passed away were designated under the label “multiple deceased”. This type of event occurred in high-volume probate recording periods such as the early 1740s, after the wave of plague which hit Hermannstadt in 1738-1739.*

****Gender deceased – the total number of events sampled differs from the 7624 previously discussed because in 16 events the gender of the deceased could not be ascertained. These were only excluded for the present analysis but kept in other counts.*

Annexes - Table 15. Time between testament and probate by gender in days

	Testament type by gender		
	male	female	multiple testators*
Valid	199	188	29
Missing	106	94	14
Mean	431	380	772
Median	61	46	365
Std. Deviation	830	796	969
Minimum	0	0	45
Maximum	6448	5094	4530
10th percentile	10.8	9	73.4
25th percentile	25	15.5	131
50th percentile	61	46	365
75th percentile	429	247	1075
90th percentile	1241	1359	1855
99th percentile	3408	3678	3891

Source: author's calculations, Probate Database of Transylvania.

**"multiple testators" was used for joint wills.*

Annexes - Table 16. Age at death distribution in testament, probate record, and burial record samples

A.

	Age at death for testator group		
	male	female	multiple testators
Valid	119	85	21
Missing	186	197	22
Mean	55.9	58.153	62.3
Median	56	58	62
Std. Deviation	13.5	17.56	11.7
Minimum	23	20	43
Maximum	94	96	87
10th percentile	37	35.8	48
25th percentile	49	46	55
50th percentile	56	58	62
75th percentile	65	72	70
90th percentile	72.2	79.6	78
99th percentile	81.6	90.1	85.2

B.

	Age at death for probate deceased		
	female	male	multiple deceased
Valid	616	853	36
Missing	554	548	35
Mean	49.0	52.1	52.3
Median	50	52	54
Std. Deviation	16.7	13.9	12.5
Minimum	14	15	27
Maximum	96	96	76
10th percentile	26	34	35
25th percentile	36	43	44
50th percentile	50	52	54
75th percentile	62	63	59.3
90th percentile	72	70	68
99th percentile	83.9	83	75.0

C.

	Age at death in burial records	
	Male	Female
Valid	3586	3334
Missing	338	350
Mean	48.661	47.437
Median	49.5	48
Std. Deviation	16.67	18.034
Minimum	14	14
Maximum	103	100
10th percentile	25	22
25th percentile	36	33
50th percentile	49.5	48
75th percentile	61	61
90th percentile	70	72
99th percentile	84	84

Source for A, B, C: author's calculations, Probate Database of Transylvania, and Historical Population Database of Transylvania.

Annexes - Table 17. Civil status and gender distribution in testament and probate groups

A.

Gender	Civil status	Testaments		Probate	
		N	%	N	%
male	Married	204	66.89	474	33.83
	Widowed	26	8.53	562	40.11
	Ever-married	36	11.80	192	13.70
	Single	9	2.95	22	1.57
	Unstated	30	9.84	151	10.78
	Total	305	100	1401	100
female	Married	89	31.56	356	30.45
	Widowed	99	35.11	695	59.45
	Ever-married	58	20.57	49	4.19
	Single	11	3.90	7	0.60
	Unstated	25	8.87	62	5.30
	Total	282	100	1169	100
multiple testators/ multiple deceased	Married	43	100	23	32.39
	Widowed	0	0	34	47.89
	Ever-married	0	0	13	18.31
	Single	0	0	0	0.00
	Unstated	0	0	1	1.41
	Total	43	100	71	100

Source: author's calculations, Probate Database of Transylvania.

B. *Civil status distribution for women in testaments, probate, and burial group*

Civil status	Testaments		Probate		Burial	
	N	%	N	%	N	%
Married	89	31.56	356	30.45	1579	42.86
Widowed	99	35.10	695	59.45	1186	32.19
Ever-married	58	20.56	49	4.19		0.00
Single	11	3.901	7	0.59	148	4.02
Unstated	25	8.865	62	5.30	768	20.85
Total	282	100	1169	100	3684	100

Sources: author's calculations, Probate Database of Transylvania, and Historical Population Database of Transylvania.

Annexes - Table 18. Family circumstances for probate and testament events – overall

Family circumstances	Probate		Testaments	
	N	%	N	%
minor children	663	25.10	32	5.08
offspring - no age provided	1153	43.64	160	25.40
no bodily heirs	278	10.52	286	45.40
unclear	548	20.74	152	24.13
Total	2642	100	630	100

Source: author's calculations, Probate Database of Transylvania.

Annexes - Table 19. Probate event type and family circumstances

Event type	Family circumstances	Event	
		N	%
death division	minor children	654	28.0
	no bodily heirs	211	9.0
	offspring - no age provided	1049	44.9
	unclear	423	18.1
	Total	2337	100.0
testament without inventory	minor children	1	1.0
	no bodily heirs	37	35.9
	offspring - no age provided	15	14.6
	unclear	50	48.5
	Total	103	100.0
Vergleich	minor children	8	4.0
	no bodily heirs	30	14.9
	offspring - no age provided	89	44.1
	unclear	75	37.1
	Total	202	100.0

Source: author's calculations, Probate Database of Transylvania.

Annexes - Table 20. Gender and event type in probate sample

event type	gender	N	%
death division	female	980	41.95
	male	1286	55.05
	multiple deceased	70	2.99
	Total	2336	100
testament without inventory	female	56	54.36
	male	47	45.63
	multiple deceased	0	0
	Total	103	100
Vergleich	female	133	65.84
	male	68	33.66
	multiple deceased	1	0.49
	Total	202	100

Source: author's calculations, Probate Database of Transylvania.

Annexes - Table 21. Overall estate value distribution in probate group

	Estate value
Valid	2230
Missing	412
Mean	1783.109
Std. Deviation	4750.219
Minimum	2.2
Maximum	106891.9
10th percentile	74.567
25th percentile	210
50th percentile	631.52
75th percentile	1569.71
90th percentile	3824.1
99th percentile	19945.579

Source: author's calculations, Probate Database of Transylvania.

*Annexes - Table 22. Distribution of estate values by HISCLASS 5**

	Elite	Lower middle class	Skilled workers	Unskilled workers	No code in HISCLASS
Valid	126	602	961	73	467
Missing	32	96	143	13	127
Mean	8676	1718	1225	373	1377
Std. Deviation	13978	3249	3123	780	2779
Minimum	11.4	7.04	2.2	3.5	6.25
Maximum	106891	34726	79195	5539	27100
10th percentile	554	104	69	23.11	66.4
25th percentile	1907	306	193	65.7	159
50th percentile	4334	757	557	111	521
75th percentile	8656	1638	1352	357	1397
90th percentile	20753	3929	2727	716	2997
99th percentile	64320	18379	9950	3545	13918

**The category of “Self-employed farmers or fishermen” only figured in one case, which was eliminated from the sample for the purpose of the present analysis.*

Source: author’s calculations, Probate Database of Transylvania.

Annexes - Table 23. Civil status and estate value in probate group

	Estate value by civil status of decedent				
	Married	Widow/er	Ever-married	Single	Unstated
Valid	165	725	176	9	81
Missing	27	165	20	5	11
Mean	1516	1763	1753	629	2075
Std. Deviation	2332	5994	2931	688	3766
Minimum	12	6.25	16.38	24	12.78
Maximum	18409	106892	21119	2014	20002
25th percentile	222	184	296	158	211
50th percentile	650	586	673	268	711
75th percentile	1814	1412	1734	1177	1638
10th percentile	73	72	88	64	80
90th percentile	4180	3177	4413	1387	5068
99th percentile	10216	21442	13133	1952	16368

Source: author's calculations, Probate Database of Transylvania.

Annexes - Table 24. Estate value by gender of deceased

	Estate value by gender of deceased		
	female	male	multiple deceased
Valid	488	629	39
Missing	143	83	2
Mean	1477	1977	1182
Std. Deviation	5465	4841	2458
Minimum	6.25	10.58	25.18
Maximum	106892	79195	11614
25th percentile	195	228	129
50th percentile	523	721	439
75th percentile	1165	1854	1111
10th percentile	73	77	58
90th percentile	2920	4322	1654
99th percentile	15261	19948	11347

Source: author's calculations, Probate Database of Transylvania

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