

Town Law Books in East Central Europe

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ABSTRACT

This chapter focuses on the town law books written in the historical territory of Central and Eastern Europe. Town law books, in a broader sense, consist of a wide range of manuscripts. They are a result of cities' literary production and include a considerable number of codes that served the municipal administration and jurisdiction. Using the example of the Czech lands, Slovakia, Hungary, Austria, and Poland, the authors seek to point out the role this crucial legal source plays, which mirrors the quality of legal culture and life in medieval and early modern cities. Our chapter contains several subchapters dedicated to each of the abovementioned countries. These subchapters begin with an explanation of the origins of towns in a particular region, followed by discussion about the municipal administration, the judiciary, and the nature of local municipal law and municipal documents. At the end of every subchapter, there is also a more detailed explanation of the selected legal source.

KEYWORDS

town law books, municipal law, Magdeburg Law, municipal administration, Swabian Law, sources of municipal law, East Central Europe.

Introduction

In legal history, the term 'town' usually referred to a privileged settlement with local self-government and judiciary but also an autonomous legal order. Towns attracted mainly craftsmen and merchants, who gained civil liberties upon their arrival. In the legal sense, towns founded in the countries of Central and Eastern Europe as early as the first half of the 13th century had their own or granted municipal law. This law, with roots in the legal environment of today's Germany, represents a set of rights and obligations regulating the external and internal relations of medieval and early modern towns. In other words, these rules regulated relations between towns and the ruler and also affected burghers and persons subject to municipal jurisdiction. In general, the source base of municipal law consists of normative sources, i.e., those issued *ex officio* that are thus legally binding. The sources include royal privileges granting towns various personal, legal, administrative, and economic privileges. Other sources were town statutes intended for craftsmen and merchants and national or religious minorities such as Jews. Finally, there were codifications of municipal law as the highest stage of legal development in particular regions, representing a legal

predecessor to modern civil codifications. Another significant source of municipal law, apart from normative sources, is law books (town law books in the narrower sense), i.e., mostly private compilations of legal regulations, which were legally non-binding. Law books were written as manuscripts, and their content and structure did not differ much from later codifications. Their production was initiated either by the authors (or compilers) themselves, or they were produced at the request of a magistrate or town council, i.e., officials holding crucial posts in municipal offices. Those compilations were often of high quality and provided an adequate alternative to legal literature, which was not easily accessible at that time. It is also clear that the preserved law books reflect to some extent the period's legal environment, not only in terms of the content of regulations in force (especially the abovementioned privileges and town statutes), but also frequently court verdicts and legal instructions. On the other hand, law books were sources of a non-normative nature, and as such, were legally non-binding and had a more advisory role.

What the abovementioned sources have in common (except for codifications) is that they were copied (mainly privileges) or recorded directly in town books. Town books were established as the result of the gradual development of municipal self-government in the 14th century. In that period, charters were to some extent being replaced by codes, which provided a better arrangement of the growing amount of written material produced in municipal administration. Town books were created for various purposes. In terms of content, there were books of municipal administration, memorial books, commercial books, court books, books of municipal legislation, and guild books (town law books in a broader sense).

The following chapter dealing with town law books offers insight into the urban environment of countries in Central and Eastern Europe and presents selected sources. Since the aim of this work is not a comprehensive presentation (which would be a mere list of preserved town books), the following concept was chosen. Each subchapter addresses one country¹ and starts with an explanation of the origins of the towns in a particular region and the municipal administration, including the judiciary. Subsequently, the issue of municipal law and municipal documents is addressed. Finally, there is a separate section dealing with preserved legal sources.

1. The Czech lands

1.1. Towns and their origins²

The first 'towns,' in the legal sense of the term, were founded in the historical Czech lands in the first half of the 13th century. According to the preserved sources, the oldest institutional town is Bruntál (Ger. Freudenthal), which was established before 1213,

1 Except the countries located in the former territory of historical Hungary, which will be dealt with concisely in a subchapter called 'Present-Day Slovakia and Hungary.'

2 Among others, see Hoffmann, 2009.



5. The towns of the Czech lands, Austria, Hungary and Poland (around 1500)

followed by Uničov (Ger. Mährisch-Neustadt, 1223), Opava (Ger. Troppau, Pol. Opawa, 1224), and Hlubčice (Ger. Loebeschütz), now located in Poland (Pol. Głubczyce). Historian František Hoffmann links the origins of the first towns in the regions of North Moravia and Silesia with the mining of precious metals, since the region provided ideal conditions for economic development and brought considerable capital to the country. In the south of Moravia and in Bohemia, the process was more gradual. First, there were larger settlements and fortifications, which were gradually transformed into urban locations with urban characteristics in the legal sense. Cities located on significant commercial arterial roads were an exception. This was the case for Brno (Ger. Brünn) in South Moravia, which became an institutional town under the privilege of the Czech King Wenceslas I at the beginning of 1243. This privilege, called *iura*

originalia, granted Brno, which had, until then, been governed by the statutes of Ota Konrad, the status of a royal town with numerous legal and economic privileges. Apart from royal towns, the development of which ended by the 1280s, serf towns were also being founded in the Czech lands. They were subordinated either to the church or to manorial lords, and it is documented that a tenth of the domestic population resided there at the beginning of the 15th century. While the development of royal towns stagnated after the end of the Hussite wars and during the pre-White Mountain period, serf towns were experiencing their heyday, as they became new centers of commerce and small trade. From an economic point of view, only mining towns profiting from mineral resources could compete with serf towns. This classification of towns, which had mainly a legal and administrative purpose, was definitively replaced in the mid-19th century as the result of Stadion's reforms.

1.2. Municipal government and judiciary

Municipal administration in the Czech lands was carried out by magistrates (*iudex*, *Richter*) or advocates (*advocatus*, *Vogt*) appointed by the town lord (the ruler or manorial lord in the case of serf towns). The term '*iudex*' first appeared in sources in the charter for Uničov from 1234, in which the town was granted mining and mile privileges. It is clear that this concept was relatively new in this context, as the magistrate of Uničov was still referred to as '*advocatus*' in 1223. Two main magisterial roles were to represent the town, both internally and externally, and to preside over the municipal court. The office of magistrate was highly prestigious and was acquired on the grounds of renting the magistrate's house for a particular length of time, sometimes for life. However, this was not a standard practice, as seen in several cases from the royal city of Brno. In the second half of the 13th century, the office of the magistrate of Brno was still considered to be a somewhat unstable and short-term post. Miroslav Flodr argues that the king, who appointed magistrates, could stipulate the right to withdraw from the contract at any time. The office of the magistrate of Brno was finally consolidated at the turn of the 13th and 14th centuries, when the idea of hereditary tenancy came to the fore, following the example of other royal towns in the country. Apart from magistrates, there were also sworn men (*iurati*) sitting at municipal courts. The post of a sworn man was rather unstable, as it was split between the court and the council. However, the key role of sworn men at courts was to issue findings and instructions. This role is recorded in the extensive collection of legal instructions preserved mainly for the East Moravian town of Uherské Hradiště (Ger. Ungarisch Hradisch) in two town books, namely *Liber negotiorum civitatis Hradisch*³ from the second half of the 14th century and *Liber informationum et sententiarum*⁴ from the 15th century. Both volumes document the legal environment in the region in late medieval Moravia and contain over 300 cases, for which legal instructions, i.e., qualified advice from sworn men, were issued. As stated earlier, magistrates played a crucial role in towns. This was

3 Available in the edition by Miroslav Flodr, see Flodr (ed.), 2007.

4 Published by Ignác Tkáč, see Tkáč (ed.), 1882.

true in the 13th and 14th centuries. However, in the period of the Hussite wars, the office of magistrate was significantly overshadowed by the town council. This is also underlined by the fact that the municipal judiciary, which was, until then, in the competence of magistrates, was taken over by councils. The rehabilitation of the office of magistrate did not take place until the mid-16th century, during Ferdinand I's reign. A hundred years later, an instruction was issued consolidating magistrates' powers in particular towns in Bohemia and Moravia. This situation, with minor changes, lasted until the early 18th century, when most magisterial powers were delegated to hetmans. The office of magistrate was abolished in 1783 as part of the Josephine reforms.

1.3. *Municipal law*⁵

From the perspective of medieval municipal law, the territory of historical Czech lands can be divided into two main areas, namely the North German (Saxon) legal circle and the South German (Swabian) legal circle. In the literature, this is inaccurately referred to as 'the Nuremberg legal circle.' As in other countries of Central and Middle Eastern Europe, the circle to which Bohemian and Moravian towns belonged had not only a legal but also an administrative purpose. Towns belonging to the North German legal circle were based on Magdeburg Law embodied in the *Old Saxon Mirror* (*Sachsenspiegel*), copies of which were widely distributed there. For a long time, the court of appeal for these towns was in Magdeburg; however, in Bohemia, the court of appeal was in Litoměřice (Ger. Leitmeritz), and Moravian towns appealed to Olomouc (Ger. Olmütz). Magdeburg Law is considered relatively obsolete in comparison with Swabian Law, also because it did not accept Roman law. However, most Bohemian and Moravian towns adopted the legal regulations of Roman law and made amendments and modifications when the need arose. In the territory of the Czech lands, the Saxon legal circle was in the region of northern and eastern Bohemia (mainly in and around Litoměřice, Louny, Ústí nad Labem [Ger. Aussig an der Elbe], and Děčín [Ger. Tetschen], and in the north of Moravia (Olomouc and its region, Šumperk [Mährisch Schönberg] and Litovel [Ger. Littau]). The area of the Swabian legal circle was in Central and Western Bohemia (mainly in the regions of Kutná Hora [Ger. Kutttenberg] and Cheb [Ger. Eger] and in the Old Town of Prague) and in South Moravia (Brno). Both the North and South German legal circles were divided into regional circles formed around bigger cities. In South Moravia, it was Brno and the derived circle of Brno municipal law, which spread throughout almost all its territory. The only exceptions were Hodonín (Hung. Hodolin), which was subject to Hungarian law, and Jevíčko (Germ. Gewitsch), which belonged to Magdeburg Law. The legislation of individual areas or regional circles was reflected mainly in law books created to meet the needs of the municipal administration and the judiciary. While the North German legal circle was still using copies of German Weichbild books, the South German legal circle applied a more dynamic approach. This is evident mainly in manuscripts from Brno and Jihlava (Ger. Iglau), which are interconnected. This is supported, for example, by the existence of

5 See Bily et al., 2020.

the law book by Jan the notary, which is addressed in a separate section at the end of this subchapter. This legal document was created in medieval Brno, purely for practical purposes. It is evident that this law book was not only partly based on Jihlava Law, it also influenced its further structure and direction.⁶ Although some legal circles' sources overlap, municipal legislation was considerably fragmented until the end of the 16th century. The above-described legal particularism lasted until the publication of Koldín's code (*Municipal Rights of the Czech Kingdom* by Pavel Kristián of Koldín) in 1579. First, he unified municipal law in Bohemia (except for Litoměřice, where the code came into force in 1610), and later in Moravia (in 1697).

1.4. Municipal documents

The charter as a basic written document pertaining to medieval towns first appeared in the Czech lands in the first half of the 13th century. Initially, charters dealt with towns' general legal issues. Burghers, as specified recipients, appeared in charters only sporadically. Burghers' efforts to record legal proceedings were common in bigger cities (Prague, Brno, Olomouc) and towns associated with mineral extraction (Jihlava, Kutná Hora). Charters confirming transactions affecting property rights represented important evidence. Therefore, it makes sense that the first towns interested in producing this type of document were economically prosperous centers; later, this expanded to include other towns. Charters issued for municipal administration and private persons were drawn by appointed scribes, one of whom was Master Jindřich, who probably worked in Prague from 1282. While smaller towns had only one scribe in the 14th century, large cities (such as Prague and Brno) had several scribes. They worked at town offices, headed by notaries. It was the notary who initiated the production of town books that helped to organize the constantly growing production of charters and notes and thus simplify the existing administration. The oldest preserved town book in the Czech lands is considered to be the so-called *liber vetustissimus* of the Old Town of Prague (*Libri vetustissimi Antiquae Civitatis Pragensis*) from 1310.⁷ The book was used for commercial records (the so-called town accounts), administrative records (town council registers, records of receiving citizens), and legal records (copies of privileges and town or guild statutes). The last record is from 1518. Compared to Prague, the first town book of Brno was created rather late (in 1343). Despite this fact, the collection of Brno manuscripts now stored in the Brno City Archive represents a unique source on a national level. In addition to two consecutive memorial books spanning 1343 to 1379 and 1391 to 1515, which are available in modern critical editions,⁸ there are also books on financial administration available for publication in Brno. These are the so-called book of accounts from the years 1343–1365 and the Brno tax collections from the turn of the 14th and 15th centuries.⁹ However, numerous

6 More on that can be found in Štěpán, 1989, pp. 27–42.

7 Available in the edition by Hana Pátková, see Pátková (ed.), 2011.

8 See Flodr (ed.) 2005; id. (ed.), 2010.

9 See Mendl (ed.), 1935; Urbánková and Wihodová (eds.), 2008.

documents from the municipal administration of Brno are not yet available for publication, for example, three manuscript volumes containing legal instructions, which were produced in Brno between the years 1471 and 1616 at the request of towns located in their legal circle.¹⁰

1.5. Law book by Jan the notary¹¹

The law book by Jan the notary, which was compiled in the late 1350s, is a significant example of Brno municipal law. The compilation was initiated by the author himself, who worked in the Brno town office between 1342 and 1358. When Jan took up the post of notary, Brno's legislation was rather incoherent. Its source base consisted of royal privileges and city council statutes, i.e., normative regulations. There was also a relatively brief private compilation of Brno municipal law, compiled around the early 1330s by Jan's predecessor, the notary Jindřich (Henry). It was the absence of a practical law book reflecting Brno's existing legislation that led Jan to compile a comprehensive collection of legal rules addressing individual areas of private law and municipal administration. However, the law book was not purely theoretical; it was intended to be used in legal practice at that time. Hence, the book was designed primarily to meet the needs of sworn men and magistrates, who were responsible for exercising judicial authority in towns. Since officials often lacked proper legal education, the book was compiled as a practical manual, based on standards and regulations in force, including the existing judicature and various Roman law regulations. The law book was written in Latin, except for a few regulations written in German. The original manuscript is now stored in the city of Brno's archives (ms. no. 2 AMB). The volume consists of several relatively independent sections that form a systematically arranged volume. The introduction contains text recording the privilege of the Czech King Wenceslas I from 1243 (*Iura originalia*). The main part of the law book of Brno consists of 716 provisions, divided into alphabetically arranged sections. The final part of the manuscript includes several other privileges received by 1357. The law book's rich content can be divided into several sections, including personal law, matrimonial law, inheritance law, law of obligations, property rights, procedural law, administrative law, and criminal law in the sense of the legal regulation of private delicts. As Jan was aware of his work's practical purpose, he amended most of the provisions with legal instructions, which he compiled in the unpreserved *Book of Sentences* during his activities in Brno. For the sake of clear arrangement and easier orientation in the text, he added a brief section to each of the provisions. When compiling his law book, Jan reflected the existing legal regulations and based his work mainly on text from royal privileges, town statutes, and Brno's oldest municipal law. He also applied Roman law, especially where local rules were absent or insufficiently formulated. Therefore,

¹⁰ For further information, see Sulitková, 2004.

¹¹ *Law Book* is available in the following editions: Flodr (ed.), 1990–1993; Roessler (ed.), 1852. On this issue, see also these works: Schubart-Fikentscher, 1947, pp. 86–176; Flodr, 2001; Fiedlerová and Šmídová Malárová, 2017, pp. 263–287.

some literal or modified quotations from the Justinianic *Institutions*, *Digest*, and *Codex* became an integral part of various provisions, aptly amending the local regulations. The law book's qualities and its popularity at that time are documented by several factors. First, the text soon spread beyond the borders of Brno's municipal law circles (as copies were made in Prague, Jihlava, and Kutná Hora). Secondly, several other legal documents were based on Jan's work, namely the *Handbook of Municipal Law*¹² from the 1380s, which is a shorter version of the law book of Brno, amended by a further several hundred provisions from the sixteenth and seventeenth titles of the fiftieth book of the *Digest*.

2. Present-day Slovakia and Hungary

2.1. Towns and their origins¹³

The oldest 'towns' (in the legal sense of the term) in the territory of former Hungary were documented in the first half of the 13th century. In 1237, Székesfehérvár received the first town privilege, followed by Trnava (Ger. Tyrnau, Hung. Nagyszombat) in 1238. In the period before the Mongol invasion of Hungary (1241), other significant Slovak settlements, such as Starý Tekov (Ger. Alt Berschenburg, Hung. Óbars), Krupina (Ger. Karpfen, Hung. Korpona), and Zvolen (Ger. Altsohl, Hung. Zólyom), were granted privileges. In Lower Hungary, it was Esztergom, followed by Buda and Pest, which were granted privileges after the Mongol army's withdrawal from Europe (1242). Mining towns, which played a vital role in Hungary, were founded, especially in the region of today's Banská Bystrica (Ger. Neusohl, Hung. Besztercebánya). This area, which is associated with the mining of precious metals, mainly gold and silver, as well as other mineral resources (iron), represented an economically important region. The ruler was highly interested in establishing mining towns because he was profiting from the revenue. While there were dozens of privileged towns in Hungary at the end of the 13th century, the urbanization process culminated in the 14th century, when a well-known union of 24 Spiš (Ger. Zips, Hung. Szepes) towns was established. It developed from the original association of the Spiš Saxons, who were granted the so-called collective privilege in 1271. In the first half of the 16th century, the following three categories of towns existed in Hungary, varying according to the number of granted legal and administrative privileges: royal tavern towns, royal private towns, and free mining towns.

2.2. Municipal administration and judiciary¹⁴

In the 13th century, towns were represented by a *vilicus*, who was replaced by a magistrate (referred to in the sources as *Richter* or *iudex*) in the 14th century. In the Czech lands and in Poland, the office of magistrate was hereditary on principle, while in

12 I.e. *Manipulus vel directorium iuris civilis* by Jan Gelnhausen.

13 For further information see Rábik, Labanc, and Tibenský, 2013. See also Gerevich, 1990.

14 See, e.g., Marsina (ed.), 1984; Rady, 1985.

Hungary, burghers elected the town's representative (magistrate). Historian Ferdinand Uličný argues that this form of municipal administration was convenient both for the ruler, who was profiting financially from the election of a magistrate, and burghers, who enjoyed higher autonomy and thus a better life. However, in Trnava, for example, the situation was different. Municipal sources for Trnava include a clause regarding the ruler's approval of the magistrate the burghers elected. Formally, the elected magistrate held the office for only one year. However, there are records proving that one person held the office for several consecutive years or for life (e.g., Banská Bystrica, Žilina). The magistrate was the head of the town council and the town court. Regarding municipal jurisdiction, magistrates had the power to decide mainly private law disputes. Verdicts in cases involving particularly serious crimes fell almost exclusively into the ruler's competence. In larger towns, the magistrate would consult a 12-member bench of sworn men (*iurati*) who oversaw trials and issued legal instructions. At the end of the 13th century, sworn men were still an exception in municipal self-government, and the jurisdiction fell exclusively into the magistrate's competence (except for the abovementioned cases decided by the ruler). Although it is evident that at the turn of the 14th and 15th centuries, most municipal competencies belonged to the magistrate, in the first decades of the 15th century, there was a tendency to delegate municipal administration to the burgomaster (*Bürgermeister*). This form of municipal administration in Hungary remained almost unchanged until the end of the early modern period. A more significant reorganization took place in the period of enlightened absolutism and the Theresian and Josephine reforms.

2.3. Municipal law¹⁵

It is not surprising that the predominant legal order in the territory of historic Hungary was Magdeburg Law, brought by German colonists. The first town that received Magdeburg Law, specifically Saxon–Magdeburg law, was the abovementioned Székesfehérvár. It later spread to the regions of Upper Hungary (Trnava, Nitra [Germ. Neutra, Hung. Nyitra]) and Transdanubia (Győr [Germ. Raab]). The literature points out that the reception of Magdeburg Law brought indisputable economic benefits to towns, such as the toll exemption, which represented significant financial relief for both the town and individual persons (traveling traders, etc.). Therefore, it is not surprising that Magdeburg Law gradually replaced the existing legislation of some Hungarian towns belonging to the South German legal circle. An example of this is the royal town of Buda, which housed the supreme court of appeal for the relevant legal circle in Lower Hungary. Buda municipal law was based primarily on the *Swabian Mirror* (*Schwabenspiegel*), which arrived with immigrants from Austria and Bavaria. However, as seen in the text of the Buda law book, written in the first half of the 15th century, Magdeburg Law gradually replaced the original legislation. Legal

15 Regarding the development of and changes in municipal law in the territory of today's Slovakia and Hungary, see Bily et al., 2020; Gönczi, Carls, and Bily, 2013. Cf. Lehotská, 1959, pp. 65–111; Kluknavská and Gábriš, 2013, pp. 208–278.

historian Katalin Gönczi argues that Magdeburg Law probably arrived in Buda from Silesia or Vienna. Although Magdeburg Law was predominant in Hungary at the turn of the 14th and 15th centuries, municipal legislation was still significantly fragmented. The first attempts to unify town rights were made at the beginning of the 15th century, for example, in the *Decretum maius*. This 1405 charter from Sigismund of Luxembourg unified the general features of some royal towns' municipal legislation. Fifty years later, the procedural legislation of Hungarian tavern towns was unified in the code *Articuli iuris tavernicalis*. It received a sanction in 1602 and became the basic standard used by tavern courts.¹⁶

2.4. Municipal documents¹⁷

Some Hungarian towns received first privileges as early as in the first half of the 13th century. However, diplomatic production developed gradually. In one of his studies, historian and paleographer Juraj Šedivý presented a specific model illustrating the beginnings of the production of municipal documents in the Slovak part of Hungary. The first condition for issuing pragmatic documents was establishing municipal self-government, followed by acquiring a seal and hiring an external notary. For example, this was the case in the medieval towns of Sopron (Ger. Ödenburg) and Bratislava (Ger. Pressburg, Hung. Pozsony), which used the services of local church institutions for this purpose. According to Šedivý, the Bratislava Chapter also serviced Trnava, which maintained numerous contacts with Esztergom. Trnava represents a clear example of the development of written municipal documents. In this context, Šedivý draws attention to the fact that there were long gaps between the stages, i.e., receiving the privilege (1238), acquiring the seal (last quarter of the 13th century), and the beginnings of the production of municipal documents (early 14th century). Paleographic analysis shows that the first charters, of which the oldest one is from 1309, were not produced at the Trnava town office, but rather in Esztergom.¹⁸ Along with the development of written production, the first town books were created in the 14th century. Of the preserved ones, the town books of Bratislava and Banská Štiavnica are considered to be the oldest. Both were created in the early 1360s and contain administrative and judicial records. Žilina (Ger. Sillein, Hung. Zsolna) created its town book less than 20 years later. The *Žilina Law Book*¹⁹ of 1378 represents not only an important administrative but mainly legal source, as it presents a probable form of legislation in the circle of Žilina municipal law. This area, until then governed by Flemish law and subject

16 On this topic, see Mertanová, 1985.

17 Among others, see Švecová, 2016, pp. 327–343; Bartl, 2003, pp. 225–239.

18 Šedivý, 2018, pp. 87 ff.

19 The *Žilina Law Book* is available in several editions. The original German version was published by Ilpo Tapani Piirainen, see Piirainen (ed.), 1972. An earlier translation of the *Law Book* in the Slovak-Czech version from the 70s in the 14th century was edited by Václav Chaloupecký: Chaloupecký (ed.), 1934 (the chapter with a legal-historical commentary on Magdeburg Law was written by Rudolf Rauscher); and lastly, also Kuchár (ed.), 2009. On the *Žilina Law Book*, see, e.g., Papsonová and Gajek, 2003.

to the Silesian town Cieszyn (Ger. Teschen), is one of the localities belonging to the broader circle of North German law. Žilina was subordinate to Cieszyn until 1369, when Hungarian King Louis I's charter was issued. This significantly affected the expansion of the existing Žilina legal circle, which can be observed as early as at the end of the 14th century. In the mid-15th century, the famous Buda law book was created in the territory of today's Hungary, the focus of which is described below.

2.5. The Buda law book²⁰

The manuscript of the Buda law book, also known as *Ofen Stadtrechtsbuch*, was created between 1403 and 1439. Its authorship is traditionally attributed to Johannes Siebenlindner, who worked at the Buda (Ger. Ofen) town court, first as a sworn man and later as a town judge.²¹ He was obviously well acquainted with Magdeburg Law. This fact, supported by the literature, explains the presence of related passages (the author's area of origin was subject to the North German legal circle).²² The Buda law book contains a total of 445 provisions. The introduction consists of a preface and a register, followed by legislation consisting mainly of the rules of private law, while a fraction of the rules are related to offenses. The law book's content is based on the Swabian and Saxon *Mirrors*, while some passages correspond to the texts of canonical and Roman law. In addition to these sources, the legal regulations contained in the Buda law book reflect the content of some royal privileges. Apart from Béla IV's 1244 Golden Bull, it was mainly King Ladislaus IV's privilege, which the city received in 1276, and that of Sigismund of Luxembourg from 1403. The law book's source base clearly shows that the author aimed to create a work that would reflect not only the existing legislation, but also the findings of the legal science of that time, as evidenced by the presence of passages from legistical and canonical manuals. The result was extensive legislation that was used within and outside the area of the circle of Buda municipal law. This is supported by the fact that the Buda law book became a key source for Hungarian tavern towns and, as such, was applied by the tavern court.

3. Austria

3.1. Towns and their origins²³

The gradual development of 'towns' (in the legal sense of the term) in today's Austria began in the 12th century. It is estimated that there were about 70 agglomerations with characteristic urban features in the Austrian lands in the 13th century. At that time, fortifications were already seen as a specific architectural and historical feature, distinguishing towns from market settlements. The majority of Austrian towns were

20 Edition by Karl Mollay: Mollay (ed.), 1959. From the literature on that, see Szende, 2004, pp. 39–48.

21 Lück, 2018, pp. 500–501.

22 Lück, 2018, pp. 500–501.

23 Selected literature: Opll, 1991, pp. 17–34; Weigl, 1993, pp. 123–134; Zöllner, E. (ed.), 1985.

small settlements without imperial immediacy. It was typical that throughout the Middle Ages, such settlements did not exceed an area of 15 hectares, and their population remained well below 1 000 inhabitants. Vienna as a European urban center with a population of 20 000 around the year 1500 was an exception. Some towns were directly subordinate to the landlord (the so-called *landesfürstliche Städte*), while others were indirectly owned by secular or ecclesiastical nobility recognizing the ruler's supreme authority (the so-called *patrimoniale Städte*).

3.2. Municipal government and judiciary²⁴

The administration of Austrian towns combined manorial and self-governing elements. The situation in royal towns, particularly in Vienna, was as follows: The town lord was represented by an appointed town magistrate (*Stadtrichter*), who was responsible for both municipal government and the judiciary. This was first documented in Vienna in 1137. The self-governing element was represented by burghers meeting at the General Assembly (*Genossenversammlung*) to defend collective interests and decide on their affairs. There was also a smaller self-governing committee consisting of prominent burghers. It was gradually institutionalized into a town council (*Stadtrat*). The council held meetings at a town hall (*Rathaus*), which also represented municipal autonomy externally. The board was chaired by the burgermaster (*Bürgermeister*), who was also the leading representative of a given town community. In Vienna, this is documented from the last quarter of the 13th century. In areas of lesser importance, the council was chaired by the magistrate, who represented the town. The burgermaster was elected by burghers, and the election was approved by the landlord. On the contrary, magistrates were appointed directly by the land government. Two tendencies can be observed in the early modern development of towns. First, there were fewer periodic personnel changes, and some areas even recognized the principle of inheritance. As a result, the municipal government became rigid and was controlled by a small elite circle. Secondly, municipal autonomy was becoming increasingly limited, culminating in Joseph II's Enlightenment reforms. One of the reasons for state interventions was the crisis of the towns' financial management and the inability to meet the tax obligations the Habsburg government had imposed on town. In the 16th century, manorial lords reinforced their control over municipal elections and established a special category of officials (*Stadtanwalt*), who were supposed to defend royal interests at town council meetings. Emperor Joseph II ultimately abolished municipal self-government by gradually replacing the existing municipal authorities with the bureaucratic municipal council (*Magistrat*). The newly established town offices were internally divided into three senates. One senate dealt with political and economic administration, the second with the civil judiciary, and the third with the criminal judiciary. The staff consisted of town councilmen, headed by the mayor (*Bürgermeister*). This municipal government remained without major

24 For a standard textbook with a bibliography, see Hellbling, 1956. Details also in: Brunner, 1955, pp. 221–249.

changes until the revolutionary year of 1848, which saw the ‘rebirth’ of municipal self-government.

3.3. *Municipal law*²⁵

It is assumed that by the end of the 15th century, most Austrian towns had a written compilation of municipal law, which was used in the local environment. Thanks to an advanced legal culture, some bigger centers became models for other localities. This resulted in the gradual establishment of ‘families’ of municipal law, such as the legal circle established around Vienna. Although the Vienna Council, as the supreme court (*Oberhof*) for municipal courts, decided within its legal family in the most serious cases, Vienna clearly affected the legal life of both local burghers and those outside the family. The towns that received Vienna law adapted the wording to suit local conditions and needs. There is evidence that some localities were only inspired by Vienna law (Laa, Klosterneuburg), while others adopted it fully (Eggenburg, Wiener Neustadt). Hans Planitz argues that Vienna did not have a mother city. However, it is evident that Vienna’s town privileges drew on similar foundations as those privileges granted to other towns in Europe (municipal law, merchant law, law of the urban communities based on oaths, etc.). Most Austrian municipal sources preserved from the Middle Ages contain economic and criminal law rules and regulations. Despite the predominance of domestic law, Roman law influences were also present to a small extent, especially in the fields of inheritance law, mortgage law, and litigation.

3.4. *Municipal documents*²⁶

In the first third of the 13th century, charters were still a rare phenomenon in the urban environment. If the need arose to record some legally relevant facts, burghers turned to scribes employed by landlords or church institutions, which had traditionally supported written culture. Therefore, it is not surprising that the oldest municipal document on a town’s autonomous legal activities (written in Vienna in the 1270s) was found in the archives of the Benedictine monastery Michaelbeuern. It was not until the 13th century that some changes occurred. One of them was the establishment of the first town councils, which carried out municipal self-government and used seals as an external symbol of their autonomous position. The first seal was documented in Vienna in the 1220s. Secondly, basic municipal rights were codified (in 1212 for Enns and in 1221 for Vienna). The pressure to introduce written production and to more precisely define the competencies of municipal self-government increased after 1276 with the arrival of the Habsburgs, who brought a more advanced administrative culture from Swabia to the Austrian lands. Town scribes (*Stadtschreiber*), in modern times also called ‘syndics,’ are first mentioned in the sources from the 13th century.

25 For a general survey, see Baltl, 1982. For details, see Hasenöhr, 1905, pp. 249–350; id., 1909, pp. 1–160. With a focus on Roman law influence: Baltl, 1962. Concerning the legal family of Vienna, see Fischer, 1948, pp. 52–77; Geyer, 1950, pp. 589–613; Planitz, 1948, pp. 287–327.

26 The fundamental text here is Csendes, 2000, pp. 93–99. See also Weigl and Scheutz, 2004, pp. 590–610; Pauser and Scheutz, 2008, pp. 515–563.

The first scribe was recorded in Villach in 1227. It is assumed that in most medieval towns within the borders of today's Austria, a permanent post of scribe did not exist. This work was occasionally done by a local teacher (e.g., in Graz this was still the case in the mid-16th century). Actual town offices with a larger staff base and stronger organization were established in several bigger towns during Rudolf IV's reign in the second half of the 14th century. However, there is a lack of information about these offices' administrative activities until the beginning of the modern age. On one hand, the conditions for executing clerical work included the general requirements of marital origin, physical condition, good reputation, and professional training. As part of their versatile job, town scribes were also involved in municipal administration and the judiciary. In addition to preparing and archiving documents, they were responsible for keeping town books (*Stadtbücher*). The use of hardcover records intended for official use began in Austrian towns in the 14th century. One of the oldest and most important preserved examples is the Viennese manuscript titled *Eisenbuch* (named after the decorative iron fittings on the cover), which was probably created around 1320. While at the end of the 15th century most of the town books contained mixed content, from the 16th century, they were gradually replaced by documents with a specific orientation. At that time, proceedings from town council meetings first appeared among official documents and were recorded in special books (*Ratsprotokollbuch*).

3.5. *The Wiener Handwerksordnungsbuch*²⁷

The oldest preserved town books from Vienna are from the beginning of the 14th century. Over time, their number and specialization increased as councils' competencies and the number of written documents grew. An example from the preserved sources is the *Wiener Handwerksordnungsbuch* created in 1430. Editor Markus Gneiß ranks the book among the most important works of the late medieval municipal administration of Vienna. The author of the code, which was written mostly on paper, is the town scribe Ulrich Hirssauer, who is credited with improving official practices in the Vienna town office. As the name suggests, it is the town book regulating the activities of professional authorities (guilds) with which Viennese craftsmen were associated from the Middle Ages. The 1364 guild statutes are the main content of the *Handwerksordnungsbuch*. The focus of its legal content lies in the regulation of the three most important groups within the urban population involved in trade: apprentices, journeymen, and masters. Apprentices, who were training to carry out independent professional work, were at the bottom of the professional hierarchy. The *Handwerksordnungsbuch* states the length of apprenticeship and the maximum number of apprentices per master. The second group consisted of journeymen, who had already passed guild examinations and were employed by masters as wage laborers. Masters, who ran workshops, held the highest position. The legal regulation of the *Handwerksordnungsbuch* states the conditions of employment at workshops (working hours, etc.), and regulates journeymen's public behavior and their active

27 Edition with commentary: Gneiss (ed.), 2017.

service in the defense of a town. Some regulations are also related to masters, such as conditions for becoming a master and a list of competencies and responsibilities within the guild.

4. Poland

4.1. Towns and their origins²⁸

The first more advanced urban settlements were established in Poland in the 13th century, with the contribution of colonists from the West. The settlers came as part of the so-called German colonization and brought with them legal innovations in the form of unwritten customs. New urban locations had to adapt to the prevailing conditions at the place of establishment; however, their internal organization generally did not differ. The universal administrative model, with either a simple or more complex structure depending on circumstances, remained unchanged until the division and extinction of Poland in the 18th century. The founder and lord of the town could be either the ruler or the landlord; therefore, towns were divided into princely, specifically royal (*miasta książęce, królewskie*), and private (*miasta prywatne*). For the sake of more clarity, the literature sometimes uses the classification of towns according to their size and economic potential, based on tax sources from that time. There were four categories of urban centers in Poland: the largest, medium, smaller, and the smallest. It is also estimated that there were almost 700 towns in Poland around 1500 and that more than half belonged to the last category. Although the percentage of the smallest towns was decreasing over time, it can be observed that until the late modern era, the urban landscape of Poland was characterized by small towns.

4.2. Municipal administration and judiciary

From the 13th century onward, the most important post in the internal organization of towns was an official who represented the landlord and was called *Vogt (wójt)* or *Schultheiss (sołtys)*. In addition to municipal administration and the judiciary, his task was to represent the town externally. However, his initial superior position soon weakened as a result of the ‘communalization’ of municipal administration. This process had already been initiated in the 13th century by burghers, who were uniting to defend their interests. They were forming larger assemblies (*pospólstwo*), overseeing municipal finances, and participating in key decisions in municipal policy, as well as forming smaller councils (*rady miejskie*). The councils, consisting mainly of the wealthiest burghers, gradually took over control of municipal administration and the office of the *vogt*, which was purchased from landlords. The degree of municipal self-government depended not only on the size of a town, but also on its economic and social status. In more developed centers, the acting council (*rada urzędująca*) and the

28 A widely acknowledged book on this topic (incl. administration and judiciary) is Bogucka and Samsonowicz, 1986. On the beginnings of urbanization, see also Mühle (ed.), 2011.

council of aldermen (*rada starszych*) were established in the 14th century, both councils usually consisting of 12 members and on some occasions forming a large council (*rada ogólna*). Council management and the organization of meetings were entrusted to one or more burgomasters (*burmistrz*). While in towns established under Lübeck Law, councilors also participated in the judiciary, in towns that received Magdeburg Law, a special judicial authority was constituted. It was called the bench of lay judges and usually consisted of seven members (*ława sądowa*). Trials were always presided over by the *Vogt* or *Schultheiss*, who was appointed by the landlord or the council, depending on the area. As for sworn men, who participated in the decision-making process, full attendance was not necessary for the tribunal to decide a case. Regarding the type of case and the parties' positions, ordinary (*sądy zwyczajne, obywatelskie*) and extraordinary (*sądy nadzwyczajne, potrzebne, potoczne*) courts were distinguished. The former took place on fixed dates, and burghers could turn to them in disputed and undisputed matters. The latter were convened as needed and provided legal protection to foreigners or burghers who were in danger of suffering damage of delay.

4.3. Municipal law²⁹

Most towns in Poland were granted Magdeburg Law and its daughter laws, such as Chełmno (Ger. Kulm) and Środa Śląska (Ger. Neumarkt in Schlesien) Law, immediately following their establishment. Chełmno Law was widely used in Eastern Pomerania and Mazovia, while Środa Śląska Law prevailed in Greater Poland. Only a fraction of towns received Lübeck Law, which was used in some towns in the historical territory of Prussia. Due to its origin, municipal law in Poland was generally referred to as 'German' (*ius Teutonicum*); however, in the process of legal transfer, it did not remain as the same body of law. As Maciej Mikula recently pointed out, sources of municipal law underwent complex development and were adapted to suit recipients' needs. The implementation of changes in the local environment was facilitated both by editorial changes made in normative texts adopted from other sources and through the provision of selective and creative translations of Magdeburg Law to Latin and Polish. Compared to the more homogeneous Lübeck legal circle, Magdeburg Law was strongly differentiated in Poland. Along with the rights and regulations of Magdeburg Law, other related sources of 'German law,' such as the *Saxon Mirror* or the Meissen law book, were spreading to the East. The authority of Magdeburg Law was based on the privileges obtained from the lord of the town (the oldest preserved privilege is that of Silesian Złotoryja [Ger. Goldberg] from 1211) and on legal regulations provided by towns with royal upper courts. Daughter towns were turning to their mother towns with more complex legal issues, the solutions for which subsequently led to the written recording and stabilization of burghers' customary law (the oldest known regulation of Magdeburg Law is that of Wrocław [Ger. Breslau] from 1261). From the

29 For a textbook review, see Bardach, Leśnodorski, and Pietrzak, 1987. More details can be found in Kutrzeba, 1926; Schubart-Fikentscher, 1942. On the issue of Magdeburg Law, see Mikula, 2018 (a revised edition in English will appear in 2021); Bily, Carls, and Gönczi, 2011.

16th century onward, knowledge of Magdeburg Law also deepened as a result of its scientific elaboration by trained jurists (e.g., Jan Łaski, Mikołaj Jaskier). Municipal law based on Magdeburg Law remained in force until the end of independent Poland in the 18th century, when it was replaced by Enlightenment codifications and reforms.

4.4. Municipal documents³⁰

The history of town offices is closely related to towns' cultural environments. Since the clergy's monopoly on literacy ceased in the second half of the 13th century, written communication penetrated burghers' lives in both private and official communication. As the literacy level increased, the way in which important regulations were issued changed accordingly. At first, they were announced and read at gatherings of residents at town halls and churches, while from the second half of the 15th century, posting written copies at town halls or on church doors proved to be more effective. Contrary to an earlier opinion, due to the absence of more detailed source evidence, it is now generally accepted that, with a few exceptions (e.g., Wrocław), town offices were not established immediately after the formation of municipal self-government authorities. Rather, it is assumed that initially, clerks were hired ad hoc or smaller scriptoriums with little workload, financed by the council, were established in most areas. According to this opinion, offices became pillars of municipal administration from the 14th century, when the growth of the municipal economy and the consolidation of municipal self-government could be observed. The activities of scribes in Polish towns were first recorded in Kalisz (Ger. Kalish) and Kraków in the last decades of the 13th century. Initially, clergymen predominated among scribes. Permanent scribes were hired by bigger towns, in which the growth of clerical work resulted in an increase in the number of officials and the deepening of their specialization. At the same time, there was a trend of unification of the forms and methods of clerical work. The post of scribe was generally held for life; however, in some towns, scribes had to repeatedly apply for the renewal of their post. The requirements for the post of scribe were not only language competences, familiarity with the legislation, mastery of clerical art, and knowledge of arithmetic, but also the ability to keep a secret. The high intellectual level of at least some scribes can be seen in the preserved sources, which also include compilations of municipal rights and regulations (Konrad of Opole). Among the rich variety of documents produced in town offices, charters are among the earliest. Initially, only documents addressed to towns were kept in town archives. It was not until the turn of the 13th and 14th centuries that towns issued copies and extracts of documents to other recipients. In Poland, scribes produced not only charters, but from the end of the 13th century, also official books. In larger and medium-sized towns, various specialized books were produced, and these were still used in the modern age. On the contrary, the frequency of records in smaller towns was lower, and therefore, mixed manuscripts were sufficient. The content of town

30 Bielińska, 1971, pp. 316–346; Nawrocki, 1998; Tandecki, 2015, pp. 407–446. For a broader context, see Bartoszewicz, 2012.

books in Poland can be seen in the typology of Janusz Tandecki, who distinguishes the following categories: (1) general council books, (2) administrative–financial books, and (3) court books. Documents collected in town offices also included sources of municipal law. This is evidenced by preserved legal codes, i.e., manuals used by town officials and scribes, in which legal norms, court regulations, and town privileges were recorded. Town scribes also recorded and kept town council statutes (*wilkierze*).

4.5. *Księga sądowa miasta Chełmna*³¹

The *Księga sądowa miasta Chełmna*, which survived the Second World War thanks to a lucky coincidence, is an important document containing a variety of information about everyday life in a medieval town. It is a paper code that was kept in Chełmno from 1330. Chełmno is the second oldest city in the Prussian territory of the Teutonic Knights, which was not only the court of appeal but also a model for other towns using Chełmno Law. Over more than a hundred years of use, this official book passed through the hands of about 20 scribes and other town officials. The records do not cover the entirety of the manuscript sheets. They were not written systematically, and the individual records were not consistently arranged in chronological order. The essential legal content of the Chełmno ‘court book’ is divided into two units. The first part contains less than 200 records about the purchase of rent and rental payments, approval of which fell within the council’s competence. The second part, which is perhaps even more interesting, occupies almost half of the code. It consists of approximately 1 500 records of criminal cases decided by the bench of lay judges, chaired by the magistrate. It includes a register of outlaws who could be caught with impunity and arrested if they failed to appear in town court voluntarily or had not reconciled with the damaged party. The offenses for which outlaws were blamed included murder, which is the most frequent offense, or homicide (4–5 registered cases per year), rape, personal injury, robbery, theft, damage to another’s property, forcible entry into a house, breach of peace, and insult. Most of the offenses were serious crimes, which meant that special outlaw proceedings were under consideration. Imposed sanctions ranged from a fine to the death penalty. When the record was crossed out, it can be assumed that the sentence had been served or the offender had been reintegrated into society.

31 Edition with commentary: Lückcrath and Benninghoven (eds.), 1999. Cf. the register of outlaws (among others) Jeziorski, 2017; Willoweit, 2016, pp. 488–498.

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