Acta Univ. Sapientiae, Legal Studies, **9**, 2 (2020) 269–306

DOI: 10.47745/AUSLEG.2020.9.2.05

The Private Law of the Principality of Transylvania (1540–1690)

Attila HORVÁTH
PhD, University Professor
Eötvös Loránd University, Faculty of Law (Budapest, Hungary),
Department of the History of Hungarian State and Law
E-mail: horvath.attila@ajk.elte.hu

Abstract. In the period between AD 1540 and 1690, Transylvania enjoyed a high degree of independence in conducting its internal and also, at times, external affairs. This led to the divergence of Transylvanian private law from that of the Kingdom of Hungary, the sovereignty of which ceased in the sense of international law following the defeat at the Battle of Mohács. This divergent development is examined in the present study from the perspective of private law along with the later convergence of legal norms to those of the Habsburg Monarchy during the latter half of the 17th century. The sources of private law as well as private law norms governing the status of persons, immovable and movable property, obligations, and inheritance are examined in detail for this period. The specific laws applicable to the Szekler, Saxon, and Romanian inhabitants of Transylvania are also presented.

Keywords: Principality of Transylvania, private law, inheritance law, family law, law of persons

1. Introduction. Sources of Law

1.1. The Laws of Transylvania

After the Battle of Mohács, in which the Ottoman Turks defeated the armies of the Kingdom of Hungary, the political fortunes of Transylvania were forever altered. As a newly formed principality with autonomy in its internal – and at times also external – affairs, the development of legal norms in the field of private law slowly diverged from the models developed in the previous 500-year period. This development was, however, organic, in line with the principles of collective decision which had characterized the political functioning of quasi-independent Transylvania until it was attracted into the orbit of the imperialist Habsburg Monarchy.

The following norms constituted sources of law in Transylvania in the period examined:

1. Laws common with Hungary up to 1526 analysed in the first part of the study with the title *Transylvania in the Habsburg Empire and in Austro-Hungarian Monarchy (1690–1918)* by Mária Homoki-Nagy in this issue.

2. Laws adopted by the Diet of the Principality of Transylvania.

The separate legislature of Transylvania was initiated by the Diet of August 1540 held at Sighişoara, following the death of John Zápolya (1487–1540), the elected King of Hungary, and lasted until the adoption of Act II of 1848. Opposite to the practice in the Kingdom of Hungary, several diets could be convened in each year, so numerous laws and resolutions were adopted by this legislative assembly. From time to time, the Diet exercised judicial powers as well.[1] Therefore, both the estates and the Transylvanian princes considered it important to compile and systematize the legal norms in force. Gabriel Bethlen (1580–1629), Prince of Transylvania, was the first to order the elaboration of a collection comprising 22 articles of the laws governing judicial procedure in 1619.

Subsequently, the so-called *Approbatae Constitutiones*[2] (their full name being *Approbatae Constitutiones Regni Transylvaniae et Partium Hungariae eidem annexarum* 'The Confirmed Laws of the Country of Transylvania and the Parts of Hungary Annexed Thereto'),[3] which was the collection of Transylvanian laws that could be found in the archives of cities and counties, was compiled at the behest of George I Rákóczi (1593–1648), Prince of Transylvania. The collection of laws was completed during the time of the reign of George II Rákóczi (1621–1660), Prince of Transylvania, and – based on the assent of the diet of 1653 at Alba Iulia (*Concordantia discordantium articulorum diaetalium*) – it was published on 15 March the same year. The *Approbatae Constitutiones* was drafted in the Hungarian language but was sprinkled with numerous Latin phrases. It was divided into five parts: a. ecclesiastical law, b. constitutional law, c. law of the estates, d. judgments, e. other sources of law.

The *Compilatae Constitutiones*[4] (*Compilatae constitutiones Regni Transylvaniae et Partium Hungariae eidem annexarum* 'The Collected Laws of

1 Horváth 2014. 260.

2 Approbatae constitutiones regni Transylvaniae et partium Hungariae eidem annexarum, ex articulis ab anno millesimo quingentesimo quadragesimo ad praesentem huncusque millesimum sexcentesimum quinquagesimum tertium conclusae, compilatae; ac primum quidem per dominos consiliarios revisae, tandemque in generali dominorum regnicolarum, ex edicto... principis... Georgii Rakoci... in civitatem Albam Juliam ad diem decimumquintum mensis Januarii anni praesentis congregatorum conventu publice relectae, intermixtis etiam constitutionibus sub eadem diaeta editis 1653.

3 All translations in this work of non-English quotations are by the author, unless otherwise specified in the footnotes.

4 Compilatae constitutiones Regni Transylvaniae et Partium Hungariae eidem annexarum. Ex articulis ab anno millesimo sexcentesimo quinquagesimo quarto, ad praesentem huncusque

the Land of Transylvania and the Parts of Hungary Annexed Thereto') is the codex of Prince Michael I Apafi (1632–1690), adopted by the Diet of 1669 and decreed in the same year on 4 March, which constitutes a collection of articles adopted by the Transylvanian Diets held between the years 1654 and 1669, drafted as a continuation of the *Approbatae Constitutiones*.

3. István Werbőczy's *Tripartitum* was referred to as law in the years 1571–1572[5] and was mentioned among the laws of the country in the inaugural oath of several princes and in point 3 of the *Diploma Leopoldinum* from 1691.

4. The so-called *Articuli novellares* (New Articles), i.e. the laws adopted between 1744 and 1848 and included in the codex (in Latin until 1847 and then in Hungarian). Resolutions of the Diets between 1669 and 1744 were considered to be suffering from formal defects and were therefore not considered to have the force of law.

5. The so-called *Articuli diaetales provisionales*, i.e. the eight articles (94–97 and 133–136) adopted by the Diet of 1791 and confirmed only temporarily by King Francis I of Hungary (1768–1835).

6. The validity of established laws which were not included in the codes remained disputed among Transylvanian jurists. The first edition of the Transylvanian Code of Laws in a single volume appeared in 1779 and the second edition in 1815. The Codes of Laws of the Principality of Transylvania Divided into Three Books (in Hungarian: *Erdély országának három könyvekre osztatott törvényes könyve*) was published in two volumes of 4 tomes each and was structured – contrary to the title – not in 3, but in 4 books, namely: a. Approbatae Constitutiones, b. Compilatae Constitutiones, c. Articuli novellares, d. the municipal statutes of the Saxon nation.[6]

1.2. Customary Law

The private law of Transylvania was constituted at the beginning almost exclusively of customary law. Werbőczy struggled to collect these rules in his *Tripartitum*. According to Werbőczy, customary law, especially in the field of private law, could produce three kinds of effects: a. interpretation of statutory law, b. completion of statutory law, and, exceptionally c. it could deprive statutory law of its effects.[7]

Customary law continued to play an important role especially in the field of private law even in the era of written legal norms as well as in that of independent Transylvanian law-making.

millesimum sexcentesimum sexagesimum nonum conclusis excerptae 1671.

5 Balás 1979. 42. *Tripartitum* by István Werbőczy was printed at Kolozsvár by Gáspár Heltai in the year 1571.

6 Trócsányi 2005. 29.

7 Geörch 1833. 16; Dósa 1861a. 34.

1.3. The Practice of the High Courts

The jurisdiction of the highest court of the country (the palatine, the substitute for the person of the king, known in Latin as *personalis praesentiae regiae in judiciis locumtenens*) ceased to have jurisdiction in Transylvania with the break-up of the kingdom in 1526. The Principality of Transylvania, however, soon formed its own structures of high court jurisdiction, their practice being respected.[8] But there is no doubt that these courts did not enjoy the significant prestige the high courts of Hungary once held.[9]

1.4. Legal Literature

István Werbőczy's *Tripartitum* was printed in Hungarian in Transylvania by Gáspár Heltai in Kolozsvár (Cluj, Claudiopolis) in 1571.[10] Also a Hungarian translation of *Tripartitum* (1669), intended for law students, was printed by Ferenc Nagy de Sânpaul in the form of a poem.[11]

After his studies at Wittenberg and at the request of the advisers of the Prince of Transylvania, János Décsi Baranyai[12] drafted a work with the title *Syntagma institutionum juris Imperialis ac Hungarians* (Collection of Hungarian and Imperial Legal Norms, Kolozsvár 1593), in which he found that the Transylvanian local laws were deficient, chaotic, and outdated, and for this reason he tried to synchronize them as far as possible with Hungarian and Roman law to improve the process of developing new legal rules. It is surprising that, when presenting domestic law, Décsi makes repeated reference to the *Quadripartitum*,[13] published in print only in 1798, not having been able to know its contents except perhaps in the form of a manuscript.[14] Unfortunately, by the time his work was completed, the new powers that be were no longer receptive to Décsi's ideas.[15]

The humanist lawyers of the prince's court also contributed significantly to garnering interest for developing legal life in Transylvania, as Márton Berzeviczy (1538–1596), Chancellor of Transylvania and diplomat,[16] for example, who –

8 Bogdándi 2016. 47.
9 Stipta 1997. 88.
10 Werbőczy 1571.
11 *Verböczi István törvény könyvének compendiuma, melly közönséges magyar-versekre formáltatván iratott, és ki-adatott Homord Sz. Pali N. Ferencz által* 1699.
12 Johannes Decius Barovius [born at Décs (today's Hungary) in 1560 and died in Târgu-Mureş (today's Romania) on 15 May 1601].
13 The *Quadripartitum*, in its complete Latin name *Quadripartitum Opus Juris Consuetudinarii Regni Hungariae*, was a collection of customary laws prepared at the order of King Ferdinand I of Hungary (1503–1564). Its effects on the development of Hungarian law were much inferior to those of *Tripartitum*.
14 Illés 1931, Viczián 1936, Degré 1936a, Degré 1936b, Máthé 2015.
15 Zlinszky 1999. 49.
16 Veress 1911.

following his decade-long studies abroad – was, among other things, elected in 1568 as rector of the University of Padua,[17] or Farkas Kovacsóczy (1540–1594), Hungarian nobleman and Chancellor of Transylvania,[18] or István Kakas (1565–1603), another noteworthy Transylvanian diplomat.[19]

1.5. Privileges

Some privileges have significantly affected the development of Transylvanian law (see articles 7–17 of Part II of Werbőczy's *Tripartitum*). Suffice it to refer here to the privileges of the Saxons in Transylvania. Later, the privileges granted by several princes of Transylvania were no longer recognized: for example, the privileges granted by Stephen Bocskai (1557–1606), Gabriel Bethlen, and George I Rákóczi, which were conferred during wartime (Act III of 1609, Act VII of 1622, paragraph 13 of the Fifth Act of 1647).[20]

1.6. Statutes

In addition to laws, the statutes of nations, lands and localities, or municipal bylaws had a greater significance in Transylvania, higher than in the Kingdom of Hungary. The object of regulation of Transylvanian law was predominantly constituted by the prince's power, the political status of different nations, and the legal regime applicable to various religious denominations. The main issues of private law were regulated by the various statutes.

2. Legal Capacity of Persons and Its Exercise

The notion of legal capacity and its exercise have been developed in Roman law. At that time, the situation of the free person was different from that of the slave, a person without legal capacity. The abolition of the institution of slavery and the declaration of the principle of the universal character of legal capacity is the merit of Christianity. According to Christian principles, every man is free and equal. In reality, however, the principles of freedom and equality have for a long time been ignored or infringed. This less than ideal state of affairs was rationalized under the pretext that although once all people were equal, the cowards, who were unwilling to fight for their freedom, later forfeited it, while the nobility redeemed its privileges at the price of its own blood.

17 Veress 1915.
18 Szádeczky 1891.
19 Veress 1905.
20 See Wenzel 1863. 78.

In Hungary, after the founding of the state by King (Saint) Stephen I and following the conversion to Christianity, theoretically every man had legal capacity, so they could be subject to rights and obligations, but full legal capacity was reserved for the nobility. Servants, serfs, and those who were not considered noble benefited only from a restricted legal capacity. The distinct subjective rights of the privileged estates and of the subjects with limited legal capacity were defined, in addition to legal and customary regulation, also by the different systems of jurisdiction and public administration to which they were subjected. In feudal law, personal dependence and limited legal capacity were compatible.

In law prior to 1848, only the nobility benefited from full legal capacity. Hungarian private law did not distinguish between aristocrats and minor nobility. In this respect, indeed, the principle of unity of the nobility and the indivisibility of the nobles' freedoms was respected, as decreed by the Act of 1351. Starting from the 15th century, only the nobility could own property that had not been burdened with obligations specific to the encumbrances to which the serfs were held and would exercise royal rights in these areas. The nobles were entitled to levy the so-called *ninth part* (in the amount of 10% from the harvest, called the ninth part because it was the ninth 10% of the harvest due as a fee, the tenth 10% being the tithe owed to the church). The nobility had general authority and jurisdiction over persons with a noble title and the serfs who resided on their estates. In Transylvania, theoretically, only the people belonging to the four accepted ('received') religious denominations, Catholics, Lutherans, Reformed Protestants, and Unitarians, could gain noble title. This principle was also confirmed by the Diet of 25 November 1671. In practice, however, the rule was not firmly enforced because among Romanians those of the Orthodox religion could become nobles.[21] Priests and pastors of the four accepted denominations were considered noble in their person. Noble rights are summarized in the *Approbatae Constitutiones*, Part III, Article 6. According to the text, noblemen could be summoned only before a judge having jurisdiction according to their person, could not be required either to provide horses for postmen or couriers or to give accounts, could not be detained outside the criminal procedure, could not be forced to be servants, and could not be compelled to go under arms except by order of the Prince.[22]

As for the serfs, the laws of 1514 were even more severely tightened by Article 47 of Part V of the *Approbatae Constitutiones* and by the Diet of 10 February 1683 held at Sighişoara, which made their situation almost untenable by Article 8 of its resolution.

The title of noble could be acquired in an *original way* and in a *derived way*.

1. The *original mode of acquisition* meant that after the formation of the noble estate only the king was entitled to grant noble titles by donation.

21 Balás 1979. 196.

22 Trócsányi 2005. 37.

Cases of original acquisition of noble title were:

A. *Donation of domains* by the king. The one who benefited from the donation of some domains became a noble by right.

B. *Royal letter of ennoblement with coat of arms* as well as the *donation of coats of arms*. This mode of gaining noble status spread in practice during the reign of King Sigismund of Luxembourg, who at times donated only the title of noble, without it being accompanied by domains. This form of conferment of the noble title usually took place so that the number of warriors would multiply and the newly ennobled would rally to the king's banner. These so-called nobles bore little difference to serfs, being distinguished only by the letter of privilege granted to them and benefiting from no holdings of their own.

C. *Legitimation*. The child of a nobleman, born out of wedlock, could be ennobled by the grace of the king.

D. *Declaration as a son*. This means was introduced by King Charles I of Hungary (1288–1342). The king could declare as a son through fiction the daughter of a nobleman left without descendants on the male lineage or another female relative in the *gens* (the wider family, or clan), giving her identical rights to those of men, including the right to inherit.[23]

E. *Adoption*. The king could approve for the nobleman without posterity on the male lineage the adoption of a person without a noble title, who would thus acquire noble title and the right to inherit.

F. *Solemn declaration as son of the fatherland*. The king had the right to confer noble title to foreigners with the consent of the estates, by decreeing a law in this respect (Act LXXVII of 1550).

2. Derived acquisition methods:

A. *Birth*. The child born from the legally concluded marriage of a nobleman became noble by birth. If a child was born from the legally concluded marriage of a noble mother with her husband, who lacked noble title, it would acquire the rank of *agilis*, being considered as only half noble. The *agilis* became a free person, not subject to the authority of the lord, but he had full exercise of legal capacity only regarding the estate inherited from his mother. His social status practically depended on the influence of the mother's family.

B. *Marriage*. Women could also acquire noble title through marriage, a rank that could be maintained even after the death of the husband but only until a new marriage was concluded.

C. The child of a woman *declared as a son*, born from the marriage concluded with a person without noble title, in turn became, by right, a noble.

In the legal and value system of old Hungarian society, the main source of privilege was valour shown in times of war (*Tripartitum*, Part III, Article 18); thus, according to feudal private law, the full exercise of legal capacity was

23 Holub 1925. 305–319.

reserved for noblemen. Even though the church did much in the interest of improving the personal and economic situation of women, and the notion of knightly valour also raised the level of respect for (noble) women, the legal capacity of women and its exercise was in many respects restricted, mainly to the field of inheritance and family law.

Through marriage, a woman became an adult, belonging to the estate to which her husband belonged: for example, a woman of middle noble status could become by marriage an aristocrat. Married women were entitled to maintenance, which meant that the husband was obliged to support his wife in a proper way according to his social and economic status. A married woman could dispose freely of her own patrimony (the *paraphernalia*), held in property before marriage or acquired subsequent to marriage by means of donations and inheritance. Engagement gifts, received from her husband or his family, were also part of a woman's own patrimony. The *dowry*, received by the woman from her own family at the conclusion of the marriage, was also part of her own estate, but it was managed by her husband. The *douaire* is one of the oldest institutions of Hungarian private law and was owed by the husband to the wife as a form of remuneration in consideration of the obligations the wife assumed by marriage. Its amount was in accordance with her husband's status. Upon the death of their predecessors, unmarried daughters had the right to claim from the male coheirs maintenance, education, and the arrangement of their marriage, by virtue of the so-called *right of the unmarried daughter*.

In the law before 1848, the legal capacity of a nobleman who had committed a serious crime could be restricted. A person struck by infamy could not hold public office, could not be appointed as guardian or curator, and could not hold membership within associations or corporations, while his will and any attestation or testimony made or given by him were null and void. Aside from these, the legal capacity of children born out of wedlock was restricted.

A person admitted among the *citizenry* of a city through a decision made by the city council and the elected citizens (jurors), who then paid the usual fees and took the necessary oath, was considered *a burgher*. The bourgeoisie benefited from their own privileges: they had the freedom of their person while residing in the city; their *homage* (a fine, applicable in case harm would come to them at the hands of another person) was set in an amount identical to that of a nobleman; they had the right to elect their own judges and dignitaries. Outside the city, however, the oath taken by them had only the evidentiary value equal to that of a serf.

Serfs were subject to the authority of the lord. Due to this status, their personal and real property rights – in spite of the improvements of the 18th/19th centuries – remained limited. The serf could move from his domicile only after fulfilling certain conditions as, for example: obtaining authorizations (*licentia*) was required; he could not be subject to litigation, could not have debts, and had

to have paid the relocation fee (*terragium*). The education of the sons of serfs was conditional upon the consent of the landlord, just as the conclusion of a marriage by serfs. They were also obliged to perform certain services (such as labour, called 'robot' after the Slavic word for 'work'), pay the landlord the ninth part (10% of the harvest), and provide other 'gifts' according to the income of their lot. All disputes arising from the feudal relations between the serf and the lord fell within the jurisdiction of the lord's seat (*forum dominale*, the court of the lord) as well as any criminal proceedings brought against the serf. If the lord was also granted the privilege to render 'high justice', he could exercise the *ius gladii*, (the right of the sword), meaning that he could also impose the death penalty. Serfs had limited active procedural capacity, being able to call nobles to court only through their own lord, who was obliged to represent the interest of his serf in such cases, based on the paternalistic principle.

Serfs could not acquire noble estates. If this, however, took place, any nobleman had the right to take possession of the estate under the pretext that he who did not have the title of a nobleman was not member of the Holy Crown (a mediaeval doctrine of statehood embodied by the Holy Crown of Hungary itself, that is, of the state perceived as a unity of territory, the king, and the nobility), and therefore could not hold landed estates.

We must distinguish the existence of legal capacity from the exercise of that capacity. The person's ability to exercise his legal capacity is that prerogative conferred upon him to acquire rights and to assume obligations in his own name and on his own initiative. The private law of the time established the exercise of legal capacity according to the so-called 'intellectual census'. Because the intellectual maturity and abilities of natural persons were objectively impossible to verify for each person in turn, certain age limits were also set as an external criterion in addition to the requirement of discernment (soundness of mind). Sex, status within a certain estate, and the existence or, as the case may be, absence of honour (the state of infamy) were additionally listed in the law before 1848 among the influencing factors for the exercise of legal capacity.

A. *Age*. According to *Tripartitum*, a person who is *impuberant* does not have exercise of his legal capacity. This was the case for girls who had not reached the age of 12 years and boys under the age of 14 years. Women were considered to be of age, and thereby gaining full exercise of their legal capacity, after reaching the age of 16 years, and men came of age at 24 years. People aged between the extreme points of these ranges were considered to be in an intermediate state called *puberty*. They could benefit from the limited exercise of legal capacity. Girls who were at least 12 years old could marry, while boys could accept donations from the age of 14 years. At the age of 16, the latter could contract loans, constituting their estate as collateral, and at the age of 18 years they could even conclude perpetual assignments (act of permanent disposal over real property rights).

B. *Discernment*. The unsound of mind did not have exercise of their legal capacity, and only representatives could act legally on their behalf.

C. *Sex*. The exercise of legal capacity of women was restricted because prior to marriage they were under the power of their father, and subsequently they came under the power of their husband.

3. Family Law

The family is the community of parents, children, and their closest relatives, and it was the basic unit of mediaeval society but also of the state and the church. The family relied on blood kinship, but some members belonged to it also by virtue of the maintenance to which they were entitled (being in a relation of *affinity* with other family members).

In old Hungarian law, the family usually consisted of two generations: the community of parents and their unmarried children (the so-called nuclear family). The extended family was composed of four generations, with 28-30 members, who came from several families which were related on the paternal lineage. In extended families, usually the head of the family was the oldest man: he had the right to dispose of the family estate, led the moral life of the family, represented the family towards others, and determined the people who could be received into the family. Family members participated according to age and sex in the household chores. The head of the nuclear family was the husband, who had the right of disposition over other family members, exercised paternal authority over children, the wife also coming under the authority of her husband. The father was the legal representative and administrator of the property of any persons under his power and authority. István Werbőczy points out in his *Tripartitum* that the obligation of parents with regard to raising their children was a natural obligation that parents could not be exempted from by any legislative power.[24]

One of the most significant acculturation achievements of the Christian civilization of the Middle Ages was the development of the model (and basic patterns) of marriage. Following the collapse of the Western Roman Empire and the storms of the Migration Period, the development of Christian marriage, which came to be generally accepted by the European society as a social, legal, and religious institution, took almost a millennium. In parallel, 'fornication', cohabitation, polygamy, abduction, or purchase of wives and divorce became criminal acts.

According to canon law, *marriage* is the covenant assumed by a man and a woman of their free will, for the entire duration of their lives, its natural purpose being the conception and raising of children for the benefit of the spouses. Free will had the meaning of 1° the absence of any coercion to which the parties could

24 Dósa 1861. 22; Roszner 1887.

have been subjected; 2° the absence of impediments in the form of prohibitions set forth in ecclesiastical or natural law. This covenant between the baptized was elevated by the church to the rank of sacrament (Corpus Iuris Canonici, Article 1055, paragraph 1). The covenant of marriage was bound by God himself, so the marriage concluded and perfected between the baptized parties could not ever be dissolved (Corpus Iuris Canonici, Article 1141). Only the so-called separation from bed and board (*a mensa et thoro*) led to the termination of cohabitation by the spouses, without affecting the covenant between them. The church, starting with the Fourth Lateran Council (1215), managed to attract marriage under the authority of canon law and in general to draw it under the jurisdiction of ecclesiastical courts. Canon law, to the extent permitted by the conditions of the era, strengthened women's rights regarding marriage.

During the reign of King Coloman the Learned of Hungary (1074?–1116), at the Synod of Esztergom held around 1116, it was ordered that 'every wedding is to take place in the presence of the church, with the presence of the priest, before proper witnesses, by some sign of the engagement, and having the consent of both parties' (Coloman II 15).

A new stage in the development of Hungarian matrimonial law – with effects reaching into the present – began with the resolution of the 24th Session of the Council of Trent, held in 1563, which initiated a Catholic revival. It was at that time that the rules of procedural and material law for the valid conclusion of marriage were set forth. Marriage was separated into two parts: 1° the engagement, the formal requirements of which were not regulated in detail but which would constitute beyond any doubt a firm promise of marriage that could only be revoked for well-founded reasons; 2° marriage, which was valid only if the parties stated their mutual intention to marry before the parish priest having jurisdiction according to the domicile of one of them, in the presence of at least two witnesses.

In the Kingdom of Hungary, the *vow of fidelity* became part of the ceremony thanks to Cardinal Péter Pázmány (1570–1637), in Hungarian the term itself being at the origin of the word that also designates wedding (*esküvő*, in literal translation having the meaning of 'vowing' or swearing an oath). The text of the vow is as follows: 'So help me God, Our Great Lady, Blessed Virgin Mary, that I love XY present, I take him as my husband (I take her as my wife) out of love, according to the order of God, according to the law of the Holy Mother Church, and that I will not leave him (her) until my death and until his (her) death in no time of trouble, so help me God!'

The Council of Trent established the cases when a marriage was subject to annulment:

Consanguine marriage: when the spouses were related by blood up to the fourth degree included, which was later relaxed to refer only to relatives up to the second degree included – third degree relatives being allowed to marry

on the basis of a special authorization granted by a bishop, without having the possibility of obtaining this authorization subsequent to the conclusion of the marriage – (this way of determining degrees of kinship constitutes the so-called Germanic system); *affinity:* the consanguine relatives of one of the spouses of a certain degree are by law *affines* (in-laws) of the other party of the same degree, the prohibition on marriage between consanguine relatives being applied to them accordingly; *spiritual kinship*: the relationship between godparent and godchild; *lack of minimum age* (12 years for girls, 16 years for boys); *known insanity* (in case of the lack of exercise of legal capacity); *infamy* (in the case of unmarried persons); *accession by a person to a monastic order*; *ordination as a priest* even if the person is not a monk or nun; *bigamy* – if a previously concluded marriage was still valid; *known impotence*; *uxoricide* (murder committed against a previous spouse); *marriage concluded under coercion, threat, malice, or fraud* (which, however, had to refer to a significant physical or mental characteristic of the other spouse).

Prohibitive impediments to marriage were constituted by cases which do not result in the annulment of the marriage but in another sanction applied to the persons who disregarded the prohibition: such a reason for prohibition or prohibited periods were the times of fasting and a period of at least 10 months (the 'year' of mourning) which must pass since the death of the previous spouse before the widow or widower could remarry.

On the first three Sundays from the date of the engagement, the future wedding had to be announced in church so that the impediments to marriage, if any, could be revealed.[25]

In the 16th century, in parallel with the establishment of the ecclesiastical organization of the Protestant churches and the recognition of their religious freedom, adherents of Protestant denominations concluded marriages before their own pastors. The law governing the marriage of Lutherans and Calvinists (Reformed Protestants) was also recognized by the Resolution of 1731 of Charles III King of Hungary (1685–1740). According to the Protestant theological point of view, marriage – although not devoid of spiritual significance – as a legal institution belongs to the system of secular law. For this reason, civil marriage was first introduced in Protestant countries, a trend later followed by Catholic states. In Hungary, the Patent on Marriage by the Emperor of Austria and King of Hungary Joseph II (1741–1790) issued in 1786 (which was null and void according to Hungarian constitutional law) described marriage as a civil contract. However, the Hatted King's decree[26] was withdrawn after his death, the Diet

25 Csizmadia 1983, Erdő 2001, Péter 2008.

26 King Joseph II of Hungary was pejoratively called 'the king with a hat' because he refused to be crowned with the Holy Crown of Hungary so that he would not have to confirm the Constitution of the Kingdom of Hungary by the inaugural oath he would have needed to take during the coronation ceremony.

of 1790–1791 restoring the previous modus of legal regulation. The issue of civil marriage re-entered the legislator's agenda only after the Austro-Hungarian compromise of 1867. In 1868, it was for the first time that this legislator attempted to regulate certain issues in connection with so-called mixed marriages. After that, each spouse adherent of an accepted denomination became subject to the general jurisdiction of ecclesiastical courts belonging to their own denomination in this matter. The following of the religion of the parents of different religious denominations by their children according to their sex was also enshrined in law (the daughters were to adopt the mother's religion while the boys the father's).[27]

In Transylvania, the various accepted denominations established the rules which governed marriage.

Due to the chaos that prevailed at that time, the Diet of 3 May 1615 made a resolution that a man whose wife had been abducted into slavery (by the various armies, usually the Ottoman, which ravaged the region) would be allowed to remarry.

The accepted denominations regulated the dissolution of marriage differently, so at times persons willing to initiate divorce would proceed according to the rules of the denomination more favourable to them, determined according to their own needs. For this reason, the Diet of 24 May 1625 declared such practices to be tantamount to polygamy.

4. Property Law

Property law, as an abstract, comprehensive notion began to take shape in the science of European law during the Middle Ages. Institutions belonging to this branch of civil law were analysed as absolute legal relations by the Glossators, the Commentators, and German Pandectist jurisconsults, who built their theories upon the foundations of Roman law in spite of the fact that private property as the notion known to Roman law was applicable to private feudal law practically exclusively in what regards movable property. The separation of property rights from claim rights was developed by the Pandectist jurists of the 18th/19th centuries. In their view, property law encompasses those legal rules which apply to legal relations associated with natural things subject to the power of man. Thus, the static concept of private patrimonial rights was formed, which has as its aim ensuring the prerogative that the entitled person should enjoy his property peacefully.

Delimiting property law from the law of obligations (the legal relationship characteristic of claim rights) is necessary because property law regulates the long-term protection regime of already acquired rights, while the law of obligations refers to the legal and dynamic circulation of rights established over

27 Degré 1941, Hanuy 1904.

movables and immovables. Property law has an absolute character and requires compliance with the legal relationship to which it gives rise, to property, by all persons (therefore, it benefits from an *erga omnes* character, the party who owes compliance being 'everyone' but the owner), while a right of claim gives rise to only a relative, transient legal relationship, between creditor and debtor, whose parties are well determined in their persons.

The set of real rights is closed, while the set of claim rights is open. The continuous development of the economy can give birth to new obligations every day. Public interest is imposed more strongly in the field of property law, and for this reason the norms of this branch of law are largely imperative in the formulation of the various rules, while obligational legal relationships are most often governed by dispositive rules. Persons' right to dispose as parties to an obligational legal relationship can be freely manifested.

Hungarian law and legal systems in the Romano-Germanic legal family divide things into movable and immovable property according to their nature. This classification was first used in Roman law. The setting apart of tangible assets in this way occurred when a certain degree of development of abstract legal thinking was attained. As a general principle, Werbőczy linked the notion of movable property to the possibility of its movement from its place, without this resulting in the depletion or other prejudice to the substance of the object (*Tripartitum*, Part I, Article 95, paragraph 2; Part III, Article 26, paragraph 15). The differentiation between movable and immovable property gained importance in feudal law. In general, Roman law made no distinction between movable and immovable property in terms of how the acquisition of rights over them occurred (notable exceptions being the *res mancipi*, the institution of usucaption, and the effects of theft over the property of certain objects). Feudal law subjected buildings to a special legal regime, while the issue of regulation in the field of movable property has been marginalized due to the lesser economic significance of property subject to the latter regime. Although feudal law took over the classification of goods initially used under Roman law, this was adapted according to its own regulatory needs.

In feudal law, money was considered movable property, just as clothes, weapons, or horses, but an immovable encumbered with a pledge was also considered a movable, being subrogated (substituted) by the amount of money loaned in return for the pledge; possession of the immovable could be regained by the owner after repaying the loan to the creditor. Interestingly, a stud (a heard of horses kept for purposes of breeding) of more than 50 horses was considered as immovable real estate. According to ancient practice, the money that came from the capitalization of the estate of the *gens* was itself considered to be an immovable. This classification had a high significance, immovables being the basis for the livelihood of the family. Werbőczy's work did not even entertain the possibility that the main assets of a nobleman's estate could be comprised

of money or obligations with a monetary value. The entirety of the mediaeval legal system was constructed not in the interest of ensuring the legal circulation of immovables (of real estate) but in the interest of hindering this circulation and maintaining the economic destination of immovables. The most significant part of national wealth was immovable by nature – the value of the property that was inherited most often exceeded that of the property that was acquired by purchase (property transferred *inter vivos*); preserving the emoluments (assets) of any estate at a constant value and within the family was given great significance (hence the institution of property of the *gens*).

In Hungarian feudal law before 1848, the system of economic dependence and property dependency were applied in close correlation with the hierarchical system of political subjection (vassalage). On their basis, the interaction between personal and economic dependence could be demonstrated, while no one owned veritable private immovable property or real estate in today's sense of the word.

Gábor Balás stated that in Transylvania the most common way encountered for acquiring ownership of property rights over immovables found in the property of the nobility was donation, especially the so-called mixed donation, which in reality disguised a deed similar to sale and purchase.[28]

The old laws of the mediaeval period restricted one's right to dispose of one's real estate but also restricted the right of the majority of the population to acquire real estate. Land holdings as a *sui generis* legal institution, interwoven with social status and power relations, were in fact not a form of property in the proper sense, being more similar to possession. Ignác Frank[29] opined that this was just property manifested over a right of use. Over the estate, the nobleman only held *dominion*, i.e. a power and right of use and possession. He could only dispose freely of the revenues generated by this estate. The most specific prerogative of the owner in relation to his property right was therefore absent, thus missing the one element through which the essence of the circulation of assets in a legal sense was exposed: free will.[30]

First, land ownership was limited by the prominence of the king's property right (*ius regium*), according to which all property rights over the land have royal donations as their wellspring (*Tripartitum*, Part I, Article 3). The right to dispose by donation of one's immovables was transmitted by the estates to the king by the act of coronation, the king in turn being subject to the authority of the Holy Crown. The donated land would be returned to the royal treasury in case the noble's male lineage would die out or for reason of infidelity towards the donee.

In such cases, the treasury regained only what were originally the king's own assets, so not even in this respect could the noble beneficiary of the royal donation

28 Balás 1979. 196.
29 Frank 1845. 193.
30 Trócsányi 2005. 62.

of an estate be considered as a genuine owner. Sale of the domain received by donation or any disposition over it by will was only allowed on the basis of royal assent. Without this, the king's procurator could easily claim restitution of the estate in question. The security of the circulation of property was thwarted by the treasury's right to regain control of the estate in court in case of extinction of the noble family that had benefited from the initial donation, even if the estate had already come into the legitimate possession of another noble family.

The property of the *gens* also limited the right to disposition of the owner of the landed property: the estate that was the property of the *gens* did not only belong to the person who exercised dominion over it but to the whole *gens*, by this notion being understood the original acquirer and all persons entitled to inherit after him or to acquire otherwise his estate, not only those alive but also those who were to be born later, all in joint ownership. The ownership of the *gens* had the effect of restricting the right to disposition by deeds concluded *inter vivos* or *mortis causa*, as the case may be, but also by will over the estate of the original acquirer, which was subsequently transmitted to the heirs by legal inheritance or by bequests confirming or ordering the mode of transmission for the eventuality of death, without the possibility of derogation by will from the rules applicable to legal inheritance. The property subject to the ownership of the *gens* had to be offered by the seller to be purchased with priority to those who would have a vocation to inherit it, according to the order applicable under the law of succession, and as if the party entitled to first refusal had actually inherited the estate. This was the so-called 'offer' or notification of the beneficiary of the right of first refusal (pre-emption). Relatives who did not inherit the estate of the ancestor of the *gens* or of his heirs, neighbours, and those with properties in the same fields also had to be invited to buy with priority through the so-called 'recommendation'. If the latter was omitted, the cancellation of the permanent assignment could be requested. The claims based on such rights of the *gens* were not subject to being time-barred, it being possible to invoke them in litigation even after several centuries. For this reason, up to the 18th/19th centuries, there were almost no wealthy families who were not interested in or affected by the outcome of such litigation either because they had been sued or because they sued others as claimants demanding some or some other feudal right over estates.

Feudal farming methods also limited the right of disposition of the landowners. As found in István Werbőczy's *Tripartitum*, although the owner of the entire feudal estate was the lord, the estates were in reality sub-divided into two distinct types of lots: 1° the *lots belonging to the mansion, which were utilized under the direct management of the lord*, and 2° *the lots of the serfs* cultivated by them in exchange for specific benefits owed to the lord [collectively referred to as the so-called 'urbarial' lots (from the German word 'Urbar', meaning a register of feudal fief ownership and rents owed to the lord), which later acquired the meaning of

land register (urbarium), including in the Romanian language]. Regarding the lots of the second type, a legal relationship between lord and serf somewhat similar to tenancy has developed throughout history, but which differed from tenancy in many ways. Because the tax base of the state was limited to the lots farmed by the serfs, on the one hand, the issue of the urbarium was attracted into the sphere of interest of the legislator, while, on the other hand, there was a tendency to prevent the lord from taking over these lots from the serfs, which would have resulted in diminishing the base of taxation. The lord's right of 'ownership' over the lots of serfs was in fact limited to the benefits owed to him by these serfs, the amount of which was also regulated by law. Urbarial lots were therefore approximately as valuable as the worth of any benefits actually provided by the serf to his lord in return for their use. Besides these obligations, the serfs had a limited right of disposal over the lots intended for them (of 'alienation'– in fact, assignment – and transmission as inheritance). The lord could not attach the lot used by the serf to the mansion's estate even if the serf died without leaving any heirs. In such situations, he was obliged to move a new serf to the vacant lot. The landlord could not acquire these lots, not even by purchasing them.[31]

5. The Law of Obligations

In Transylvanian private law, the law of obligations was not elaborated in a detailed measure, similar to real estate law.

The most significant legal transaction generating obligations was considered to be the contract. This was the legal form of economic exchange relationships, characterizing the circulation of goods in the Middle Ages. According to Hungarian legal science, the contract is formed by the concordant manifestation of the will of two or more parties (the principle of *consensualism*). The contract is a legal fact in the broadest sense: it gives birth to, modifies, or extinguishes legal relationships, benefiting from the protection of the state, its observance being possible to be imposed by means of judicial coercion.

In the feudal period, the normative framework applicable to contracts was the least developed segment of Hungarian private law. To guarantee the fulfilment of the contract, an oath was taken. Besides this, the binding power of the contract was reinforced by compliance with certain extrinsic formal requirements: for example, the *Almeschtrinken* (drinking to the blessing of the parties) was a prerequisite of certain contracts, or boys were caned at land boundary markers so that they would remember until the end of their lives the boundaries of the family estate, etc. Later, the written form became increasingly widespread. The

31 Both 1984. 328; Degré 1978. 536; Frank 1848; Händel 1944. 372; Illés 1941. 634; Kállay 1981. 702, 1982. 527; Kelemen 1926. 327; Murarik 1938; Párniczky 1942.

parties solemnly and orally declared before authentic places (usually constituted by a chapterhouse of a religious order, or a monastery) what kind of contract they wanted to conclude. Ecclesiastical officials then instrumented this statement in writing in accordance with legal requirements, and they applied their seal to the document for authentication. Simultaneously with the establishment of this novel solution, the birth of long-term contractual relations between the debtor and the creditor became possible.

Among the contracts, the most significant category was the one regarding the transmission *inter vivos* of the estates between the members of the nobility, the *perpetual assignment* (*fassio perennalis*). In the case of estates subject to the property regime of the *gens*, this type of alienation by perpetual assignment was possible only if the assignment was necessary for some well-founded reason such as imperative economic needs or redemption of a relative from captivity. The alienating landlord of the estate subject to the property of the *gens* was in these cases obliged, above this requirement, to offer the estate for sale to the heirs of the original acquirer first as they enjoyed a right of pre-emption over the estate. Failure to complete this prior procedure resulted in the possibility granted to the members of the *gens* and their heirs to regain the disputed estate at any time in the future. As I have previously shown, this right was not subject to any statute of limitations which would render it time-barred. For the alienation of some estates from royal donations, the king's assent had to be obtained.[32]

6. Inheritance Law

The law of succession is constituted by the totality of legal norms which regulate the fate of the assets of a natural person (the *estate* having the meaning of *legacy* in this case) following his death.

The purpose of inheritance law is that the estate does not remain without an owner after the death of the person who leaves the inheritance and to further ensure its use and conservation according to its intended purpose, which is to form the economic basis of the family's existence. Besides all these, the institution of inheritance confers upon the property right its complete character. Private property becomes fully effective only if there is a possibility to transfer this right by inheritance. Depriving a subject of civil law of the right to transmit assets by inheritance or restriction of this right leads to waste and frustrates the accumulation of economic value. In the later stages of human life, increasing wealth would not have been encouraged if the one who is to leave the inheritance knew that after his death his relatives (e.g. his children) would not benefit from the accumulated wealth.

32 Wenzel 1863. 607; Dósa 1861b. 493.

From a historical standpoint, inheritance law is characterized by the conflict of two great contradictory principles:

1. The right to free disposal over the estate.

2. Protecting family interests because the fate of property subject to transmission by means of inheritance should not depend exclusively on the whim of the head of the family. For this reason, free disposal by instruments drafted *mortis causa* was restricted. Customs applicable to the law of succession were not dispositive but, for the most part, imperative and therefore did not allow for any derogations.

From the Middle Ages up to this day, the development of European inheritance law has freed itself more and more from under the domination of the family, the freedom of disposal of the individual being gradually transposed to the centre of this institution. Along with this evolution, the significance of imperative norms decreased, these being replaced by dispositive rules.

In Hungary, feudal private law led to the elaboration of the law of succession by subordination to the public law of the time. The right to an inheritance depended on the feudal status of the one who left that inheritance but also on the person of the heir and on the origin as well as nature of the property due to be inherited. The main custom was legal inheritance developed in accordance with the above principles.[33] The custom regulated the order according to which the vocation to succeed was determined, applied separately to the land, the house, the weapons, family documents, personal belongings, animals, etc.

According to *legal inheritance*, the descendants inherited with priority, and in their absence the ascendants, while in their absence the collateral relatives. The descendants, all legitimate sons of the person who left the estate, would inherit in equal shares all the elements of that estate, except for the family home of the father, which belonged to the youngest son, as well as the family documents, which belonged to the eldest of the brothers (tasked with defending the rights of the *gens* to that property by using them as a means of proof). Female descendants inherited in equal shares with the males only the goods acquired during the life of *de cuius* on the paternal line. If the acquisition took place free of charge, the daughters would only inherit when the donor had allowed this inheritance, the right to inherit regarding the donated property being extended by the very act of donation to the daughters. The property of the *gens* and that acquired on the maternal line as well as the movable goods left by the deceased were also inherited in equal shares with the sons, with the exception of weapons and the family archive. The pledged immovable was considered movable property during the existence of the pledge, also for purposes of inheritance.[34]

33 Illés 1904, Magyary 1890.

34 Somogyi 1937.

The wife of the deceased was entitled to the *rights of the widow*: to proper housing and maintenance, and if she desired to remarry, to the provision of all necessities for marriage which were to be provided by male coheirs.

According to the old Hungarian civil law governing the status of nobles: through legacies contained in a testament, *de cuius* could only dispose of movable property and estates which had not been obtained by donation. Goods owned by the *gens* could be subject to such provisions only if *de cuius* had died without legitimate heirs. The act of last will took either the form of a unilateral statement from the disposer or of a will or of a succession contract. The will was the unilateral disposition made *mortis causa* in respect of the deceased person's property. The will was always revocable, whereas the succession contract could not be revoked unilaterally.

The *testamentary inheritance* (or that on the basis of the succession contract) has developed in Hungary from the roots of the institution identifiable in canon law and Roman law. King Stephen I of Hungary had already conferred upon all persons the right to leave their property to their widows, sons, daughters, and other relatives or to the church by will (Laws of St. Stephen, II. 5). The First Golden Bull (of King Andrew II, Law IV of 1222) allowed the serjeanty[35] (the persons obliged to come under arms) who had no male descendants to dispose freely of three-quarters of their estate. At the reissuing of the Golden Bull in 1351, however, the Crown expressly repealed this provision. Based on the right of property of the *gens* and for the protection of the interests of its members, the right of disposition by will was restricted to a very narrow framework by feudal law. Transmission by will was allowed only with respect to acquired goods (*Tripartitum*, Part I, articles 51 and 57). In what concerns rules relating to wills, the canon law was largely the defining source until the 18th century, the validity of the act being established for this reason by ecclesiastical courts. Law XXVII of the year 1715 established the formal conditions of the will and at the same time abolished the rule kept from Roman law according to which only the will by which the disposer disposes of his entire estate was valid.[36]

7. The Private Law of the Szeklers

7.1. Sources of Law

The rules of private law regarding Szeklers underwent changes during the existence of the Principality of Transylvania.[37] Law played an especially

35 The serjeanty of the king constituted an intermediary social class in Hungary during the 11th/12th centuries, between the magnate barons and the common men-at-arms.

36 Holub 1936, Murarik 1934. 497.

37 As a general example, see Bónis 1942.

important role in the history of the Szeklers because it had decisively contributed to the continued existence of the Szeklers as a community in the regions inhabited by them since ancient times.[38] The municipal law of the Szeklers was already appreciated by István Werbőczy under the title *Az erdélyi schitákról, kiket székelyeknek hívunk* [Regarding Scythians of Transylvania, Whom We Call the Szeklers]:

> Apart from these, there are also Scythians, privileged nobles in the parts of Transylvania, who descended from the Scythian people on the occasion of their first dismounting in Pannonia, those whom, by a debased name, we call 'siculus'; those who live according to completely separate laws and customs; being the most versed in the occupations of war; they share their estates and offices with each other (by the customs of the old) in order so as to divide them among the tribe, the gens, and the branches of the gens. (*Tripartitum*, Part III, Article 4)

The law of the Szekler 'nation' was based on privileges, statutes, and customary law.[39] Among the statutes, the most significant were: a. The Constitutions of the General Assembly of the Nation from Târgu-Mureş from 1451 under the leadership of Péter Vizaknai and Ioan Gereb de Wyngarth (written also as Wÿngarth); b. The Constitutions of the Assembly of the Nation from Odorheiu Secuiesc from 1505; c. The Constitutions of the General Assembly of the Nation from Lutița from 1506; d. the old statutes confirmed by voivodes István Dobó and Ferenc Kendi (also written as Kendy), compiled at the Assembly of Odorheiu Secuiesc of the year 1555. Among the privileges, the most important is the letter of privilege drawn up in Gherla in 1636 by George I Rákóczi.[40]

The privileges of the Szeklers provided not only the possibility of organizing their society but also the right for setting the rules that governed their daily lives. Obviously, this did not mean that the flood of decrees issued by the rulers of Transylvania would not have influenced the life of small Szekler communities, nor that they would not have been forced to subject themselves to these, but the statutes and laws of the various villages were adopted for achieving the organization and maintenance of their internal order, and they were created for the protection of ancient customs and traditions. By tradition and custom, we usually understand administrative self-organization and jurisdiction – dispute resolution, legislation, collection of taxes, organization of grazing, etc. – of the Szekler villages. It was the community that applied the adopted laws in all of the cases stipulated in the legal norm, being an enforcement body as a community and facilitating the solution of problems of public interest.

38 Benkő 1791, Székely 1818, Kállay 1829.
39 Zakariás 1992. 104–107.
40 Jakab 1888. 541–550.

The statutes of the Szekler villages were formulated and adopted by 'the whole of the village', so by the council composed of nobles and inhabitants belonging to the order of free men and serfs alike. The earliest statutes from Zălan and Suseni were adopted in 1581, but even older sources mention the 'conclusions' of the village.[41]

7.2. The Law Pertaining to Persons

The quality of Szekler meant that the person enjoyed a status – especially in the meaning of a subject of law – resulting from Szekler descent and benefited from all associated rights. These rights could be invoked by the Szeklers anywhere in the Kingdom of Hungary. According to *Tripartitum*, free Szeklers were considered to have the rights of noblemen. These rights extended to members of the three social classes of the Szeklers, that is, to the aristocrats (*primores*), the equestrian order (*primipili*), and the foot soldiers, also called *dorobanti*[42] (*pixidarii*).

The Szeklers managed to keep their status assimilated to the middle nobility of Hungary until the 16th century. The rulers of the Principality of Transylvania increasingly attempted to restrict the privileges of the Szeklers, which also meant subjecting them to the collection of a tax under the name of 'financial subsidy' (*subsidium*), set as an alternative to the in-kind tax constituted of giving an ox (the so-called *ökörsütés*, literally 'roasting an ox' but with the meaning of branding the ox with red-hot iron to be handed over to the heard of the king or of the prince). Elected King of Hungary John Sigismund Zápolya (1540–1571), also the first Prince of Transylvania, was the one who first engaged in open conflict with the Szeklers, and for this reason in 1562 the general revolt of the Szeklers broke out. Following the suppression of the uprising, the king, by the laws issued at Sighişoara, decreed that the Szeklers would become the king's serfs. Therefore, the common Szeklers (those not aristocrats, nor equestrians) were obliged to pay taxes.

Among the Transylvanian princes, the members of the Báthory dynasty[43] also tried to erode the ancient rights of the Szeklers. As a result, during the 1599 invasion by the voivode of Wallachia, Michael the Brave (1558–1601), the Szeklers in the seats of the Three Seats region, those of Ciuc, Gheorgheni, and Odorhei, allied themselves with the Romanian voivode (in a time when the Szeklers from the seats of Arieş and Mureş joined Andrew Báthory), due to which alliance the Voivode of Wallachia restored all privileges to them by the letter of privileges issued on 28 November 1599. Finally, following the defeat of Michael the Brave,

41 Imreh 1947, 1983, 1971, 1973, 1987.

42 The word 'dorobant' formed from the German 'trabant' in the meaning of foot soldier. See Szádeczky-Kardoss 1927. 149.

43 Stephen Báthory (1533–1586) was elected the King of Poland (1576–1586); Andrew Báthory (1563–1599), cardinal of Hungary, who was for a period of 7 months the Prince of Transylvania; Sigismund Báthory (1572–1613); Gabriel Báthory (1589–1613) was the last member of the Báthory dynasty to hold the throne of Transylvania.

Sigismund Báthory, the Prince of Transylvania, issued a letter of privilege at Deva on 31 December 1601 by which he returned the previous rights and freedoms of all Szeklers, whereafter the princes of Transylvania did not attempt to retract from these rights. On 16 February 1605, Stephen Bocskai confirmed the liberties conferred upon the Szeklers by Sigismund Báthory.[44]

Over time, more and more Szeklers were forced to degrade themselves to serfdom, perhaps due to the more secure living conditions but more rather because, unlike the rest of the inhabitants of Transylvania, Szekler men were still obliged to take up arms in case of invasion by a foreign enemy. During the Diet of Bistrița of 8 October 1622, Gabriel Bethlen revoked all conventions by which the Szeklers had given up their freedoms, subjecting themselves to voluntary servitude as serfs, concluded since the reign of Voivode Mihai. For this reason, the overwhelming majority of Szeklers remained free.[45] The *Diploma Leopoldinum*[46] issued in 1691 recognized the Szeklers' exemption from taxation – moreover, in this diploma, it stands recorded that the Szeklers are the most militant people of the globe –, but at the same time this act of legislation regulated the long-term status of Transylvania, within it that of the Szeklerland, and also the freedom of movement of its population. After the defeat suffered in 1711, which ended the war of independence under the banner of Francis II Rákóczi (1676–1735), the Szeklers, together with the entire Hungarian population of Transylvania, would soon feel the revenge of the Habsburgs in the form of targeted anti-Hungarian policies. Following the repeated reforms of the fiscal regime between 1754 and 1769, in spite of any tax exemptions still in force, the Szeklers were required to pay taxes set arbitrarily.[47] On 7 January 1764, imperial troops attacked the Szeklers from Siculeni, who were protesting against forced conscription. During the ensuing massacre, more than 200 people were killed, most of them unarmed.

7.3. The Law Pertaining to Immovable Property

From the perspective of land ownership, the Szeklers enjoyed a more favourable legal regime than the Hungarian nobles, the land domains of the Szeklers being considered not only holdings of the nobility but also holdings initially acquired by first occupation (*bona primaevae occupationis*)[48] (*Approbatae Constitutiones*, Part III, articles 76 and 7; the statutes of the Szeklers). From the vacant lots of communal land, any person could take possession of a lot at any time but only as long as it could be cultivated by his own effort. If a lot remained uncultivated for

44 Szádeczky-Kardoss 1927. 141.
45 Balogh 2005. 63; Balás 1984. 163.
46 Horváth 2009. 16.
47 Hermann 2014. 100.
48 Dósa 1861b. 233.

three years or was proved to have been leased, it became part of the commonly held lands again and could be taken possession of by other Szeklers.

Until 1562, the ruler could not donate domains on Szekler land to his acolytes, only Szekler noble title (or peerage). Even in cases of treason (*nota infidelitatis*) or lèse-majesté or upon the extinction of a family on the male lineage (*defectus seminis*; remaining without an heir), the right of property was returned to the community, not the Crown treasury. With the exception of the Seat of Arieş, the king's right to donate property was also introduced to Szeklerland, being later abolished in 1636 by George I Rákóczi.

7.4. The Law of Obligations

When transferring land ownership between Szeklers by *inter vivos* instruments, not only relatives but also neighbours had to be granted a right of first refusal, and immovables could be sold to third parties only if they did not exercise their right of pre-emption (*Approbatae Constitutiones*, Part III, articles 76 and 16). Land ownership could not be sold at a price higher than the real value of the lot. If this took place, the lot could be redeemed by the seller's relatives at a price set following valuation (*Approbatae Constitutiones*, Part III, articles 76 and 16).

7.5. Inheritance Law

The basis of the privileged status of the Szeklers was the legal status of first occupation of their lands, to which royal law was not applied at all until the middle of the 16th century. Therefore, the Szekler estate was acquired or inherited by relatives and neighbours as first occupants, even in case of conviction for infidelity or extinction of the male lineage of the family of the previous owner. The one who was the first to place a claim marker on a lot belonging to a vacant estate after the death of the former owner who left no heirs would inherit the lot in such situations.[49]

Inheritance was possible only for lineal descendants. Usually, the male descendant inherited, and in the absence of such descendants the inheritance would be transmitted to the female descendant. In lack of descendants, the lot was added to the lands destined for communal use by the Szeklers (as opposed to the feudal custom according to which it would have been transmitted to the Crown or the local lord).

Paragraph 20 of the Constitution of the National Assembly of the Szeklers from 1555 provided that the inheritance belonged to the sons, and the daughters were entitled to all that is necessary for marriage. In the absence of male heirs – unlike in Hungarian law –, the daughters inherited (paragraph 21). In case of infidelity,

49 Sándorfy 1941. 97, 61; Tüdős 2008. 205.

the estate would be passed on to the heirs, not to the Crown. 'The Szekler cannot lose his heritage in any way, even if he were to lose his head for treason; it is to be inherited by his relatives who reside in the same place.'[50] In case of extinction of the male lineage, the relatives of more distant degrees came to inherit, and not the Crown, as was the case in the Kingdom of Hungary.[51]

8. The Private Law of the Saxons

8.1. General Norms

The Saxons have always strived to create a unitary legal system applicable to the entire King's Land (*Fundus Regius*).[52] This trend was based on the *Diploma Andreanum*[53] (1224) of King Andrew II of Hungary (1176–1235) – which referred to the privileges granted by King Géza II of Hungary (1130–1162) –, considered since ancient times by the Saxons as 'their golden charter of freedom'.[54]

Werbőczy, on the other hand, makes no mention of the separate private law of the Saxons.

Originally a peripheral territory of the Kingdom of Hungary, the region inhabited by the Saxons became a determining factor in the framework of the Principality of Transylvania. The rapid development of the movement of goods also required the modernization of the original customary law applied to trade. This was the purpose of Thomas Altenberger's code,[55] drawn up primarily on the basis of the law books of Nuremberg, Magdeburg, and Iglau – the mayors of Sibiu would later take the oath of office at their official inauguration on this book written in ornate Gothic characters and richly illuminated with initials.[56]

The Altenberger Code was composed of three parts. The first part was formed by the Mirror of the Swabians (*Schwabenspiegel*),[57] which contained the Nuremberg law. The Saxons quickly developed their own customary law and drew up several statutes. Unfortunately, these have not been preserved.[58]

Johannes Honterus (1498–1549) was a humanist polymath of Transylvanian Saxon origin, a Lutheran reformer and organizer of church affairs, a natural scientist, pedagogue, book publisher, and lawyer. He wanted to modernize the

50 Lötsei Spielemberg 1837. 117.
51 Oláh 2008. 56; Szabó 1875. 592–622.
52 Reiszner 1744, Albrich 1817, Incze 1837.
53 Teleki 1857. 289–303.
54 Hanzó 1941. 20.
55 Lindner 1885. 67–384.
56 Lindner 1884. 161.
57 Blazovich–Schmidt 2011. See also: Kocher 2013; Blazovich 2009. 535–545; Blazovich 2011. 18–22; Blazovich 2006. 477–482.
58 Wenzel 1863. 99.

statutes of the Saxons based on Roman law. Honterus contributed two works of legal scholarship to the spread of humanistic legal science in his homeland. The one with the title *Sententiae ex libris Pandectarum iuris civilis decerptae*, of almost 100 pages,[59] published in 1539, was composed of quotations taken from Justinian's Digests. Complying with humanistic teaching methods, he wanted to make short and easy-to-understand legal adages available to law students and those who practised law and at the same time to facilitate a return to ancient sources. He dedicated the book to John Zápolya, King of Hungary and Voivode of Transylvania, by stating: 'Nothing is more sublime among the graces of God conferred upon mankind than justice, which in itself merges all virtues.'[60]

Honterus's other great work, bearing the title *Compendium iuris civilis in usum civitatum et sedium Saxonicarum*, was published in 1544. Neither in Hungary nor in Transylvania was there another work published before it that summarized the provisions of Roman law with comparable precision and depth. At the same time, Honterus succeeded in creating a code of law that unified the Saxons as a community. Following Luther's ideas and those of Philip Melanchthon, he argued against the canon law of the Catholic Church. According to his position, within a community, only political power is entitled to draft laws.

In the first book of the *Compendium*, Honterus disserted on the general principles and the sources of law and then proceeded to listing the stages of the civil trial. The second book is composed of his treatise on the rules governing marriage, adoption, guardianship, and inheritance. Then, without following any obvious logical schema, he lists the rules regarding use and usufruct, rural easements and *operis novi nuntiatio* (protest against the erection of a new building by a neighbour, which harms the interests of the protester). In the third book, Honterus examines the law of obligations. He defines the notion of pacts and contracts and then moves on to the presentation of different contracts: donation, loan for use and the loan for consumption, sale, lease, deposit, association, and mandate. Subsequently, he returns to the analysis of the institutions more widely belonging to the general part of the law of obligations such as contracts concluded by persons under the power of others, the surety, the pledge, payment, compensation, assignment of debt, loan, and undue payments. The first eleven chapters of the fourth book deal with different kinds of actions, discussing in the meantime also the rules regarding the ways of acquiring property and usufruct. The next eight chapters deal with criminal law.[61]

Through the work of Honterus, the influence of Roman law in the Saxon-inhabited regions grew, reaching almost full reception. The statute of the Saxons

59 http://real-r.mtak.hu/103/ (last accessed: 20.06.2019).
60 P. Szabó 1999. 25, 2001. 28–54.
61 Nagy 1962. 219; P. Szabó 1999. 29.

became the only legal norm in Transylvania in which *ius commune* appears as a (secondary) source of subsidiary law.[62]

In the interest of unifying judicial practice and taking into account the specifics of the Saxon nation, Thomas Bomelius (?–1592), councillor of the city of Sibiu and notary of the General Assembly of the Saxons,[63] prepared – in both German and Latin – a textbook of law consisting of 30 articles, titled *Statuta iurium municipialum civitatis Cibiniensium reliquarumque civitatum et universorum Saxonum Transilvaniae*. Although his work did not appear in printed form, its handwritten version was used in the course of jurisdiction.[64]

Bomelius's work was later used by Matthias Fronius (1522–1588), member of the Senate of the City of Braşov.[65] Son of patricians from Braşov, he studied at Wittenberg and Frankfurt am Oder, later becoming a lecturer in science in the school of Honterus in Braşov and finally notary in the city. Based on the request received from the Saxon University (a body of self-government and collective leadership of the Saxon community, not an educational institution), until 1570, he completed his work with the title *Statuta iurium municipalium Saxonum in Transilvania, Der Sachen inn Siebenbürgen. Statua, oder eygen Landrecht*, which followed the structure of Justinian's Institutions[66] and was confirmed as law by Stephen Báthory in February 1583, being published in the same year in both Latin and in German. The statute of the Saxons in Transylvania, composed of four parts and 31 titles, remained in force for almost three centuries, up until 1853, being repealed only due to the entry into force of the Austrian Civil Code.[67]

8.2. The Law Pertaining to Persons

Owing to the privileges granted to the Saxons, they could not become either serfs or nobles in principle. Thus, the wealthier Saxons were considered as belonging within the burgher estate, even if in reality only the Saxons who lived in fortified cities ('burg' in German) had this name within their community. The inhabitants of the villages are usually mentioned by historical sources as being peasants. However, as free smallholders, they had rights identical to those of the burgher inhabitants of the cities.

Saxon priests tried to prevent the spread of Hungarian customs among their parishioners, wearing hair and clothes in the Hungarian style being, for example, completely banned.[68]

62 Zlinszky 2007.
63 Gernot 2006. 137–141.
64 P. Szabó 1999. 38; Földesi 2010. 116.
65 Derzsi 2017. 43.
66 Bónis 1972. 59–140.
67 Hermann 2013. 43–44.
68 Pukánszky 1936. 462.

The Saxon University allowed the establishment of guilds, controlling their operations and setting the price of their products.[69]

8.3. The Law Pertaining to Immovable Property

The territories inhabited by the Saxons remained the property of the Holy Crown, for this reason bearing the name of the 'King's Land'. When the Saxons endeavoured to use the name 'Land of the Saxons' in their diplomas, Maria Theresa Queen of Austria (1717–1780) warned them by issuing the following instruction to her gubernatorial office: 'We note with sadness that the Saxon nation claims property and inheritance over Our Crown's Land, inhabited by it. Express to that people in our name our special displeasure with such audacity.'[70] The land therefore belonged to the Hungarian Crown, but the Saxon community possessed this territory collectively.

The land was cultivated jointly by the Saxon peasants; moreover, the commune established the type of crops that could be cultivated in a certain area in accordance with certain compulsory rules. Feudal power relations did not develop in this territory, the agrarian population of the villages rather accepting the authority of the cities. This form of legally regulated agriculture (*Flurzwang*) did not sufficiently encourage agricultural production, severely limiting the free initiative of the owner, instead strengthening the cohesion of the Saxons, who were thus not divided into mutually hostile social strata.

8.4. The Law of Obligations

In the territories inhabited by the Saxons, Werbőczy's *Tripartitum* was not used, but in the sale and purchase of land relatives and neighbours were still considered to benefit from a right of pre-emption. They had to be granted priority at the purchase of land (*Saxon Statute*, Book III, Article 6, paragraph 7).

At the sale and purchase of immovables, strict conditions were set: 1° the seller and the buyer had to indicate by contract the land sold and the sale price established by the parties, 2° the contract for sale had to be published three times at the place where the land sold was located, 3° then followed the Almeschtrinken (drinking to the blessing of the contracting parties) and induction into possession in the presence of neighbours (*immissio*, *statutio*). At this point, it was still possible to oppose the sale. Those who were not announced of the sale still had the opportunity to claim the right to pre-emption within one year (*Saxon Statute*, Book III, Article 6, paragraphs 5–8).

69 Hermann 2013. 43–44.
70 Orbán 1870. 15.

8.5. Inheritance Law

As within the matrimonial regime of community property used by the Saxons a share of 2/3 of the common property belonged to the husband and a share of 1/3 to the wife, this proportion was used to liquidate the community property also in the field of inheritance law. In matters of legal inheritance, in the case of descendants as heirs, their sex and lineage did not have any significance, each descendant of equal degree having identical rights of succession. Customary law was applied for centuries in the matter of sharing (partitioning) of the estate, the house returning into the property of the youngest son subsequent to partition. If there were no male descendants, then the youngest daughter inherited the house, with the obligation of compensation to the other coheirs for their shares of inheritance in it. The lands outside the villages and the pasture lands were divided proportionally between the heirs, but in the case of lands under the administration of towns and cities the youngest child was usually excluded because s/he would inherit the house.

During this period, Saxon law was characterized by the specific institution – then scarcely known in foreign legislation – of the legal reserve of certain heirs: the legal share of the descendants' inheritance could not be infringed upon by testamentary dispositions, this quota being composed of 2/3 of the estate left by *de cuius*. Saxons made no difference between the property inherited from an ancestor or acquired during the life of *de cuius*. As a consequence, they did not limit the right of *de cuius* to dispose of either category of property by will. In the absence of heirs (in case of vacant inheritance), the property right would be inherited by the community. Forests and pastures were always jointly utilized by the community.[71]

9. The Private Law of the Romanians According to Romanian Legal Literature

9.1. Family Law

Society in the Middle Ages and at the beginning of the Modern Age was built on a series of legal relationships based on the family. Thus, family relations of kinship (natural and civil, resulting from adoption and taking into the family as a brother, as well as those created by marriage) formed the basis of social interaction in those times. According to the requirements of the time, the system of organizing kinship relations was constituted by patrilineality in Transylvania too. The status of the descendant born out of wedlock was inferior to that of the

71 Wenzel 1863. 366.

one born of marriage. In order to protect orphans and widows, the institutions of guardianship and curatorship played a significant role, being thoroughly regulated and often enforced – even in the absence of a Romanian term specific to these in this period – also among the population of Romanians of Transylvania.[72]

In order to create civil kinship relations, the Transylvanian legal system knew the institution of 'taking as a son' (adoption) also among Romanians. However, 'taking as a brother' or 'taking as a sister' (*adelphopoiesis*, *adelphopoiia*), thereby creating civil kinship of brotherhood between the parties (including in the form of the brotherhood by the cross – as a result of a religious ceremony –, known also in Moldova and Wallachia, and in the form of estate brotherhood – joint cultivation of the estate – in Wallachia), were also practised. While adoption had as its main purpose the transmission of title and fortune to the adoptee, *adelphopoiesis* (*adelphopoiia*) was meant to increase the sentiment of solidarity between brothers or sisters, especially by conferring mutual inheritance rights on the parties and by allowing the brother to obtain rights over communal property, thereby eluding any rules that would have excluded this possibility.[73] In addition to attracting the extension of parental power over the legitimized descendant, legitimation of the child born out of wedlock (through subsequent marriage with the mother, by the rescript issued by the prince or by mercy of the Pope) conferred on him the rights of a descendant from legally concluded marriage by virtue of birth.[74]

The foundation of the family was marriage, preceded by the formality of engagement. Regarding this institution, the resolutions of the Council of Trent (1545–1563) took effect in Transylvania including among the faithful of the Christian Orthodox denomination. Requirements for the validity of marriage manifested by the precondition of mutual consent expressed in solemn form before the Church (before three members of the clergy in the case of the Christian Orthodox rite) and the requirement to utter the vow were meant to ensure the legality and publicity of this institution.[75] Impediments to marriage (old age, kinship and affinity to varying degrees, coercion, error, monastic vows, difference of religion, bigamy) remained governed by canon law, complemented by the requirements of publicity imposed by the Lateran Council (1215).

Giving a dowry was an essential element of marriage and had certain peculiarities. Among Romanians, both customs and written law regulated this institution. Such a custom worth mentioning here is that in certain parts of Transylvania it was usual not to give land as dowry but instead movable property, according to the provisions of old Romanian customary law (*iure Valache*

72 Hanga–Marcu 1980. 491–492.
73 Hanga–Marcu 1980. 502–503.
74 Hanga–Marcu 1980. 503–504, 513.
75 Hanga–Marcu 1980. 507.

requirente). In the written law, wedding gifts, paraphernalia (*res parafernales*) had a special property regime: it was not possible to take them back by those who had provided the dowry, and the right of disposal over these goods was governed by the rules pertaining to property jointly held by the owners (in this case, the spouses). The literature states that the *douaire* (*dotalitium*) was also practised – in this case, according to Hungarian law.[76]

During the period under review, the family was specifically governed by multiple regimes of subordination: of the wife to the husband and of the whole family to the head of the family (paternal power).[77]

Unlike in the extra-Carpathian regions, where both customary law and written law allowed the divorce in certain situations (in the latter case by sending a letter of separation), in Transylvania, divorce was prohibited under the regime of Catholic canon law, being allowed only after the Reform and only for members of Protestant denominations. Using the peculiarity of Transylvania in terms of many different legal norms applicable to the institution of divorce at the same time (Protestant denominations enjoying different regulations both among themselves and towards Catholics), situations were known under the name of 'Transylvanian marriage', in which members of the Austrian aristocracy converted to Unitarianism in order to marry according to the canon law of the Unitarian Church, thereby reserving themselves the possibility of divorce, after which they re-converted to Catholicism.[78]

9.2. The Law of Obligations

The development of the law of obligations is not fully compatible with the stage of complexity of economic exchange during the Middle Ages and the beginning of the Modern Age. In the Transylvanian historical space, this branch of law experienced a stagnation during the period of 'natural economy',[79] in which trade relations were largely limited to the division of wealth and noble titles by the Crown and after 1540 by the Prince. Among the contracts regarding property law, donation was the fundamental legal operation of the feudal economy, which concerned the donation of both movables of a lesser value and of immovables of considerable value. Donations could be grouped into two categories: those performed by subjects of private law and those granted by the king – royal gifts – or prince – princely gifts. The crown was considered to possess eminent domain (*dominium eminens*) over all land in the country, so that even Werbőczy considered that all immovable property come from donations granted by the

76 Hanga–Marcu 1980. 510–511, 531.
77 Hanga–Marcu 1980. 512.
78 Hanga–Marcu 1980. 515, 517.
79 Hanga–Marcu 1980. 560.

Crown (also regarding a small number of Romanians in Transylvania). The deed of donation sometimes included severe limitations in what concerns the right of disposal over immovable property. Among the population of Romanians in Transylvania, of more modest material means than the inhabitants of the extra-Carpathian regions, donations of movable and immovable property to the church were of lesser importance. The donations were made mostly between individuals; the institution of accounting for donations as an advance of the inheritance of the donee thereby reducing the share of the donee upon partition of the estate was known as well as the possibility of exempting the donee from such treatment.[80]

> In feudal Transylvania, the sale and purchase contract was the most important and most frequently used of contracts between members of the noble class, between townspeople, and among the peasants alike. By the former, in order to distinguish it from the pledge, which was considered a temporary sale, it was called an eternal contract (*perennalis fassio*).[81]

The sale of real estate was strongly formalized, the conclusion of a contract in writing being necessary before the so-called authentic places (places of attestation). In the case of the sale of donated property, it took place by the permission contained in the deed of donation or with the consent of the donor (the prince, the Crown), and the property could only be alienated after justification of the reason provided that the alienation operation was rational from an economic point of view. In terms of participation in acts of sale and purchase, the Romanian nobility in Transylvania enjoyed the rights conferred on the nobility of other nations.[82]

The free peasants living in the 'King's Land' had the right to alienate their estates, which was prohibited, however, in the case of serfs who had no right of disposition over their respective lots.[83]

The economic circulation of property between the subjects of private law was based largely on exchange (barter) agreements, which were prevalent in the case of both movable and immovable property (barters having as their objects serfs, i.e. human beings, are also documented).

Tripartitum, when regulating exchange, provides the implicit guarantee against eviction,[84] this rule indicating that, in all likelihood, there were situations of legal uncertainty in which the co-permutants were evicted from the possession of the property thus acquired. Fraudulent or simulated exchanges could be revoked by means of judicial proceedings.[85]

80 Hanga–Marcu 1980. 561–562.
81 Hanga–Marcu 1980. 568.
82 Hanga–Marcu 1980. 568–569.
83 Hanga–Marcu 1980. 569.
84 Hanga–Marcu 1980. 578–580.
85 Hanga–Marcu 1980. 562.

Regulated in Transylvania as early as the 11th century, the loan underwent a significant development during the Middle Ages and the Early Modern Age. Initially conditioned by the establishment of a guarantee (the pledge) over the property of the debtor, by the 13th century, this guarantee was transformed from a condition of validity of the loan agreement to a credit insurance method. Interest on loans had been allowed since the time of King Béla IV of Hungary (1206–1270), some limitations to its amount being introduced later on.[86]

The lease (*locatio-conductio*) was less frequently used in Transylvania in the time period examined, both in the form of leasing goods and the lease of services (labour), the latter contract usually taking the form of an enterprise contract (*locatio operis faciendi*) for specialized works (e.g. erecting stone buildings). The lease in its various forms (of land, the fiscal lease regarding rights to collect taxes and customs duties, of allodial property as, for example, pubs, inns, fairs, mines) was practised in Transylvania, there being sufficient documentary evidence for the attestation of the existence of numerous such operations, which were regulated according to the specific area in which they were conducted.[87] As a way of formally demonstrating the birth of the agreement by consenting wills of the parties, the Almeschtrinken (in the case of property transfers having an immovable object) as well as the custom of the handshake (using the right hand) were practised in Transylvania among Romanians as well.[88]

Obligations born were most often secured by a pledge, which took the form of handing a movable or an immovable property item to the creditor. Regardless of the material object used for the constitution of collateral, the pledge usually involved the dispossession of the guarantor of the object intended for the guarantee during the existence of the debt.[89] Thus, even immovable property was handed over to the creditors to be used for the duration of the existence of the obligation, resulting in a pledge.

10. Conclusions

As we have seen in the period examined, Transylvanian private law gradually diverged from that of the Kingdom of Hungary, and modernizing tendencies manifested themselves. These built in part on the result of earlier efforts by Werbőczy, *Tripartitum* being applied, but also complemented earlier norms by new sources of codified legislation.

86 Hanga–Marcu 1980. 564.
87 Hanga–Marcu 1980. 570.
88 Hanga–Marcu 1980. 576–577.
89 Hanga–Marcu 1980. 578.

Therefore, this region followed the European trend towards the compilation and consolidation of legal norms prevalent at the time. A convergence to the norms of the Habsburg Monarchy may also be detected once domination of this entity was extended to Transylvania in the latter half of the 17th century.

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*** *Approbatae constitutiones regni Transylvaniae et partium Hungariae eidem annexarum, ex articulis ab anno millesimo quingentesimo quadragesimo ad praesentem huncusque millesimum sexcentesimum quinquagesimum tertium conclusae, compilatae; ac primum quidem per dominos consiliarios revisae, tandemque in generali dominorum regnicolarum, ex edicto... principis... Georgii Rakoci... in civitatem Albam Juliam ad diem decimumquintum mensis Januarii anni praesentis congregatorum conventu publice relectae, intermixtis etiam constitutionibus sub eadem diaeta editis* Varadini, apud Abrahamum Kertesz Szenciensem, MDCLIII.

*** *Compilatae constitutiones Regni Transylvaniae et Partium Hungariae eidem annexarum. Ex articulis ab anno millesimo sexcentesimo quinquagesimo quarto, ad praesentem huncusque millesimum sexcentesimum sexagesimum nonum conclusis excerptae*. Claudiopoli, apud Michaelem Szentyel Veresegyhazi, MDCLXXI.

*** *Verböczi István törvény könyvének compendiuma, melly közönséges magyar-versekre formáltatván iratott, és ki-adatott Homord Sz. Pali N. Ferencz által*. 1699. Kolozsvár.

*** http://real-r.mtak.hu/103/ (last accessed: 20.06 2019).