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In Sedes Iudiciaria
On the feminine presence before counties' courts in the Banat
(the 14th century – first half of the 15th century)

The medieval studies during the last decades often focused on non-traditional subjects, especially on women, children or other categories seen as marginal within the medieval society.¹ It is deeply true that the woman's role in the Middle Ages was decided by a series of patterns that a patriarchal society created and ordered, her social position and role within the family being rather the male ideal projected on her. There were three stereotypes the women's picture was projected through: little girls, wives and widows; each one of these hypostases containing a series of criteria the women went through from one position to another. In a public / private perspective, the historical research ever more agree today that women were taking part in public life more actively than it was seen for a long time; so it is not an accurate idea that only men were the exclusive actors in the relations with the outside world, while the woman lingered in the private and domestic sphere of existence.²

By approaching the female presence in front of the county seats in the Hungarian Kingdom, the present study aims to go on with the analysis of the woman's image in the society of medieval counties in the Banat (Arad, Caraș, Cenad, Timiș, and Torontal)³ in the 14th century and the first half of the 15th century.⁴ I might specify from the very beginning that a certain degree of relativity marks my approach as it almost entirely depends on the references of that time. My research could never be an exhaustive one, so I used a sample of documents I have taken for adequate to come to some relevant conclusions. 138 papers (69%, respectively) in 86 law suits, from the 200 documentary units I have turned to, fo-

¹ Mitchell, Linda: Women, Gender, Law, and Remembering Shona Kelly Wrey. *Historical Reflections / Réflexions Historiques*, 43. (2017) 1. p. 1.

² Menzinger, Sara: La donna medievale nella sfera pubblica: alcune riflessioni in tema di cittadinanza nel panorama degli studi storico-giuridici. In: La condizione giuridica delle donne nel medioevo. Ed.: Davide Miriam. Trieste, 2012. 119.; Solcan, Șarolta: Femeile din Moldova, Transilvania și Țara Românească în Evul Mediu. București, 2005. 6.

³ Petrovics István: Towns and central places in the Danube-Tisza/Tisa-Maros/Mureș region in the Middle Ages. *Banatica*, 26/II. (2016). 97.

⁴ Boldea, Ligia: In sedes judiciaria (I). Femei din Banatul medieval în fața scaunelor de judecată. Generalități. *Banatica*, 27. (2017).

cused on litigations with women taking part in, solved by the judiciary entities of that time. The preserved papers that came into my attention represent for the most part only various stages of the law suits (summons, investigations, adjournments, or verdicts and sentences, etc), so none of the cases I referred to had a complete documentation.

Absolutely, the noble women were in the cases I have analyzed those, who had access to the judiciary units when their rights were endangered or they were prosecuted. What was the reason of appearing before a judge is one of the first questions in the matter. Their privileged social status is the main way to find the answer, in connection with their right of lands possession, so to say because of their legal personality they needed to appear before the judge.⁵ It is also true that even in the medieval age they gave some attention to offer certain juridical protection to women in spite of their inferior position, because they were taken for less able to control their life or manage their goods.⁶ As a general rule, only the unmarried ladies or the widows had the right to come alone before a judge, the married ones being assisted by their husbands or some appointed representatives. However, the documents of the time show us a great diversity of cases that come with tinges in the law courts landscape in the Hungarian / Magyar Kingdom during the 14-15th centuries, as the human presence had to influence traditions and customs or judiciary rules and practices, and made them more flexible and adapted to the circumstances, as usually happens.

There were two great levels in the law system of the Hungarian Kingdom at that time: a central level where the royal Curia seats were running and the judiciary erudition, the written sources, and the advocates' activity substantiated the act of judging; a local level within county, chapterial, seigniorial or rural seats, where the act of judging relied on custom rights, common agreements and social practice.⁷ By analyzing the documents of those 86 acts of judging, it was a surprise to find out that the ratio between the law suits involving women in front of the royal Curia seats and those ones before the local seats (county and chapterial ones) was an unexpectedly balanced one, if taking into account that one of the involved sides was a nontraditional gender, partly marginalized in the medieval society. I do believe that a simple quantification of the assertion above might be conclusive:

Typology of law seats				
Central seats	38 law suits	44,1%	Local seats	48 law suits 55,8%

The present study aims to make the typology of some of the species which brought the noble women in the Banat before the county seats as claimants or denouncers. There were no spectacular cases, of certain seriousness; they were rather usual or daily ones, like familiar conflicts or conflicts between neighbouring estates. But they allow us to note an enough

⁵ Stephanus de Werbotz: *Decretum Latino-Hungaricum juris consuetudinarii incliti regni Hungariae et Transilvaniae (Tripartitum)*. P. I, tit. CXI. Leutschoviae, 1637. 207–208.

⁶ Kitonich de Kosztanicza, Joannes: *Directio Methodica Processus Judiciarii Juris Consuetudinarii inclity Regni Hungariae*. Cap. X, art. 26. Leutschoviae, 1650. 388–389.

⁷ Rady, Martyn: Judicial organisation and decision making in old Hungary. *Slavonic & East European Review*, 90. (2012) 3. p. 455.

important presence of women, widows especially,⁸ in the field of domanial ownership, with insolvable questions by mutual consent and so brought in front of the local judges.

As the historiography emphasized, the importance of the county judiciary courts increased with the reign of the Angevins in order to impede the noblemen's violent and authoritarian procedure that had become inhuman during the kingdom oligarchs' domination at balance of the 13th–14th centuries.⁹ From the very beginning, and different from the general counties assemblies with their large competences, those courts were the unique judiciary units in the counties and nor the deputies or noble judges could independently judge apart from them.¹⁰ The counties *sedria* composed of count (*comes, ispán*), deputies (*vicecomes, alispáns*) and noble judges (*judices nobilium, szolgabírák*) worked with the royal authorization even their competences were limited.¹¹ In the medieval Banat, the classic structure of those courts means one count, 1–2 deputies and 4 noble judges, but rarely, there were situations of good fellowship. In accordance with the tradition, those courts generally functioned in the counties centers, in Timișoara / *Temeswar* (Timiș County), *Haram* and Șemlacu Mare afterwards / *Mezeusomlyo* (Caraș County), and Arad/ *Orad* (Arad County), but also at Becicherec / *Becke*, *Novi Bečej* (Torontal County). There are doubtful data on the *sedria* location in front of which they organized the sessions at that time. Only in Caraș County we certainly know that the *sedria* at *Mezeusomlyo* used to gather nearby the church devoted to King Saint Stephen.¹²

Almost always the deputies lead those courts as reference and historiography show, even if according to the custom law, the count was in charge of county *sedria* leading, apart from other competences he had. There are no exceptions in the Banat county courts, in the cases I analyzed involving women before the seats, those courts consisted in deputies and noble judges in a large measure, and, in certain cases, assessors, those called *ex nobis in stilionares* (writing patterns), and other people from the county.¹³

From my research point of view, I might note that there were exceptions as usually, so to say certain circumstances, that make some species with female involving be judged for instance before the county general assembly, under the count leading. Such was the case of a manslaughter judged in November 1399¹⁴ by count Nicolas Csáki in the general assembly of Timiș and Caraș counties, *prope civitatem Themesvar celebrata*; through the agreement between the sides, they set a crime perpetrated 12 years before by John of Oszlar against Jacob of Szentgyörgy. Nicolas the *Literatus* of Szentgyörgy, son of the victim was the

⁸ Szende Katalin: Craftsmen's Widows in Late Medieval Sopron. In: *Women in Towns. The Social Position of Urban Women in a Historical Context*. Eds.: Hietala, M., Nilsson, L. Stockholm–Helsinki, 1999. 13.

⁹ D'Eszlary, Charles: *Histoire des institutions publiques hongroises II*. Paris, 1963. 244.; Szende Katalin: Continuity and change in the urban network of Hungary in the early Angevin period. *Banatica*, 26/II (2016). 65–66.

¹⁰ D'Eszlary, Charles: *Histoire op. cit.* 233.

¹¹ Engel Pál: *Regatul Sfântului Ștefan. Istoria Ungariei medievale 895-1526*. Eds.: Rusu, A. A., Drăgan, I. Cluj-Napoca, 2006. 247.

¹² *Iuxtam ecclesiam beati Stephani regis*. Magyar Nemzeti Levéltár Országos Levéltára P 1732, Fekete Nagy Antal: A Temesi bánság oklevéltára (manuscript). Box 1, fol. 182.

¹³ Szaszko Elek: Behind the archontology of Krassó county (remarks on the personnel and the operation of the county authorities in Krassó). *Banatica*, 26/II (2016). 164–166.

¹⁴ Bárány Ágoston: *Temes vármegye emléke. Oklevelek*. Nagy-Becskereken, 1848. Annexe, 41.

claimant who also represented his sister Caterina, Anton of Iwand's wife. According to the agreement before more noblemen, the accused was convicted to give the victim's children 60 marks in dinars. A year later, not very surprising, the litigation was taken again in Timiș County *sedria*,¹⁵ with the former accused John of Oszlar as a claimant who accuses Jacob of Szentgyörgy's children (Nicolas, Martha and Caterina) to have unjustly asked him more money after he payed them the 440 forints for compensation of the murder he had committed. The court investigation rendered justice to the claimant.

I have also met some cases where the count involving in justice and not necessary within the *sedria*, was lightened by the reference I have used. The most eloquent time is that of Pipo Ozorai, who had his authority over the counties of Timiș, Arad, Caraș, and Cenad, Keve, Zarand, Csongrád and Fejér.¹⁶ He was a real presence in the area where he organized an exemplary defense for more than two decades (1404–1426), he also might be found as the last appealing entity in the case of some noble women in despair. Jacob Chep of Gherteniș' wife came before him on the 16th of May 1416¹⁷, and asked him to adjourn the case of her husband who had been accused for murdering a royal bound, up to her husband coming back from the battle. Jacob Chep's death during the campaign in Bosnia made the count taking charge of the widow and her daughters.¹⁸ Those were the circumstances that made the widow of Jacob Chep of Gherteniș, who was in a conflict with Maios *paruus* of Orozpati, for a damage consisting of 8 oxen, in June 1424,¹⁹ to ask her case be brought before count Pipo Ozorai, in Timișoara, as she was dissatisfied with the sentence of the county of Caraș court.

For the procedure, some documents present only in a general manner the existence of litigious questions brought in front of county courts, as summons,²⁰ adjournments²¹ or some species displacing from the county court to that of the royal Curia,²² without any details on the case itself. There are also certain acts that present the noble ladies before *sedria* in order to appoint their advocates who had to represent them in all the coming cases.²³

For the subject of judging, most of the cases were on patrimonial questions, litigates between relatives or joint proprietors. This objective limitation of the cases at the local courts

¹⁵ 9 November 1400: MNL, DL, Arkanum Adatbázis Kft., 42753.

¹⁶ Petrovics István: Néhány dél-dunántúli és dél-alföldi város kapcsolata Felső-Magyarországgal a középkorban. In: Bártfától Pozsonyig. Városok a 13–17. században. Társadalom- és művelődéstörténeti tanulmányok, 35. Ed.: Csukovits Enikő–Lengyel Tünde. Bp., 2005. 114.

¹⁷ DL 53 889.

¹⁸ Pesty Frigyes: Oklevelek. Temes vármegye és Temesvárváros történetéhez I. Ed.: Ortvy Tivadar. Pozsony, 1896. 535. (cited as: Ortvy, Temes)

¹⁹ Ibid. 582.

²⁰ 14 May 1443: Pesty Frigyes: Diplome privind istoria comitatului Timiș și a orașului Timișoara / Oklevelek. Temesvármegye és Temesvár város történetéhez II (1430–470). Eds.: Magina, L.–Magina, A. Cluj-Napoca, 2014. 132. (Pesty, Diplome)

²¹ 6 December (1438): Magina, Adrian: Câteva documente privind comitatul Torontal în prima jumătate a secolului al XV-lea. *Banatica*, 22. (2012). 71.

²² 26 January 1445: Iusztin Zoltán: Politică și administrație în Banatul medieval (sec. XIV-XV). Cluj-Napoca, 2018. 186.; 6 September 1446: *ibid.* 187.

²³ 22 July 1393: Ortvy, Temes op. cit. 231.; 3 March 1417: *ibid.* 531.; 7 March 1425: *ibid.* 590.; 16 March 1437: Pesty Frigyes: Krassó vármegye története, III. Budapest, 1882. 356. (cited as Pesty, Krassó); 6 April 1437: *ibid.*; 12 July 1449: Pesty Frigyes: Diplome op. cit. 202.

level might be explained also by that their members were in a large measure of the local nobles origin (especially the noble judges and the jurymen); so, they were those to better know the domanial local relations, interhuman relations and the history of various noble families. They obviously formed a more accessible milieu for the ladies there who preponderantly used to come *in persona* before the judges.

But I also might note that not only the patrimonial disputes were to come in front of the local *sedria*. I have met for instance cases of sides coming to the judges peacefully, but on the legal way, to solve their ownership rights, as estates sharing, partition or women's particular rights licensing. The case of *Chorna* estate, divided on the 29th of July 1393²⁴ by Timiș county court, is interesting for what happens later. The partition was delivered for relatives or only joint owners, namely for Briccio of Chorna and Stephen Feldes' widow (together with her son). Ten years after, the case unexpectedly changed after the death of Briccio, and especially of Lawrence of Chorna, the widow's son, when the estate escheated and was to be integrally reverted to the king's property. Nicholas Csáki count of Timiș, who was at that time in the Banat, at his estate at Ciacova (*Csák*), ordered on the 22nd of September 1402²⁵ to one of his familiars to protect Lawrence's mother's right of property by giving her half of her son estate and goods (*medietatem eciam rerum et bonorum ipsius condam Laurencij prefate domine matris sue assignando*), as the right of a co-proprietor (*coequalem medietatem porcionis possessionarie*).

Another patrimonial agreement was set before Caraș county *sedria*, on the 20th of May 1424²⁶ between the successors of the family of Chep of Gherteniș. On one side were Caterina (Jacob Chep's widow) and her daughters, and on the other side, Andrew Chep (the deceased Jacob's brother) and his five sons. It was a clear question: the male branch of the family represented by Andrew and his sons took the heritage of his brother died without an heir, and according to the custom law the widow took back her dowry and her wedding gifts; her daughters were given $\frac{1}{4}$ of possession shares of their father till the moment of their wedding. The agreement seemed to be done so far. Some later reference shows that was a great dispute later between Ana, one of Jacob's daughter (married to Emeric Himfi of Remetea), and the Cheps, for that filial quarter, in land shares, that the noble lady had to give back to her paternal family after her wedding. The battle in front of courts lasted for three years up to the central courts (in November 1426, for instance), Ana and Emeric Himfi came *in persona* before the king, the time he was in the Banat, at Lippa / Lipova²⁷ but unfortunately we do not know the event.

But the largest part of the preserved documentary data presents the different aspects of the patrimonial litigates with women involved in, a natural fact in a world of landowners. Abusive possession or use of lands was a frequent case in front of courts, especially if speaking about neighbours or co-proprietors. Nicholas of Kutrez and his daughter Anna seem to make such an abuse, and were accused by Dominic of Fevtelec, on the 2nd of June 1362,²⁸ in front of Caraș county court, to have used and stored up the utilities from $\frac{1}{3}$ of

²⁴ Ortway, Temes op. cit. 232.

²⁵ Ibid. 326.

²⁶ Pesty, Krassó op. cit. 305.

²⁷ Ortway, Temes op. cit. 599.; Engel Pál–Tóth Norbert C.: *Itineraria regum et reginarum Hungariae* (1382–1438). Bp., 2005. 68.

²⁸ Ibid. 102.

his estate. A case judged on the 17th of August 1374²⁹ before the Caraş county *sedria* surprises us: Andrew of Guluez accused his paternal grand-mother and aunts Clara and Caterina that *in propria potencia et ausu temeritate omnes fructus et terras arabiles, iugera campestria de sua porcione ispum prohibuissent ab utilitatibus porcionis eiusdem*. All along the reference I have used, the presence of grandparents or aunts was an extremely exceptional one. The more reduced average life expectancy at the time surely made the venerable old ladies retiring from the active and representative life of the family. But there were exceptions as we can note.

Another unhappy but frequent practice consisted, as a rule, of neighbour estates robberies and ravages. Such a kind of a complaint was registered on the 26th of May 1394³⁰, from the part of Nicholas Tormiz of Nadasd, Nicholas of Szer's widow's representative, in front of Arad county court, by accusing Gregory Magnus to have entered the widow's estate *Aruky*, together with two servants, where from they had taken by force two horses worth of 100 forints. The frequent Ottoman invasions in the north of the Danube generated, apart from ravages, social turbulences, and the felonies profited about. Ladislau Himfi's widow lodged a complaint against such persons, on the 23rd of April 1437³¹ before Timiş county *sedria*, accusing them of taking some of her beehives and bringing them to the village of *Vazylow* belonging to Jacob of Bârzava, and refusing to give them back to her.

But not always the noble women were the victims of such abuses; I have met certain cases of women who encouraged violence on estates, probably located in proximity. As it was out of the question that those women had taken part in such actions, the servants (*famulus, officials*) or their bounds were denounced. On the 27th of January 1421³² for instance, some guests' complaint (*quodam hospes*) in Zemun, was debated in Torontal county court; those ones accused a familiar of Jacob Chep's widow to have caused them a damage of 200 forints (new coins) on the estate of *Beldere*, with the widow's approval. The widow denied through the help of her representative, Benedict of Bochar her guilt, claiming that the familiar had left her before with her permission; the court in turn asked her to make her oath within 15 days. In 1421, there were dissensions within the Himfis, especially between Benedict Himfi's widow and her nephew Emeric Himfi. Emeric lodged a complaint with Timişoara court, on the 25th of February 1421³³ in the first phase, accusing his aunt of building a dam on the Bârzava River, near his mills, some months later, on the 20th of May 1421,³⁴ he denounced his aunt and nephews to use dishonestly the dam of a mill he had built on the Bârzava, at his expense.

There were also frequent cases of women who opposed in front of courts to different intrusions against their right of owning, generally coming from the part of their male relatives or of co-proprietors. Andrew of Guluez and his sisters Dorothea and Barbara, came with

²⁹ Documenta Romaniae Historica, C, Transilvania, XIV. Eds. Răduţiu, A., Pervain, V., Andea, S., Gross, L. Bucureşti, 2002. 476. (DRH-C)

³⁰ Ortway, Temes op. cit. 240.

³¹ Iusztin Zoltán: Politică şi administraţie op. cit. 184.

³² Magina, Adrian: Câteva documente privind comitatul Torontal op. cit. 65.

³³ DL 54 154.

³⁴ DL 54 162.

such a complaint in front of Caraş county court, on the 13th of September 1369,³⁵ against the possible holding of the estates of *Scenzlazo* and *Zedech* by Luca of Kunez. The noble lady Caterina, Nicholas of Zeudy's daughter, was more motivated before Arad county court, when asking through her representative Dominic of Muron's aid, not to let her half brother Gabriel sell a vineyard on Macra (*Makra*) Hell in the village of *Gyarak*, as that one was a legacy from her mother's part.³⁶ It was a more pressing case as Byanklino, *vicecamerario salium regalium* in Lipova, one of Pipo Ozorai's right hand men, was interested in buying the vineyard.³⁷ Similar were the problems that Jacob Chep's widow had to confront with in connection with her possessions in Torontal Countys she was twice represented in front of the county, during 1420, by noble Benedict of Bochar. Initially, on the 13th of May³⁸, in order to ask the court to interdict the so-called Stephen to keep his mounts on the isle of *Beldure*, a possession within the Cheps' estate. On the 6th of August³⁹ she asked the court to interdict her own son-in-law, Emeric (Himfi) to enter the familial estates *Bicach* and *Beodra* places where he seems to have committed certain misdeeds against some noble and common people. Some years later, her daughter Ana, Emeric Himfi's widow at that time went *in persona* before the *sedria* of Caraş County to ask that her co-proprietors be prohibited from occupying her possessions, harvesting or using the utilities there.⁴⁰

It is worth noticing the case of Emeric Himfi's widow who was accused on the 28th June 1435⁴¹ of not paying her stamp duty (*lucrum camere regalis*) for her possession *Zazinfalva*, even if one of her familiars had backed up contrarily; as the village judge hadn't come to make his oath, the case was proposed to the count of Timiş.

Another category of the cases consists of those ones with a social reason and impact. They derived from the relations between owners and their servants, from the owners' damaging through the servants' aid, as well as from sapping or supplying the work force through rape practiced on the estates. Not always the noble ladies were the subject of prejudice, as long as their quality of land owning made them also interested in attracting workers to their domains. It was the case of Michael of Duboz's widow, during 1405: firstly, on the 23th of June⁴², when she tried to get knez John from Vermeş at her estate, but the *sedria* of Timiş County decided that that one who had been accused of murder, couldn't leave Stephen of Remetea's estate till he was judged on the murder site. Next, on the 21 of July,⁴³ a new litigate between Stephen of Remetea and the widow came in front of the same court, the noble lady being accused to have brought by force some servants and those hadn't paid the poll tax. In turn on the 20th of July 1437⁴⁴, in front of Caraş county *sedria*, Ana,

³⁵ DRH-C, XIII. Eds. Dani, I.–Gündisch, K.–Pervain, V.–Răduţiu, A.–Rusu, A.–Andea, S. Bucureşti, 1994. 635.

³⁶ The request was registered on the 29th of April 1410. Ortway, Temes op. cit. 427.

³⁷ Mályusz Elemér: Zsigmondkori oklevéltár. II/2. Bp., 1958. 213.

³⁸ Magina, Adrian: Câteva documente privind comitatul Torontal op. cit. 63.

³⁹ DL 54 147.

⁴⁰ 4 October 1438: Pesty, Krassó op. cit. 366.

⁴¹ Magina, Livia: Câteva documente privind judele sătesc în Banat (secolele XIV-XV). *Banatica*, 19. (2009). p. 37.

⁴² Feneşan, Costin: Diplomatarium Banaticum, I. Cluj-Napoca, 2016. 69.

⁴³ Ortway, Temes op. cit. 356.

⁴⁴ Pesty, Krassó op. cit. 359.

Emeric Himfi's widow interdicted George, knez of Caraşova (*Crassoferu*) to move some of her bounds from *Maruskenez* possession.

There were also frequent cases of bounds rapping or robbing, the prejudice turning to the owner in both the cases, as he was regularly the denouncer. The familiars of George Himfi and of Jacob Chep's widow claimed such a rapping before the Torontal county court, on the 20th of February 1442;⁴⁵ they accused Ladislau Hagymassy of *Wahalom*'s servants to have raped not only some bounds but stole also 2 full chariots and 8 oxen. Ana, Emeric Himfi's widow claimed on the 5th of March 1435⁴⁶ in front of Caraş county *sedria* that noble Michael Chepi and his bounds pounced upon one of her estates to rape her bounds, and her servant was almost killed then.

My approach here has aimed to discuss few aspects concerning the presence of women in the medieval Banat before the counties courts. I have focused on the 14th century and on the first half of the 15th century for a very objective reason: after a long "silence" of the official documents during the earlier centuries, that was the historical period, that women, mainly the noble ones, came into documents, not in a spectacular way, but sufficiently to frame certain hypostases I believe can be reasonably extrapolated to the medieval society in whole. Their juridical status, their right to own lands and, by this, their juridical personality gave the noble women access to justice, but also created problems when joined issue with the men's traditional patrimonial right. I have had no intention to overbid the subject – at that time the females were subordinated to male preeminence. However, ignoring such a subject runs the risk of making it ridiculous, and by this, of lacking a reconstruction of a more realistic landscape of medieval courts in front of which the presence of women was not an accidental but rather a common one.

⁴⁵ DL 55 247.

⁴⁶ Pesty, Krassó op. cit. 348.