

JUDICIAL PROCEDURES IN TRIALS WITH FEMALE PARTICIPATION IN MEDIEVAL BANAT

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The present work aims to put an end to a series of studies I have dedicated to female implication in law courts in the medieval Banat counties during the age of the Angevins and Sigismund of Luxembourg.¹ I might reiterate that all my research is founded on 138 documentary units, belonging to 86 trials; I also might tell that only disjunctive papers were found in all those cases, not the integral brief generated by a trial. I approached the social status of the females' participations in trials, their part in (complainants or defendants), the way they appeared or were represented in front of the courts, or the costs the trials required. To the extent that the papers content allowed the research, I also analyzed the different cases the females were involved in, the economic, social, and juridical questions the trials demanded, how the women looked for or really solved them, or the way the women appealed to central or local courts to solve their problems. Many of the details generated by the cases specific treasures, in spite of the blanks limitations at the time in order to express exclusively a juridical issue, offered me the way to identify a series of interesting aspects of the problems the noble ladies were confronted with and are now allowable. I also have to underline that the content of the papers differ from a case to another in accordance with the preserved acts; so I can operate with detailed information in some cases or with minimal ones in other cases.

Some of the problems generated by a series of judiciary applications which

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¹ Ligia Boldea, "In sedes judiciaria (I). Femei din Banatul medieval în fața scaunelor de judecată. Generalități," *Banatica*, 27 (2017): 313–345; eadem, "In sedes judiciaria (II). Femei din Banatul medieval în fața scaunelor de judecată ale Curiei regale. Procese," *Banatica* 28 (2018): 387–418; eadem, "Femei din Banatul medieval în fața scaunelor de judecată comitatense și capitulare (1350–1450)," *Sargetia. Acta Musei Devensis* (S.N.) X (2019): 133–151.

influenced the progress of law and encroached occasionally on the judiciary approaches the noble ladies were involved in are taken into consideration in this last part of my research. I focused on what caused the length of some trials, the discomfort the reiterated adjournments created, the cases transferred to a central court from a local one, or on the deposition proceedings and the final – unfortunately, so few preserved nowadays – verdicts.

A trial length. From the very beginning I might say that I do not believe that we can really set the temporal limits within which a trial could be performed. Given the data we have now, it could be a risky and clearly uncompleted action. If we had, in respect to ideal conditions, the entire brief of a trial, from summoning before the judge (*litterae causales*) through *litterae introductoriae causae* to the final verdict in the court, pronounced at places of credentials through *litterae sententiales*, we would be probably able to set a certain typology of trials, from the short, simple ones to the complex, long-lasting ones. For the lack of any complete set of specific papers of a trial, it would be a presumptuous action to conclude on the basis of the few and aleatory preserved specific documents I have at hand now. Essentially, we might accept that any case is a particular one and all the facts that interfered with it during the trial, as well as the coming days unpredictability and the human life relativity stamped any trial length.

The so called “octaves” (*justitia octavalia*) had regular meetings to allow the presence of people in front of them. It means that the cases debating run for 2–3 weeks, beginning with the 8th day of a significant celebration (St. George, St. Jacob, the Holy Archangels Michael and Gabriel, and Feast of Epiphany, etc.). As there were set 8–10 terms a year, the courts had to work throughout the whole year. Only in the cases of a general war mobilization ordered by the king, they were suspended.² The largest part in the courts activity focused on the truth revealing both by checking up the papers and verifying the facts on site, and the oath-taking. And also, the central courts activity unfolded largely out of them, in counties, the places where the judicial investigations and the oath-taking developed, and the papers so resulting were sent after to the central court. For being regularly, the cases run from a session to another one up to the moment the new set of papers were finished.³

It is why I believe that the trial length in local courts (in counties or capitular ones) was a shorter one, as the cases were simpler (familial little

² Pál Engel, *Regatul Sfântului Ștefan. Istoria Ungariei medievale 895–1526*, A. A. Rusu, I. Drăgan, eds. (Cluj-Napoca: Mega, 2006), 219.

³ Martyn Rady, *Customary Law in Hungary. Courts, Texts, and the “Tripartitum”* (Oxford: University Press, 2015), 121.

misunderstandings frequently), distances to the places of judicial investigations were shorter, and so the trial length was also a short one. Entirely different were the trials in central courts, in Visegrád, Buda or anywhere the royal or palatine ways obliged them to move to, and so the involved people had to arrive to, as well as the adjournments or any other reasons usually lingered the trials from several months to several years.

I try only to point out a series of cases the length of which can be set precisely enough. I noticed that in some pressing cases with serious results on the litigants (notably, on the noble women who sued somebody at law), in spite of what we should believe, the sentence came rapidly, especially when legal reasons, namely proving papers, were presented. So, Charles Robert issued in 1338 a rapid sentence in the case of Anne (widow of Dimitrie of Gabya) and Clara, her daughter, in a litigate with the bishop of Strigoniu concerning a half of *Beez* possession and of the forest *Palaterde* in the county of Cenad.⁴ It is a sample of how the church and the central power understood to protect the noble women in precarious state after their husbands or fathers departing. In that case the debated possessions were given to the two women so that they wouldn't run out of their inheritance (*ne sine hereditate remanerent*), and Clara had the daughter's quarter and wedding gifts when she'd get married.

Another king, Sigismund of Luxembourg, issued a rapid sentence in 1404 in the favour of Anne, daughter of the departed nobleman Neagu of Reçaş, married to a common man, Stephen Twrwk. Disinherited by her father, Anne appealed to the supreme judiciary authority and sooner got her filial quarter consisting in shares of the family's domains.⁵

The litigate between Mark of Ikus (representing also Elizabeth, Caterina and Katcho, daughters of Michael of Puerzegh) and the four Romanians, Stansilav, Carapciu, Ladislau, and Nicolas for the possession of *Olykus* estate (Icuşul de Jos) run for about two years. The four former boyars from Wallachia, refugees in the Kingdom, have been given estates in the county of Timiș, the royal donation of *Feulykus* (Icuşul de Sus) coming in 1366. The two estates weren't rigorously separated following a legal sentence, so, a litigate occurred in 1368. The Romanian noblemen asked for the owning right on the *Olykus*, using that estate in order to annex it to their neighbouring property, while Mark and the noble ladies marked 8 Romanian villages in *Feulykus* and integrated them in their own estates. Two sets of papers were presented in court: a royal privilege

⁴ August 5, 1338: Magyar Nemzeti Levéltár Országos Levéltára, P 1732, the manuscript of Antal Fekete Nagy, *Temesi bánság oklevéltára*, 290 (hereafter Fekete Nagy, *Temesi bánság*).

⁵ Frigyes Pesty, *Oklevelek. Temes vármegye és Temesvárváros történetéhez*, vol. I, ed. Tivadar Ortvy (Pozsony, 1896), 337, no. 204 (hereafter Pesty, *Oklevelek*).

from 1288, according to which Mark proved that *Olykus*, a property of the family of Theodor of Veyteh, had been given as a filial quarter to some forerunners of his family; the other part produced the donation of Louis I to the Wallachian boyars, Zarna's sons, refugees in the Kingdom. None of those papers could present the territorial limits of the two estates unfortunately, so the judge of the royal Court decided in May 1368 that Arad Chapter should have set a real limitation; the central authority demanded that Posa of Szer's sons, the former *honor* owners of *Feulykus* be solicited as they knew the local situation.⁶ Two months after, Arad Chapter reported the king that they had rigorously actualized the domains, as the paper issued in July 1368 can demonstrate.⁷

The conflict between the families Dancs of Macedonia and Himfi of Remete also run for about two years; the two families asked for being regiving the dowry and wedding gifts of some of their forerunners. Being related by the end of the 14th century through a double marriage, the two families came in front of the court in summer of 1433; the ecclesiastic court worked under Albertus, archideacon of Timiș and episcopal vicar of Cenad bishoptry; the families weren't able to agree on the goods the two ladies, Caterina Himfi (married to Andrew Dancs of Macedonia), and Caterina Dancs (married to Stephen Himfi of Remete), were given at their weddings. It was so a virulent litigate that in July 1434, the archideacon was obliged to pronounce the ecclesiastic interdiction on Nicolas Dancs and his bonds of *Kwesdi* estate. That interdiction was abolished only in March 1435 following the agreement between the two families.⁸

In what concerns the more complex case of partition the Himfis' real estate between the male and the female branches (the last one represented by Helen, Nicolas Himfi's widow, and her daughters, Caterina and Margaret), related to villages and estates in the counties of Caraș and Timiș, three years run out from the royal letter (13th of June 1387)⁹ the parts were sued at law, till the royal sentence issued on the 11th of March 1390¹⁰, setting a judicious division of all the landed properties between the parts, on the basis of the documents sent by the

⁶ *Documenta Romaniae Historica*, C, Transilvania, XIII, I. Dani, K. Gündisch, V. Pervain, A. Răduțiu, A. Rusu, S. Andea, eds. (București, 1994), 483, no. 318 (hereafter *DRH-C*); Maria Holban, "Deposedări și judecări în Banat pe vremea Angevinilor și ilustrarea lor prin procesul Voya (1361–1378)," *Studii și materiale de istorie medie V* (1962): 107–109.

⁷ *DRH-C*, XIII, 527, no. 336; Livia Magina, "Gesture, orality and memory. Border oath in the 14th–15th centuries in Transylvania," in *Politics and society in the central and south-eastern Europe (13th–16th centuries)*, Zoltan Iusztin, ed. (Cluj-Napoca: Mega, 2019), 87–91.

⁸ Adrian Magina, "*Albertus Archidiaconus Themesiensis*. Între cele temporale și cele spirituale," *Analele Banatului*, Serie Nouă, Arheologie-Istorie XVI (2008): 157–167.

⁹ Pesty, *Oklevelek*, 145, nr. 96; Cosmin Popa-Gorjanu, *Medieval nobility in central Europe: the Himfi family* (Cluj-Napoca: Mega, 2019), 189–196.

¹⁰ Pesty, *Oklevelek*, 191, no. 118.

royal Court and the Palatine. In change, the relative contemporary litigation (September 29, 1387)¹¹ between Benedict Himfi's widow and her sister-in-law, Nicolas Himfi's widow, concerning the owning papers of the family in charge of Nicolas, lasted for six years about, the 3rd of November 1393 being the final date of the parts' appearance in front of the Palatine court in that case.¹²

Seven years were necessary to put an end to the litigate between the descendants of Ladislau of Omor¹³ (Bartholomew and Caterina) and a towny family from *Cassovia* (Košice, in Slovakia today), concerning the owning right on the estates of *Scederyes* and *Zenthandras* (Caraş County). Bartholomew of Omor opened the case in front of the court of Queen Mary, in 1383, but the final sentence was pronounced by Emeric Bebek, judge of the royal Court, only in 1390¹⁴, on the basis of the proving papers presented by the advocate of Caterina of Omor, Bartholomew's sister (that one had departed in the meantime); the properties, previously purchased by the claimants' father, remained in the property of the noble lady.

For seven years about also lengthened the litigation between Anne of Gherteniş (stood by her husband, Emeric Himfi) and her paternal relatives from the family of Chep of Gherteniş, induced by the abusive using of some lands of Anne's inheritance, after her father, Jacob Chep of Gherteniş death in 1415 during the military operations in Bosnia. The trial began probably in 1423, lengthened more years at the royal court, with more intermediary ascertainments and adjournments. I might suppose that it ended by 1430.¹⁵

Neither more nor less than 12 years had to elapse till the sentence in the trial of a case of homicide passed: the victim, Jacob of Szenthgyurgh, had been killed and set on fire in his own house, by John, son of Mayus of Oszlar. Only in 1399, Nicolas and his sisters Caterina and Matho, the victim's descendants, got justice (*satisfactionem et recompensam*) in the case of their father so cruelly assassinated, in front of the general nobiliary congregation of the counties of Timiş and Caraş.¹⁶

Adjournments. The frequent adjournments in running the trials caused the length of some of them. Regularly, one of the part in litigation (the defendants most probably) brought about those adjournments in order to find better

¹¹ Frigyes Pesty, *Krassó vármegye története*, vol. III (Budapest, 1882), 171, no. 114 (hereafter Pesty, *Krassó*).

¹² Fekete Nagy, *Temesi bánság*, 1435.

¹³ Son of the former royal notary at the Court of Charles Robert, Gáll of Omor.

¹⁴ Pesty, *Krassó*, 196, no. 128.

¹⁵ Ligia Boldea, "Două destine feminine din Banatul medieval: Caterina și Ana Chep de Gherteniş," *Banatica* 32 (2022): 39–41.

¹⁶ Ágoston Bárány, *Temes vármegye emléke. Oklevelek* (Becicherecul Mare, 1848), Annex, 41.

appealing procedures or conclusive papers to influence the final sentence. That was the reason of some cases lasting for years, as Werböczi himself noted: “some trials could have been prolonged longer than a human life”.¹⁷

But there were also many objective reasons for such adjournments, or subjective ones belonging to the procedural strategies the advocates probably set to optimizing the way to gain their judiciary battle.

According to the judiciary procedures I have analyzed, two were the most frequent objective reasons in causing adjournments: death and leaving for war. Death of someone involved in a trial automatically postponed the verdict till another one substituted the dead person and went on with the trial, or the trial quashed with the definitive disappearance of one of the parties in the trial. For instance, in 1381, in front of the royal court, Ladislau of Omor’s widow sued at law Nicolas, ban Benedict Himfi’s son, for a debt of 10 marks.¹⁸ Nicolas Himfi’s early death didn’t repeal the debt; that one was attributed to his surviving mother and the claimant went to law against that one in front of queen Mary’s court, in February 1385.¹⁹ The verdict claimed the debtor to pay back the debt up to St. George’s Day; if not, the debt would have been doubled.

The family of Omor simultaneously had to face many other problems: Bartholomew, the unique son of Ladislau of Omor, was involved in a law suit, in 1383, against two towny men from Caşovia (Hanko and his son, Michael) who unfairly had occupied two possessions in Caraş County (*Scederyes* and *Zenthandras*); queen Mary required the trial would be in front of the royal Court. Death of Bartholomew and Hanko made the trial last with more adjournments and the defendant was consecutively obliged to pay 3, 9, and 21 marks for default. Caterina, Bartholomew’s sister, married to John of Berezkou (Beregsáu) the time being, resumed the trial and sent the advocate in front of the royal Court, with three papers of privileges, from 1329, 1362, and 1379, proving so that her grandfather and her father (Gáll and Ladislau of Omor) had bought the named domains. The defendant (Michael) couldn’t present any proving paper and so the court passed in favor of Caterina to keep the familial properies, a sentence that the defendant never contested.²⁰

In the case of a litigate between the widow of Peter Himfi and Stephen of

¹⁷ Martinus Georgius Kovachich, ed., *Formulae solennes styli in cancellaria, curiaque regum, foris minoribus, ac locis credibilibus, authenticisque regni Hungariae olim usitati* (Pesta, 1799), 158 – it tells about a case that dragged on for more than 60 years in Slavonia, over a property dispute; M. Rady, “Justice delayed? Litigation and dispute settlement in fifteenth-century Hungary,” *Central Europe* 2, no. 1 (2004): 3–5.

¹⁸ Fekete Nagy, *Temesi bánság*, 1196.

¹⁹ Fekete Nagy, *Temesi bánság*, 1235.

²⁰ Pesty, *Krassó*, 196, no. 128.

Gherteniş, in 1380, the adjournment was a consequence of the judge death. The trial in front of the court of the Young Elizabeth was postponed from St. George to Archangel Michael redletter day.²¹ But the case was once again adjourned by king Louis I, following the death of Jacob, judge of the royal Court. Prorogation was set for the next year (1381) redletter day of St. George, in charge of the next judge of the royal Curia.²²

Leaving for war of the parties might caused many adjournments as the military conflicts were frequently present in the external politics of the Magyar mediaval kingdom. Being asked to join the royal army, for the obligations they got by nobilizing, made the noblemen's ladies to wait for their coming back (if coming) to finalize former litigations. Stephen Himfi of Remete benefited in February 1392²³ of such an adjournment for another late period as he was in the king's service: *in nostris specialibus servitiis in confinibus regni Rascie contra Turkos nostri et regni nostri emulos necessariis existat occupatus*. Two adjournments at least are known so in the litigations of Stephen Himfi with his collateral relationship, Benedict Himfi's widow and her grandchildren.²⁴ Another case involved Jacob Chep of Gherteniş accused for murdering a royal serf in unknown circumstances. He was sent in front of the court of Timiş county. But for taking part into the royal campaign in Bosnia, in 1415, Pipo of Ozora, count of Timiş, wrote a letter to adjourn the murder trial answering so to Jacob's wife, Caterina's request.²⁵ The nobleman died unfortunately during the battle and I might suppose that the trial stopped without being transferred on his widow, the more so as it was about a royal serf (depending on the central authority), not about one from a nobiliary estate. It is notable that once coming back from Bosnia in Timişoara (1417), the famous count let the county authorities know that he had taken under his wing the deceased's widow and daughter²⁶; hardly to imagine that the trial could have continued under those circumstances.

Caterina, Peter of Gyond's widow, probably waited longer than two years to get into possession of the filial quarter from her parents's fortune, because Stanislav of Recaş (who had to pay the debt back) was solicited by Pipo of Ozora to take part into the campaign against the Hussites (*contra sceleratissimos*

²¹ DRH-C, vol. XV, S. Andea, L. Gross, V. Pervain, eds. (Bucureşti, 2006), 753, no. 480.

²² Pesty, *Oklevelek*, 139, no. 88.

²³ Fekete Nagy, *Temesi bánság*, 1409.

²⁴ December 3, 1393: Fekete Nagy, *Temesi bánság*, 1440; May 31, 1394: Pesty, *Oklevelek*, 240, no. 139.

²⁵ Magyar Nemzeti Levéltár Országos Levéltára, Diplomatikai levéltár, Arkanum Adatbázis Kft., 53889 (hereafter DL).

²⁶ Pesty, *Oklevelek*, 535, no. 336; Boldea, "Două destine feminine," 29–30.

Huszitas) in 1420–1421, joining the royal army. Thus, only in 1422 bishop Dose of Cenad and other members of the Chapter court regulated that matter of inheritance for Caterina and her children, Ladislau and Elizabeth.²⁷ It is interesting to note that from the very beginning, the filial quarter was converted from money into enough large number of cattle and Stanislav, being in battle, couldn't give them to Caterina, as the priest of Recaș, his representative, would confess. Once coming back from the battle, Stanislav agreeded a new solution, namely to give her 6 new forints besides the cattle, for the trial long lasting.

Another case of interest was the litigate between the couple of Anne of Ghertenîș and Emeric Himfi with Anne's relatives, since 1423, for abusive using of Anne's shares she had gotten following a familial agreement. Initially, Anne and Emeric went together to the court, even to Buda or Lipova, where the royal Curia met in 1426²⁸; in 1428, Emeric was solicited by Sigismund of Luxembourg to take part in the great anti-Ottoman campaign along the Danube front²⁹, so Anne was obliged to continue alone the trial, assisted only by her advocates. In the absence of the final sentence, I cannot note the length of the case, but only the last adjournment, in February 1430.³⁰

Lady Anych, John of Feyereghaz' wife, is found in a similar situation during 1446, together with Valentin of Feyereghaz and others of her kinsfolk, in a litigation with Stephen and John of Szer accused for abusive using of some familial properties. The trial came to Palatine court but was repetitively adjourned, John Hunyad himself asking the Palatine, the royal Curia judge and other courts to adjourn all the trials of Stephen of Szer as that one joined his army, against the enemies of the kingdom.³¹

I might assess that adjournments caused by subjective reasons were much more numerous under the circumstances of certain real battles in courts, both for finding the truth out or evading unfavorable final sentences. We can imagine that not any case was set on irrefutable evidence; that the testimonies could have been unconcludent; the investigation on site wasn't a solid one or did not have the expected results for having been confronted with many impediments, or that the advocates' capability was a dissapointing one. Finally, one or the other

²⁷ Pesty, *Oklevelek*, 574, no. 370.

²⁸ Pesty, *Oklevelek*, 596, 599, no. 390, 392.

²⁹ Costin Feneșan, *Cavalerii teutoni în Banatul Severinului și la Dunărea de Jos în prima jumătate a secolului al XV-lea. Documente și extrase* (Timișoara: Cosmopolitan Art, 2015), 135–136; DL 54614.

³⁰ DL 54694.

³¹ Frigyes Pesty, *Diplome privind istoria comitatului Timiș și a orașului Timișoara/ Oklevelek. Temesvármegye és Temesvár város történetéhez*, vol. II (1430–1470), L. Magina, A. Magina, eds. (Cluj-Napoca: Mega, 2014), 159, 167, 169, 170, 172, no. 125, 134, 136, 137, 140.

involved parts decided frequently not to go to court within the time limit. So, there were lots of reasons that disturbed the law working and produced repetitive adjournments.

The most frequent situation was perhaps that of failure to appear within the limit time set by the court, the accused's option regulary, in order to obtain favorable proofs or to avoid their sentencing. Dimitrie Chulak's widow was in such a situation in 1364, in a law suit against the noblemen of the family of Posa of Szer, concerning the right of possession on *Tofaya* estate, Arad county. For being absent at the time set by Stephen Bebek, judge of royal Curia, that one sent her a new letter menacing her with sentencing if she would't be present at a future convening.³² The same was the case of Elizabeth, Philip of Buldre's daughter, who carried on a law suit with Andrew Chep of Gherteniş for certain owning questions in Torontal county. After investigations in three courts of the county and a fine of 9 marks she had been given, the Chapter of Titel issued in May 30, 1381, at the request of the judge of the royal Curia, Nicolas Szécsi, an ultimatum letter to ask her to comply with previous (unspecified) decisions; if not she would receive an adverse irrevocable verdict.³³

Nicolas Himfi's wife and daughters were also in a critical condition in the law suit with the heirs of the family, both to get back the dawry, the marriage gifts and the filial quarter (between 1387–1390)³⁴, and for a series of familial papers concerning the property her brother had committed to the trust of Nicolas the whidow of whom refused to give back to the heirs, namely the legal heirs (between 1387 and 1393).³⁵ Both the trials registered many adjournments either for the absence of the women in front of the court or of Stephen of Remete, involved in that trial, but who went to war meanwhile.

Other adjournments were caused by the owning papers that the courts demanded so that the right of property should have been precisely set. Caterina, Ladislau of Omor's daughter, waited for two years (since 1388 till 1390) the sentence of the judge of the royal Curia in her dispute with a named Michael, a towny man from Caşovia, as that one prolonged his obligation to present in front of the court the papers to prove his self-styled right of property on some estates in Caraş County, former properties of Caterina's family. The verdict favourized finally Caterina as her advocate brought clear papers on her right of property, the opponent being sentenced to pay some fines for absence and lost of the trial.³⁶ A similar adjournment was set by the dean of Cenad bishopric in

³² Fekete Nagy, *Temesi bánság*, 883.

³³ Fekete Nagy, *Temesi bánság*, 568.

³⁴ Boldea, "In sedes judiciaria (II)," 398–399, 402.

³⁵ *Ibid.*, 413.

³⁶ Pesty, *Krassó*, 196, no. 128.

the spring time of 1403, in the litigation between some ladies and Andrew of Thempes, on the right of property on half of *Feyereghaz* estate (Arad County).³⁷

Litigations concerning induction also generated adjournments for the impediments produced by one of the involved parts. For instance, Farkas of Teyed's widow opposed in June 1385, by the medium of her advocate, Thomas of Kwbia, to the Palatine's representative that magister Stephen, son of Posa of Szer, should take as collateral half of *Teyed* possession, a former possession of her departed husband, as more as that one was contiguous toward west with other magister's properties; she presumed that that one tried to extend his ownership over a large part of the estate to the detriment of the widow.³⁸ The case had to be re-debated in 15 days in front of the Palatine. Clara, Stephen Sartoris daughter, also carried an interesting and resolute juridical battle at the end of 1390 when, following a royal command, Cenad Chaptre had to institute her on *Dyakowich* estate, Caraş County, a property her father had been given by king Louis I.³⁹ That investiture brought certain local people's opposition three times, but those ones refused to go to court, probably for lacking the necessary proving papers. It is notable that lady Clara presented nor less than 6 diplomas of privileges issued by the royal authorities and by Cenad, Arad and Veszprém Chapters, and so she had taken possession following the royal disposal.

Ladislau of Hunedoara/Ladislau Hunyadi asked in September 1451 the authorities of Timiş County to adjourn the trial of knez Jacob, former serf of Julianne, John Salay's wife, till his father, John Hunyadi, come back from the Upper Parts of the kingdom.⁴⁰ The object of the litigation is not noted down but that invocation of the former count of Timiş, governor of Hungary at the time, could had its importance.

Transfer of cases. Transferring the cases from a court to another one, regularly from an inferior one (local) to the superior courts (central) is also an aspect that results from the analysis of the papers concerning the female presence in front of the courts. They would have happened certain cases of such a nature I presume, in spite of difficulties the noble ladies had confronted with for financial and moving reasons, more present than in the case of males. But, as in other many situations, such problems might have been negligible when speaking about the noble ladies from the Banat reach families. If necessary, those ladies could appeal to superior courts in the kingdom and certainly they

³⁷ Pesty, *Oklevelek*, 328, no. 197.

³⁸ Fekete Nagy, *Temesi bánság*, 1242, 1245.

³⁹ Pesty, *Krassó*, 210, no. 131.

⁴⁰ DL 55492.

requested sometimes that their cases be transferred.⁴¹ Two were the situations I identified in the analyzed papers: either the county court (normally set up from the viscount and nobiliary judges) recommended the discontented part to directly appeal to the count's judgement, or some trials were transferred from county or chapter courts to the central ones. So, in the summer of 1424, Mayos of Orozapati accused Caterina, widow of Jacob Chep of Gherteniș, for a prejudice representing the equivalent of 8 oxern. Even if oaths related to that woman's innocence were produced during the trial, finally the court of Timiș county recommended the widow to appeal to count Pipo of Ozora in Timișoara.⁴² Ten years later, in 1435, her daughter, Anne of Gherteniș (Emeric Himfi's widow) was accused for failing to pay the tax to the royal fisc (*lucrum camerae regalis*) for *Zazinfalva* estate, even if one of her clerks stated that she had did it. The case was transferred to the count of Timiș as the local judge hadn't come in front of the court to swear in the matter.⁴³

More problems were generated by the litigations that the local courts couldn't solve for various reasons and had to be transferred to the central courts. For instance, in 1405, an apparent ordinary trial, between Jacob Chep of Gherteniș and his sister-in-law, Dorothy, Nicolas Chep's wife, went to the royal court with the king's approval, as Jacob complained on the jurimen's bias. Sigismund of Luxembourg solicited the court of Caraș County either to call honest jurimen so that Jacob agreed their sentence, or to transfer the case to the royal court.⁴⁴ For less clear reasons, the court of Timiș county transferred, in January 1445, the litigation between the wife of Thomas of Holod and the wife of Peter Pestesy to the royal Curia.⁴⁵ One year later, in August 1446, vice-castellans of Timișoara accused of theft Osvald of Bel's widow and two of her serfs; the court of Timiș County transferred the case to the royal Curia, probably for untouching a viable solution.⁴⁶

Taking of the oath. Regularly, the oath of the parts involved in a trial or only of one of them was taken by the end of the trial, after the investigation ending and they got a general picture on the case.⁴⁷ The ecclesiastic settlements (chapters,

⁴¹ Martyn Rady, "Judicial organization and decision making in old Hungary," *Slavonic and East European Review* 90, 3 (2012): 464–465.

⁴² Pesty, *Oklevelek*, 582, no. 376.

⁴³ Livia Magina, "Câteva documente privind judele sătesc în Banat (secolele XIV–XV)," *Banatica* 19 (2009): 37.

⁴⁴ Pesty, *Krassó*, 248, no. 163.

⁴⁵ Zoltan Iusztin, *Politică și administrație în Banatul medieval (sec. XIV–XV)* (Cluj-Napoca: Centrul de Studii Transilvane, 2018), 186.

⁴⁶ *Ibid.*, 187.

⁴⁷ Rady, *Cusomary Law*, 130–131.

convents, and chapels) were solicited to help together with the secular authorities the judiciary process, in some of its components: taking of the oath and the so-called “judgement of God” (the ordeals), the results of which must be written down and certified by them.⁴⁸ In the trials with female involving there were only few cases the ladies were asked to take of the oath, but it is rather due to the lack of documents or to the aleatory way to write down, not a reason for the rarity of the procedure. None of the studied papers refers to use of the ordeals upon the accused women, as more as I can identify no case of major felonies (infanticide, betrayal, witchcraft, adultery, incest, bigamy, ravishment, violation, etc.). Such a fact doesn’t prove the absence of such cases, but the lack of documents to have recorded them. Some cases where the reason of taking of the oath by the noble ladies is a sure one would be presented further. An interesting but surely not a singular case came in front of the Palatines meeting, chaired by Palatine Nicolas Kont between in July 22–30⁴⁹, 1364, nearby Şemlacu Mare⁵⁰, a reunion of the nobiliary community of Caraş County. It is about the litigation between Petheu of Farkasfalva and his sister-in-law, Clara, widow of his brother Farkas. She was accused for taking with her money and goods when had left his former husband’s home to marry to John of Teyed, and so she caused his brother-in-law a damage of 60 marks. Thomas of Bayton, the lady’s advocate, rejected the complain and declared *quod ipsa domina Clarra in totali premissa actione et acquisitione ipsius Petheu innocens esset penitus et immunis*. The complaint couldn’t bring any proof concerning Clara’s quilt and so the court decided that “the noble lady Clara should personally swear within the future octaves of Michael Archangel, in her own name, in the church of St. Vergin, built in the village of Gay, in front of the man of testimony from Titel Church Chaptre, that she is totally innocent and untouched by the above denunciation and acusing brought to her by the named Petheu”. That oath would be part of a letter written within the named Chaptre and the parts would be obliged to bring that letter in front of Palatine court within the octaves dedicated to St. Martin the Confessor.⁵¹

⁴⁸ Francisc Pall, “Contribuții la problema locurilor de adevărire din Transilvania medievală (sec. XIII–XV),” *Studii și materiale de istorie medie* II (1957): 393; Susana Andea, “Actul scris și valoarea lui probatorie în practica judiciară din Transilvania (sec. XIII–XIV),” *Anuarul Institutului de Istorie George Barițiu Cluj-Napoca* LIII (2014): 205.

⁴⁹ Susana Andea, *Congregații palatine și voievodale (sec. XIII–XIV)/ Palatine’s and Voivodal Congregations (13th–14th Centuries)* (Cluj-Napoca: Argonaut, Mega, 2013), 130–131.

⁵⁰ It is known today that the court seat of the Caraş county was active at *Mezeusomplyo* (Şemlacu Mare), next to the church dedicated to King Saint Stephen (*Iuxta ecclesiam beati Stephano regis*). Elek Szaszko, “Behind the archontology of Krassó county (remarks on the personnel and the operation of the county authorities in Krassó,” *Banatica* 26/II (2016): 151.

⁵¹ *DRH-C*, vol. XII, A. Răduțiu, V. Pervain, S. Belu, I. Dani, M. Wolf, eds. (București, 1985), 306, no. 301.

A rather grave charge came on Caterina, widow of Jacob Chep of Gherteniş, accused for a damage of 200 new forints, produced by one of her serfs from *Beldre* estate, but with her knowledge, to some *hospes* from Zemun; the women's advocate rejected the charge in front of the court of Torontal County, in January 27, 1421.⁵² He declared that the incriminated serf had left the lady, with her approval, so that Caterina couldn't have been held accountable for what that man had done. As the complaints couldn't bring witnesses or papers in their support, the court asked the widow to exculpate herself by taking of the oath (*se expurgavit et sacramentum deposuit ut debeat*).

In the spring time of 1437, another noble lady had to take of the oath following a sentence of the court of Timiş county. It seems that in the circumstances of frequent Ottoman invasions, some evildoers stole the beehives of Ladislau Himfi's widow, and brought them to the village of *Vazylom*, property of John of Bârzava, and that one refused to give them back. The widow had to straighten her complain by taking of the oath in front of some witnesses.

Verdicts. I might note the relativity of the present approach by remembering that only 19 cases from the about 90 I have analyzed, ended with a verdict. Obviously, the relativity of such a number arises from the few preserved documents till nowadays. More than this, I cannot say that I had acces to all the disponible papers, the present work being not an exhaustive analysis. Thirdly, it is more then possible that certain cases lasted up to parts' disappearance, or the trials amiable quashing by the parts agreement, and so they did not arrive to final verdicts. To pass a value judgement under such circumstances would be a venturesome action. But we might note that from those 19 cases, only 3 ended with the ladies sentencing, the other 16 being in their favour. Referring to the juridic role the women played in law suits, 42 were plaintiffs and in 24 trials, they were defendants. This is an enough suggestive report to show the women's disponibility and possibility to defend their interests in front of local or central courts. But all the ciphers are nothing more than primary statistics. The content of these verdicts is more interesting to showing us the nature of litigations which brought the noble ladies in front of the courts, who were their opponents, the way they come to courts or were represented there, and what they got or lost after the trials.

I may note that mainly the disputes on the right of lands possession were favorable to the noble ladies. Obviously, what they brought for proofs made them win the lawsuits – proving documents or testimonies – even if they

⁵² Adrian Magina, "Câteva documente privind comitatul Torontal în prima jumătate a secolului al XV-lea," *Banatica* 22 (2012): 65, doc. V.

faced to important opponents: the archbishop of Strigoniū (1338), a family of Wallachian boyars protected by king Louis I (1359) or the royal fisc (1404). The right on the filial quarter was perhaps the most elementary right the women won in courts. *Quarta puellaris*, converted sometimes in lands, was contested or denied and the litigates were frequently solved only by the central courts. The stronger reason in such cases came from the risk that the noble ladies would lose the noble position once they lost the male protection or the minimal living conditions providing by some land properties. In the absence of a protective family, the church and the royal authority interfered in the lawsuits to give them protection. Anne (Dimitrie of Gabya's widow) and Clara, her daughter, in a litigate with venerable Chanadinus, bishop of Strigoniū, benefitted of the ecclesiastic and royal goodwill. They disputed the right of property on half of *Beez* possession and *Palaterde* forest, both of them on the Mureş banks, Cenad County.⁵³ The king's favourable verdict, in the presence of the barons, set on the privilege diplomas from 1329 and 1332 issued by Arad and Cenad Chaptres, concerning those women's right of property on those lands of 50 marks; the women had been given the lands by the bishop of Cenad as filial quarter and wedding gifts and so the women succeeded to keep their nobiliary state. The other half of those properties had been given to the nephews of the bishop of Strigoniū and that was, I presume, the reason for that one to force the whole property taking over, probably availing himself of his social and ecclesiastic position. The royal sentence seems to have been a compromise so that the two involved parts be satisfied: the noble ladies could keep a half of *Beez* estate, including the right of patronage of the stone church St. John the Evangelist, but renounced to half of *Palaterde* forest in favour of Chanadinus' family in chance of 25 marks of Buda.

Another king, Sigismund of Luxembourg, pronounced another favourable sentence, in the summer of 1404, in the case of Anne, daughter of the deceased nobleman Neagu of Recaş, married to a common man, Stephen Twrwk. It seems that the marriage had run counter to the familial will, and Anne was disinherited by her father and that was the way through which Anne and her descendants would lose their nobiliary state. As the unique heir of the family, Anne's nephew, was still minor at the time, the king himself took the case and ordered that Anne would be given a quarter of the estates of Recaş, Morsina, and Icuş (Timiş County) and the due villages as proper land shares. The verdict was applied after a couple of months by the viscount of Timiş, who made a rigorous limitation of those properties on that occasion.⁵⁴ Some decades after, in 1470, a new royal sentence confirmed Anne's female descendants the right of

⁵³ August 5, 1338: Fekete Nagy, *Temesi bánság*, 290.

⁵⁴ Pesty, *Oklevelek*, 337, no. 204.

property on the quarter she had got in 1404–1405, a sign of the perenity of such royal privileges, undoubtedly.⁵⁵

The most numerous cases, perhaps, refer to the women who got their filial or matrimonial rights in disputes with their own family or the in-law one. Nicolas Himfi's widow and daughters generated a very complex case in partition of Himfi's estate; the trial began in 1387 in front of the royal court.⁵⁶ Both Helen (Nicolas Himfi's widow) and her daughters Caterina and Margaret requested the dowry and marriage gifts (in the widow's case) and the filial quarter (in the case of her daughters). Andrew Dancs of Macedonia, Caterina's husband, a well-regarded nobleman in the king's company at the time, supported the ladies in the lawsuit. After lots of adjournments, abuses and costs, Cenad Chapter applied the royal verdict in 1390, and so Helen was re-given the dowry and marriage gifts of 25 marks, while Margaret, her unmarried daughter, received a quarter of his father's estate to use them till her marriage.⁵⁷ Caterina, the other daughter who was yet married, probably had got her shares when married. In spite of the favorable verdict, for their absences in front of the courts and abusive using of the former properties during the lasting trial, Helen was obliged to pay 12 marks for the trial costs.

The verdict in the dispute between Caterina, widow of Peter of Gyond (in her own name and in the name of her children, Ladislau and Elizabeth) and her relative Stanislav of Recaş, on the filial quarter converted in 14 cattle, issued in March 1422 in the front of Cenad Chapter, chaired by bishop Dose of Cenad. The widow complained on the procrastination of that obligation, but Stanislav motivated, by the medium of his advocate, that he had been at war during that period, together with the count of Timiş. Finally, the widow was given back the cattle and a compensation of 6 forints for the damages she had endured.⁵⁸

Caterina and Anne Chep of Gherteniş, following an agreement with their relative, Andrew Chep of Gherteniş, got their rights through the verdict of the court of Caraş County, in May 1424. Caterina was given back her dowry and marriage gifts at her wedding to Jacob Chep, while her daughter was given the filial quarter consisting in lands.⁵⁹

Another case of interest on the right of the filial quarter might be the litigation between Mark of Ikus and his sisters Kacho, Elizabeth, and Caterina and the four noblemen, Stanislav, Carapaciu, Ladislau, and Nicolas, concerning

⁵⁵ Ligia Boldea, *Nobili și demnitari ai Banatului montan medieval și premodern. Studii istorice* (Cluj-Napoca: Mega, 2023), 290–291.

⁵⁶ Pesty, *Oklevelek*, 154, no. 96.

⁵⁷ Pesty, *Oklevelek*, 191, no. 118.

⁵⁸ Pesty, *Oklevelek*, 574, no. 370.

⁵⁹ Pesty, *Krassó*, 305, no. 212.

the right of property on *Olykus* estate, in front of the royal Curia, in 1368. The royal judge Stephen Bebek's verdict set mainly on an older paper, from 1288, according to which that estate had been given as filial right to some noble ladies, antecessors of Mark of Ikus. So, he and his sisters kept hereinafter the right of possession.⁶⁰

A series of favourable verdicts concerned the right of lands owning, some of the ladies were given in other circumstances than by *quarta puellaris*. It is about properties they were given either by paternal or maternal wills or properties individually purchased by some noble persons, not being part of familial avitic properties. So, Caterina, daughter of Ladislau of Omor, got in 1390, in the royal Court, the right to keep the estates of *Scederyes* and *Zenthandras* (Caraş County) after his brother death (the unic heir) as they had been purchased by his grandfather and father.⁶¹ The same court confirmed in the same year the owning right of Clara (Stephen Sartoris' daughter) on *Dyakowch* estate (Caraş County), on the basis of a donation of Louis I to her father, in spite of some local people's impediments.⁶² A paper of Nicolas Csaki, count of Timiş, confirmed in 1402 the right of the widow of Stephen of Feldes on a half of Laurence of Chorna's fortune, her deceased son, who had amiably shared *Chorna* estate (Timiş County), in 1393, with Briccio of Chorna, a relative of him, probably. After the two owners death, the property was put in a disinheritance status, so the count decided to allow the widow keeping a share of it (not to lose such of source of living and her status of a noble lady), on the reason that she owned the estate together with her son, as a co-owner.⁶³

The women's right of property was strictly dependent on the papers of property, confirmed by the law courts. Getting and keeping such papers were crucial for every owners and especially for the ladies the right of whom was probably the most contested by the noble male opponents. Palatine Nicolas of Gara gave the verdict in such a case in 1382, in the litigate between the widow of Thomas of Thelegdi and Ladislau, son of Teteus, concerning the inheritance papers on the estates of *Akach* and *Zenthmiklos* (Cenad County); those estates naturally had to be in the widow's possession, but they had got in the hand of the defendant in certain circumstances. The defendant presented, at Palatine's request, a privilege diploma issued by Charles Robert in July 3, 1334, proving the widow's right of property on the two estates. The court decided that the royal diploma be transcribed and given to Ladislau Magnus, the widow's advocate.⁶⁴

⁶⁰ DRH-C, XIII, 483, 527, no. 318, 336.

⁶¹ Pesty, *Krassó*, 196, no. 128.

⁶² Pesty, *Krassó*, 210, no. 131.

⁶³ Pesty, *Oklevelek*, 232, 326, no. 136, 194.

⁶⁴ Fekete Nagy, *Temesi bánság*, 1212.

Not a few might have been the cases of the ladies' properties devastating by their neighbours or by other noblemen. Probably the damaged ladies didn't have the possibility to claim every case or, if they did, they didn't win facing powerful and more influent male opponents. However, I have identified a particular case, both for the law court and the gravity of the facts in law, with an extremely severe verdict for the accused at first instance. It seems that around 1398 some members of the family of Chep of Gherteniş produced lots of damages in Anych's estate, Torontal County; the noble lady was Benedict of Lelye's wife. The damages together, probably, with other aggressions were so large that *in specialis presentia regia*, under the great chancellor rule, the evildoers were sentenced to death and to seizure of fortune, at first instance. After the defendants' brother, Jacob Chep of Gherteniş, interceding in his brothers' favour, the verdict was changed, the defendants could live and the family could keep their fortune; the Cheps promised in change to pay 350 forints in new coin for the damages, a value that temporary was guaranteed with shares of *Beuldre* estate (Torontal County).⁶⁵

It is of interest the verdict in a case of homicide, Jacob of Szenthgyurgh being the murder victim. John, son of Mayus of Oszlar, murdered Jacob in 1387⁶⁶, by forcibly entering his estate and setting him on fire, in his own house. Hardly to say which were the first approaches made by the victims descendants, if they appealed the county court and were dissapointed after. They possibly did it, but unsuccessfully. Only in 1399, *in congregatione generali universitatis Nobilium dictorum Temesiensis et Crassouiensis comitatum*, in Timișoara, the victim's children, clerk Nicolas and his sisters, Caterina and Matho, requested justice for their father death (*satisfactionem et recompensam*).⁶⁷ By the medium of more noblemen, finally they arrived to an agreement: John of Oszlar committed himself to pay 60 marks, in three parts, to the family, guaranteed with *Keer* estate which had to turn to the family if John couldn't pay for murdering Jacob. The accuser encroached upon the agreement, not surprisingly perhaps, as one year later, in 1400, John of Oszlar claimed in front of the royal Curia that the victim's children abusively asked him to pay over money although they were given the proper amount, a fact that the court of Timiș County also established.⁶⁸

I have met a case where the noble lady got a favourable verdict, the defendant being sentenced by a first low court and forgiven by a superior one. Benedict

⁶⁵ Georgius Fejér, ed., *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, X/2 (Budae, 1834), 590–591.

⁶⁶ Elek Szaszko, "The viceban, the noble judges and ,the traitor' (The biographies of the Oszlári and the Porazfalvi families)," *Banatica* 28 (2018): 423–424.

⁶⁷ Bárány, *Temes*, Annex, 41.

⁶⁸ DL 42753.

Himfi's widow (also representing her grandchildren) for instance, was in such a situation in the litigation with Stephen Himfi of Remete, her nephew in-law, in the winter of 1388. The Palatine court sentenced Stephen (unfortunately, the paper didn't note the accusations or the punishment he had got), but that one probably appealed to a superior court, so that Queen Mary herself would forgive him for his possessions and goods, as long as he settled the pecuniary situation with the opponents.⁶⁹

I hope that the certain judiciary procedures and the real cases I have presented would fulfill the landscape of the female presence in front of the law courts in the medieval Banat. I haven't aim to realize an exhaustive investigation, a difficile one in fact, in the circumstances of a fluent, incert documentary fund. I have considered of interest to present, on the basis of the data I could accessed, the impediments the noble ladies had to face during a trial, and also the defferent solutions they found. In conclusion, the image of the noble women within the medieval society might be shaded without exaggerating their status, as their taking part in law reflect numerous aspects of their part within the society, less marginal than they believed before. The women did not hesitate to ask justice in local or central courts, personally or by the medium of advocates, when their legal rights were encroached upon – the right of land property being the most frequently appealed. So, we could contemplate a social much better framed picture, with a more active integration of the female profile in the ambient of medieval law courts in front of which women were not accidental but enough common presences.

PROCEDURI JUDICIARE ÎN PROCESELE CU PARTICIPARE FEMININĂ DIN BANATULUI MEDIEVAL

Rezumat

Prezentul articol intenționează să finalizeze un ciclu de studii dedicate prezenței femeilor nobile din comitatele Banatului medieval în fața instanțelor de judecată centrale sau locale. Ne-am focalizat cercetarea asupra veacului al XIV-lea și a primei jumătăți a secolului al XV-lea deoarece, din motive obiective, odată cu proliferarea exponențială a actelor de cancelarie, prezența femeii, cu precădere nobile, începe să se facă simțită în documente suficient de mult pentru a se putea contura anumite ipostaze, care considerăm că pot fi extrapolate la nivelul societății medievale în ansamblul său. Accesul femeilor nobile la actul de justiție a derivat din statutul lor juridic, din dreptul lor de stăpânire funciară, care le-a conferit personalitate juridică, dar a și creat adeseori probleme atunci când a intrat în coliziune

⁶⁹ Fekete Nagy, *Temesi bánság*, 1329.

cu tradiționalul drept patrimonial masculin. Am putut constata că ele au urmat aceleași rigori judiciare impuse de sistemul juridic al regatului maghiar, bazat pe cutumă și oralitate, cu atât mai mult cu cât a existat și în epoca medievală o preocupare de a se conferi femeii o anumită protecție juridică, chiar dacă ea se situa pe o poziție de inferioritate, fiind considerată mai puțin capabilă să își controleze viața și să își administreze bunurile. În pofida unor reale limitări sociale și juridice, femeile nobile au avut acces în sedriile centrale sau locale ale regatului maghiar, neezitând să poarte procese atunci când interesele sau drepturile lor au fost lezate. În materialul de față am încercat să abordăm câteva probleme legate de o serie de proceduri judiciare care au influențat mersul justiției și au impietat uneori asupra proceselor în care femeile au fost implicate. Este vorba de cauzele care au influențat durata unor procese, de disconfortul unor amânări repetate, de cazurile în care anumite procese au fost strămutate de la o instanță inferioară la una superioară, de procedura depunerii jurământului, totul culminând cu sentințele finale, în mod regretabil foarte puține păstrate până astăzi.