

THE STATUTES OF THE TRANSYLVANIAN ROMANIANS FROM FĂGĂRAȘ (1508). A HISTORICAL PERSPECTIVE AND A COMPARISON WITH THE TRANSYLVANIAN SAXON AND SZEKLER CUSTOMARY LAWS

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ABSTRACT. The document known as *Statutele Făgărașului* (The Statutes of Făgăraș), issued on 15 May 1508, can be considered a monument of old Romanian legislation. The Latin original document was published for the first time in 1885 (in Hungary) and then in 1921 (in Romania). Over the years several authors have translated short parts of the text, which they considered to be of interest for their own research, but a full translation into modern languages was never made until now. Our study solves this *problem*, rendering in the annex the full transcription and translation of *The Statutes of Făgăraș*. First, I offer a brief presentation of the historical evolution of the medieval Land of Făgăraș (*Țara Făgărașului*) from the 14th century until 1508, the year of the document's issuance. Then I explain how the historical framework facilitated the preservation of the Romanian legal traditions and practices, and we indicate the various articles of the *Statutes* which reflect specific aspects pertaining to the way of life and the customary law of the Romanians – nobles or lowborn – from Făgăraș. Last but not least, I made a comparison between *The Statutes of Făgăraș* and the customary laws of the Saxons and Szeklers from Transylvania in the same timeframe.

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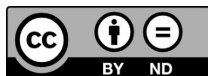
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HISTORICAL AND HISTORIOGRAPHICAL CONSIDERATIONS ABOUT THE *STATUTES OF FĂGĂRĂȘ* FROM 1508

There are some very recent contributions of the Romanian and foreign historiographies focused on the customary law extant on the historical territory inhabited by



Romanians.¹ As regards medieval Transylvania, a special attention was given to the areas with a compact Romanian population (in the so-called Lands of Hațeg, Făgăraș and Maramureș), where the aristocratic structures of the Romanian princes (*cnezi*) and nobility (*boieri*) were stronger and more resilient. For this reason, it is surprising that the important document of the so-called *Statutes of Făgăraș* from 1508 has not received the deserved attention, at least in the last decades, and it did not benefit of a proper translation into Romanian, so that more people, either specialists or simple history enthusiasts, can have access to the useful and interesting information about the Romanian legal customs of the Făgăraș Land. Therefore, in this article my intention is to contribute to the better knowledge and to facilitate the access to the *Statutes of Făgăraș* from the year 1508. My special thanks are addressed to Dr. Vasile Rus, who translated into the Romanian language the text of these medieval South-Transylvanian statutes.²

The first publication of this document issued on 15 May (*in festo Beatae Sophiae Viduae* – on the feast day of Saint Sophia the Widow) 1508, made by Sándor Kolozsvári and Kelemen Ovári, dates from the year 1885.³ In the Romanian historiography, the

¹ A few recent contributions will be mentioned: G. Jawor, *Ethnic aspects of settlement in Ius Valachicum in medieval Poland (from the 14th to the beginning of the 16th century)*, „Balcanica Posnaniensia. Acta et studia” 2015, vol. 22, no. 1, p. 47–57, <https://pressto.amu.edu.pl/index.php/bp/article/view/3898/4042> [accessed 25.03.2024]; M. Luković, *Zakon vlahom (Ius Valachicum) in the charters issued to Serbian medieval monasteries and kanuns regarding Vlachs in the early Ottoman tax registers (defters)*, „Balcanica Posnaniensia. Acta et studia” 2015, vol. 22, no. 1, p. 29–47, <https://pressto.amu.edu.pl/index.php/bp/article/view/3897/4041> [accessed 25.03.2024]; E. Cosma, *Din practicile juridice de la Rășinari: „Jus Valachicum” în două ascultări de martori (1738 și 1776–1777)*, „Anuarul Institutului de Istorie ‘G. Barițiu’. Series Historica” 2019, suppl. 58 (*Cultură scrisă și civilizație în Transilvania secolelor XIII–XIX*), p. 251–289; G. Jawor, *Le rôle des corvées dans le système des redevances acquittées par les habitants des villages de ius Valachicum en Petite-Pologne et en Ruthénie de la Couronne aux et XVI^e siècles*, „Balcanica Posnaniensia. Acta et studia” 2019, vol. 26, p. 249–267, <https://pressto.amu.edu.pl/index.php/bp/article/view/19687/20940> [accessed 25.03.2024]; V. Rus, *Documente din Rășinari (sec. XIV–XVIII). Traducerea în latină (după 1761) a cărții ocolniță de la Rășinari din 1488 și a extrasului actului de dănie din 1383. Ediție de documente* [in:] *Patrimoniul istorico-juridic românesc din Mărginimea Sibiului (Rășinari, Săliște)*, ed. E. Cosma, Cluj-Napoca–Gatineau 2020, p. 285–394; V.V. Vizauer, *Statutele Făgărașului din anul 1508*, „Anuarul Institutului de Istorie ‘George Barițiu’ din Cluj-Napoca” 2022, vol. 61, p. 71–90; E. Cosma, „Jus Valachicum” legiferat în „Statutele Făgărașului” (15 mai 1508), „Acta Terrae Fogarasiensis” 2023, vol. 12, p. 43–58; idem, *A Historiographical survey of “Jus Vlachim” among Romanians and Vlachs*, „Balcanica Posnaniensia. Acta et studia” 2023, vol. 30, p. 271–313; idem, *The Bishops’ house in the Romanian pastoral village of Rășinari (Mărginimea Sibiului) and its hidden treasures: “Book of the Boundaries” & Deed of Donation (1488, 1383) and “Transmissionales in causa Possessionis Resinar contra Liberam Regiamque Civitatem Cibiniensem” (1784)*, „Eikón Imago”, vol. 12 (*Imago, ius religio. Religious images in illustrated legal manuscripts and printed books [9th–20th centuries]*), eds. M.Al. Bilotta, G. del Monaco, Madrid 2023), p. 73–90.

² The Romanian translation was made by Dr. Vasile Rus and the English translation by the author of this study. The English revision belongs to Dr. Ela Cosma.

³ S. Kolozsvári, K. Ovári, *Magyarországi jogtörténeti emlékek. A magyar törvényhatóságok jogszabályainak gyűjteménye. I. Kötet. Az Erdélyi törvényhatóságok jogszabályai / Monumenta Hungariae juridico-historica. Corpus statutorum Hungariae municipalium. Tomus I. Statuta et constitutiones municipi-*

first complete reproduction of the Latin text of the *Statutes of Făgăraș*, realised by Ștefan Meteș, was included in his work *Vieața Agrară, Economică a Românilor din Ardeal și Ungaria. Documente contemporane* (The Agrarian and Economic Life of Romanians in Transylvania and Hungary: Contemporary Documents), printed in 1921.⁴ The last mentioned historian also referred to the Făgăraș Statutes in his speech, delivered at the Romanian Academy on 2 November 1934, entitled *Din istoria dreptului românesc din Transilvania* (From the History of Romanian Law in Transylvania). Here the member of the Romanian Academy explicitly stated that in the medieval Land of Făgăraș the judgement was made according to “the law of the Romanians” (*legea românească*) and to “the tradition and laws of the boyars”.⁵

In order to rediscover the original document or at least a later copy, I have followed the “footsteps” indicated by Sándor Kolozsvári and Kelemen Ovári, and later by Ștefan Meteș, searching in *The Count Miko Imre Collection* (*Colecția Grof Miko Imre*), which today is preserved at the National Archives of Romania, Cluj-Napoca Branch. However, in that collection I did not come across the copy about which the authors wrote above. I also checked the documents contained in *The General Collection of Documents* (*Colecția Generală de Documente*), issued in the second half of the sixteenth century, and in *The Collection of Princely Accounts of Făgăraș* (*Colecția Socoliari Făgăraș*), as well as in *The Kemény Collection* (*Colecția Kemény*), but even here I could not identify neither the document nor a mention in this regard in another act. As a last resort, but without luck, I have searched the portals: *Hungaricana: Hungarian Cultural Heritage Portal* (*A Középkori Magyarországi Levéltári Források*)⁶ and *The Mediaeval Archive of Romania* (*Arhiva Medievală a României*).⁷

Fragments from the *Statutes of Făgăraș* can be found in the texts chosen by C.A. Spulber for his book *Latină juridică clasică și medievală. Texte alese din legi, formule, documente, scriitori pentru uzul studenților în drept* (Classical and Medieval Legal Latin. Chosen Texts from Laws, Formulas, Documents, Writers for the Use of Law Students),⁸ as well as in the book *Crestomație pentru studiul istoriei statului și dreptului R.P.R. II (Feudalismul I)* (Anthology for the Study of the State History and

piorum Transsylvaniae ab antiquissimis temporibus usque ad finem seculi XVIII., vol. 1, Budapest 1885, p. 169–175.

⁴ Șt. Meteș, *Vieața agrară, economică a Românilor din Ardeal și Ungaria. Documente contemporane*, vol. 1 (1508–1820), București 1921, p. 243–248.

⁵ Idem, *Din istoria dreptului românesc din Transilvania*, “Academia Română. Memoriile Secțiunii Istorie”, ser. 3, vol. 17, mem. 4, București 1935, p. 87–118 (here: p. 93).

⁶ *A Középkori Magyarországi Levéltári Források*, <https://hungaricana.hu/hu/adatbazisok/a-kozepkori-magyarorszag-leveltari-forrasai/> [accessed 13.3.2024].

⁷ *Arhiva Medievală a României*, <http://arhivamedievala.ro> [accessed 13.3.2024].

⁸ C.A. Spulber, *Latină juridică clasică și medievală. Texte alese din legi, formule, documente, scriitori pentru uzul studenților în drept*, Cernăuți 1930, p. 147–148.

Law of the Popular Republic of Romania. II, Feudalism I), edited by Ștefan Pascu and Vladimir Hanga for the study of the Romanian history of the state and law.⁹

References to the Făgăraș statutes and the articles it contains were made by David Prodan, too, in the year 1963, in his study entitled *Boieri și vecini în Țara Făgărașului în secolele XVI–XVII* (Boyers and Serfs in the Land of Făgăraș in the 16th–17th Centuries).¹⁰ In his book *Țara Făgărașului în evul mediu (secolele XIII–XVI)* (The Land of Făgăraș in the Middle Ages, 13th–16th Centuries), Antal Lukács also discusses some of the legal prescriptions contained in the mentioned document.¹¹

Last but not least, historians like Ioan Aurel Pop, Ioan Drăgan, Igor Ciobanu and Vasile Hulea, Livia Magina, Gheorghe Faraon, Florin Nicolae Ardelean and others exposed the context of the efforts made by the Romanian nobility in medieval Transylvania to preserve their old customs, by studying the genesis or certain institutions pertaining to the modern Romanian law, also bringing into question or simply mentioning the actions unfolded by the boyars from Făgăraș in 1508 and the provisions of the document issued at that time.¹²

THE LAND OF FĂGĂRAȘ BEFORE 1508 AND THE HISTORICAL CONTEXT IN WHICH THE *STATUTES* WERE ISSUED

After the middle of the 14th century, Făgăraș – along with other territories – was included in the Hungarian state policy regarding Wallachia, the kings of Hungary giving the Land of Făgăraș to the voivodes of Wallachia in exchange for their vassalage. Thus, in a document dated 25 November 1369, the Wallachian voivode Vlaicu entitled himself *Ladislaus, Dei et regis Hungariae gratia, vajvoda Transalpinus et banus de Zewerino, necnon dux de Fogaras* (Ladislaus / Vladislav, by the grace of God and of the king of Hungary, Transylvanian voivode and ban of Severin, as well as *duke of Făgăraș*).¹³

⁹ Șt. Pascu, V. Hanga (eds.), *Crestomație pentru studiul istoriei statului și dreptului R.P.R. II (Feudalismul I)*, București 1958, p. 713–715.

¹⁰ D. Prodan, *Boieri și vecini în Țara Făgărașului în sec. XVI–XVII*, “Anuarul Institutului de Istorie din Cluj” 1963, vol. 6, p. 161–312.

¹¹ A. Lukács, *Țara Făgărașului în evul mediu (secolele XIII–XVI)*, București 1999, p. 116–118.

¹² I.A. Pop, *Instituții medievale românești: adunările cneziale și nobiliare (boierești) în secolele XIV–XVI*, Cluj-Napoca 1991, p. 195–197; idem, *Istoria Transilvaniei medievale: de la etnogeneza românilor până la Mihai Viteazul*, Cluj-Napoca 1997, p. 188; I. Drăgan, *Nobilimea românească din Transilvania între anii 1440–1514*, București 2000, p. 229–230; I. Ciobanu, V. Hulea, *Geneza și modele de sancționare a furtului în legislația penală a Republicii Moldova*, “Avocatul Poporului” 2008, vol. 12, p. 11; L. Magina, *Instituția judeului sătesc în Principatul Transilvaniei*, Cluj-Napoca, 2014, passim; Gh. Faraon, *Aspecte privind istoria Țării Făgărașului. Boieri din Vad în scaunele asesoriale de judecată*, “Acta Terrae Fogarasiensis” 2016, vol. 5, p. 13–21; F.N. Ardelean, *Organizarea militară în Principatul Transilvaniei (1541–1691)*, Cluj-Napoca 2019, p. 223 etc.

¹³ *Documenta Romaniae Historica. B. Țara Românească*, vol. 1 (1247–1500), eds. P.P. Panaitescu, D. Mioc, București 1966, p. 12 (no 3).

Even if the majority of historians agree with the above mentioned date, there are also different opinions, according to which the mastery over Făgăraș exerted by the Wallachian rulers is older, as already on 20 January 1368 the voivode from the south of the Carpathian Mountains had on his seal the title of *Dux de Fugrus* (duke of Făgăraș).¹⁴

Făgăraș was for a long time in the title and dominion of the rulers of Wallachia. The Romanian historian David Prodan showed that the dominion was an effective one. As a matter of fact, in the times when the Wallachian voivodes owned this territory (because the mere presence or absence of Făgăraș in the ruler's title did not certify or exclude its actual dominion), they used to make donations here (as they did in their own country), while at the same time there are no donations made by the Hungarian kings.¹⁵ Later, in the 16th–17th centuries, whenever Romanian boyars from Făgăraș asked for confirmation of their dominions, they relied on the donations and documents issued by the voivodes located south of the Carpathians.¹⁶

Such an example – corroborated, even more, with the recognition by the Hungarian authorities of a much older donation, dating from the time when Făgăraș had belonged to the Wallachian rulers – comes from 1511, when Paulus Thomori, the captain of the Făgăraș Land, confirmed several villages to Romanian boyars, as properties owned from ancient times (*ab antiquo*), that had been donated to their ancestors by Mircea cel Bătrân (Mircea the Elder), famous ruler of Wallachia between 1386–1394/1395 and 1397–1418 (*ex Donatione quondam Magnifici Domini Mirce Vajvodae*).¹⁷

The region was ruled by the Wallachian voivodes, intermittently, until the second half of the 15th century. Between 1451 and 1456 the Transylvanian voivode Ioan / Iancu de Hunedoara (John of Hunyad) was in conflict with the Wallachian voivode, Vladislav II, for his domains held in Transylvania, namely Făgăraș and Amlaș; at the end of 1453–1454 Ioan effectively occupied the two properties for a short time.¹⁸ Ioan's hostile attitude may have been determined by the participation of the boyars from Făgăraș in some military incursions into Transylvania organized by the Turks, in which the Wallachian rulers were supposed to have participated (in the 1430s).¹⁹

¹⁴ The debate on this issue can be followed in A. Lukács, *Țara Făgărașului*, p. 171. See also Gy. Bónis, *Hübériség és rendiség a középkori magyar jogban*, Cluj 1948, p. 389.

¹⁵ D. Prodan, *Boieri și vecini*, p. 161–162; see also footnote 1.

¹⁶ I.A. Pop, *Genealogie și istorie: o familie boierească din Țara Făgărașului în secolele XV–XVII* [in:] D. Prodan, *Puterea modelului*, eds. N. Bocșan, N. Edroiu, L. Maior, A. Răduțiu, P. Teodor, Cluj-Napoca 1995, p. 41.

¹⁷ N. Densușianu, *Monumente pentru istoria Țerei Făgărașului*, vol. 1, București 1885, p. 8–9; L. Szádeczky, *Făgărași történeti emlékek*, “Erdélyi Múzeum” 1892, vol. 9, no. 6, p. 326–345 (here: p. 339); I. Drăgan, *Nobilimea românească*, p. 228; A. Lukács, *Țara Făgărașului*, p. 117; I.A. Pop, *Instituții medievale românești: adunările cneziale și nobiliare (boierești) în secolele XIV–XVI*, Cluj-Napoca 1991, p. 198.

¹⁸ A. Lukács, *Țara Făgărașului*, p. 185–186; Al. Simon, *Pământurile Crucii: Românii și cruciada târzie*, Cluj-Napoca 2012, footnote 2, p. 42; footnote 4, p. 96–98; p. 110; footnote 2, p. 119.

¹⁹ A. Lukács, *Țara Făgărașului*, p. 184.

Probably at the same time as the Land of Amlaş, the domain of Făgăraş was taken by the Hungarian king Matthias Corvinus (son of Ioan de Hunedoara) from the Wallachian ruler Vlad Țepeș (Vlad the Impaler). This happened after the withdrawal of the Hungarian royal support (1462), as in a document from 26 July 1460, Vlad still wrote about the *hominibus nostris in nostra possessione districtus Fogorasch* (our men from our possession, the district of Făgăraş),²⁰ which was given into administration to the Saxons.²¹ Nevertheless in 1464 Făgăraş was donated to John Geréb of Vingard, the Hungarian king's maternal uncle.²²

In the spring of 1467 the Hungarian Diet, at Mathias's insistence, decided that the domains of Făgăraş, Amlaş and Rodna should no longer be given to any private individual or otherwise alienated, but should be kept *at hand* or *in the king's hands*, so that the rulers of Wallachia and Moldavia could take refuge there if needed.²³ Later, in two documents – of February 9, 1483²⁴ and November 16, 1483²⁵ – the city of Sibiu was informed that when boyar Udriște (*Udrischya*), master of Făgăraş, died, this land was again given to the Romanian boyars by King Mathias. However, previously – in 1469²⁶ and 1472²⁷ – the king had also donated the Land of Făgăraş to the Saxons from Sibiu, together with the Land of Amlaş. More precisely, from the document of 1469 we learn that Dominic Bethlen, vice-voivode of Transylvania, informed the Saxons that he would send his castellan from the fortress Cetatea de Baltă, John Bornemisza, to introduce them into the possession of the above mentioned properties. The donation of 1472 was also necessary, because – after the damages suffered by the Saxons from the Romanians, as well as for the services rendered by the Saxons to the Kingdom of Hungary – the first document (1469) had been stolen by some Romanians (*per Valachos latrones*) when the Saxons were returning to Transylvania. David Prodan believed that the Romanians did not reconcile with these acts of dispossession and appealed to this act of theft.²⁸

²⁰ I. Bogan, *Documente privitoare la relațiile Țării Românești cu Brașovul și cu Țara Ungurească în sec. XV și XVI*, vol. 1 (1413–1508), București 1905, p. 321.

²¹ A. Lukács, *Țara Făgărașului*, p. 186–187; Al. Simon, *Pământurile Crucii*, p. 110.

²² L. Szádeczky, *Făgărași történeti emlékek*, p. 336; A. Lukács, *Țara Făgărașului*, p. 187.

²³ *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, eds. G. Gündisch, H. Gündisch, G. Nussbächer, K.G. Gündisch, vol. 6–7, București 1981, no. 3576, p. 314; L. Szádeczky, *Făgărași történeti emlékek*, p. 336; A. Lukács, *Țara Făgărașului*, p. 187; I. Drăgan, *Nobilimea românească*, p. 231; Al. Simon, *Pământurile Crucii*, p. 110–111, 147–148; I.A. Pop, *Hunedoreștii: o familie europeană*, Cluj-Napoca 2020, p. 202.

²⁴ D. Prodan, *Boieri și vecini*, p. 163.

²⁵ *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, eds. G. Gündisch, H. Gündisch, K.G. Gündisch, G. Nussbächer, vol. 7, București 1991, no. 4540, p. 344–345; A. Lukács, *Țara Făgărașului*, p. 188–189.

²⁶ *Documente privitoare la istoria românilor*, vol. 2, part 2 (1451–1510), ed. E. de Hurmuzaki, București 1891, p. 189; *Urkundenbuch*, vol. 6, no. 3757, p. 427–428; A. Lukács, *Țara Făgărașului*, p. 187–188.

²⁷ *Documente privitoare*, vol. 2, no. 2, p. 222–223; *Urkundenbuch*, vol. 6, no. 3927, p. 532–533; L. Szádeczky, *Făgărași történeti emlékek*, p. 336–337.

²⁸ D. Prodan, *Boieri și vecini*, p. 164. See also footnote no. 8.

The revolts started by the nobles mostly in Transylvania in 1467 were suppressed by King Mathias, but as far as the Romanians were concerned, animosities broke out again in 1471. They were directed against the nobles and the Saxons, as the above mentioned document from 1472 informs us about the damages suffered by the Saxons. Then, in 1484²⁹ the conflict broke out anew, this time with a much greater intensity. In this context, the king of Hungary commanded the voivode of Transylvania to pacify the rioters, to execute the rebels, and even to wipe out the Romanians if they persist in disobedience. During this troubled period, Făgăraș had several masters, until 1505, when the new king Wladyslaw (Ulászló) II donated it to John Bornemisza, in whose property it remained until the year of the battle of Mohács (1526).³⁰

In fact, until the beginning of the 16th century, the Wallachian voivodes continued to *claim* the dominion of Făgăraș, keeping it in the rulers' title.³¹ For example, on June 20, 1489 Vlad Călugărul (Vlad the Monk) entitled himself as follows: "...I, Vlad voivode and lord, son of the great voivode Vlad, with God's mercy and divine gift, mastering and ruling over the entire Romanian Land, and even prince of the Lands of Amlaș and Făgăraș..." (...*Io Vladul voevod și domn, feciorul marelui Vladu voevod, cu mila lui Dumnezeu și cu dumnezăesc dar, stăpânind și domnind toată Țara Rumânească, încă și laturilor plaiurilor Almașului și Făgărașului herțeg*...).³² Therefore, Vlad the Monk maintained Făgăraș in his title even after King Mathias' donations to the Saxons. On March 16, 1494 Vlad still included in his title the so-called Transylvanian *parts beyond the Carpathians* – as prince of Amlaș and Făgăraș (*al părților de peste munți, Almașului și Făgărașului herțeg*)³³ – but after this date he appears only as voivode and ruler of all the Land of Wallachia (*voievod și domn a toată țara Ungrovlahiei*), or voivode and lord of the whole Romanian Land (*voevod și domn a toată țara Rumânească*).³⁴ The situation remained unchanged during the reign of Radu cel Mare (Radu the Great), but only until 1497, when his title mentioned again the *parts beyond the mountains, Amlaș and Făgăraș*,³⁵ which were kept by the Wallachian voivodes intermittently until 1505.³⁶ The two Romanian trans-Carpathian regions reappeared in the Wallachian ruler's title in documents issued by Mihnea cel Rău (Mihnea the Bad) on September 7, 1508³⁷ and Vlad cel Tânăr (Vlad the Young) in 1511.³⁸

²⁹ *Documente privitoare la istoria românilor*, vol. 2, no. 2, p. 285.

³⁰ L. Szádeczky, *Făgărași történeti emlékek*, p. 337–338, 341; I.A. Pop, *Hunedoreștii*, p. 201.

³¹ D. Prodan, *Boieri și vecini*, p. 164.

³² *Documenta Romaniae Historica. B*, vol. 1, doc. no 217, p. 346.

³³ *Ibidem*, p. 404.

³⁴ *Ibidem*, p. 408–410, 412–413.

³⁵ *Ibidem*, p. 440, 442.

³⁶ *Documenta Romaniae Historica. B. Țara Românească*, vol. 2 (1501–1525), eds. Șt. Ștefănescu, O. Diaconescu, București 1972, p. 90.

³⁷ *Ibidem*, p. 124.

³⁸ *Ibidem*, p. 177.

In 1508, after Mihnea the Bad ascended the throne of Wallachia, it seems that some of the boyars from Făgăraș sided with him. They were accused of treason, because they wanted Făgăraș to return to Wallachia. This fact was certified by a donation from the following year, through which several estates were confiscated from Bârsan of Ucea, Ziin of Cârțișoara and Grozav(a) of Arpașu de Sus, who were accused of counting among the Romanian boyars who had sided with Mihnea de Bad.³⁹

In the same year 1508, the Statutes of Făgăraș were issued, under the authority of John Bornemisza, master of Făgăraș, following an agreement between Paul Thomori, the castellan of the Făgăraș Fortress, and the Romanian boyars. Historians have seen a connection between the two events, believing that the document containing the mentioned statutes was issued in order to calm down the boyars.⁴⁰ Moreover, this can also be inferred from the content of the document itself and mainly from the motivation for its issuance, but we must not lose sight of the earlier riots and animosities mentioned above, which probably culminated in the events of 1508.⁴¹

In David Prodan's vision, Făgăraș remained over time as a separate entity, without being broken or divided by donations and without having been organized into a county or seat (administrative unities specific to the Transylvanian Hungarians and Saxons). In the time of the Hungarian kings, they kept it so that they could donate it to the voivodes of Wallachia in exchange for their fidelity. Even after the transformation of Transylvania into a principality (1541) and of Făgăraș into a feudal domain, the region did not change its special status, being treated by the princes of Transylvania as a personal domain, and as a rule being allocated to the princesses. Nicolaus Olahus referred to Făgăraș as a small duchy, the Romanian boyars regarding the owner of the land as a prince.⁴² In 1563 Prince John Sigismund Zápolya enlarged the fiscal domain of the Transylvanian principality by purchasing Făgăraș and its affiliate lands from Gabriel Mailat, for the sum of 32000 florins. Later, around 1600, the domain of Făgăraș included 60 settlements, from which 20 were villages from the Saxon seat of Șeica Mare, while the rest were Romanian villages from the proper Land of Făgăraș.⁴³

THE STATUTES OF FĂGĂRAȘ FROM 1508

As already mentioned, the document known in historiography as *Statutele Făgărașului* (Statutes of Făgăraș) was issued by the master of the Făgăraș domain, John

³⁹ D. Prodan, *Boieri și vecini*, p. 182; I.A. Pop, *Instituții medievale românești*, p. 197–198.

⁴⁰ D. Prodan, *Boieri și vecini*, p. 182, 188; A. Lukács, *Țara Făgărașului*, p. 194; I. Drăgan, *Nobilimea românească*, p. 229.

⁴¹ A. Lukács, *Țara Făgărașului*, p. 114–115.

⁴² D. Prodan, *Boieri și vecini*, p. 166–167, 290.

⁴³ F.N. Ardelean, *Organizarea militară*, p. 116, 122.

Bornemisza⁴⁴ – advisor of the king and castellan of Buda – as a result of an agreement between the castellan of Făgăraș, Paul Thomori,⁴⁵ and the Romanian boyars of the region. The involvement of the castellan was due to the fact that Făgăraș was an area with military organization and obligations of the same kind, and therefore the *Statutes* also regulated the situation of (deceased) boyars who had served the fortress with horse and spear.

The document represents the first written drafting of the customary law of the Romanian inhabitants of the Land of Făgăraș, both of noble (*Boyarones*) and of humble origin (*Rusticis Walachis*), which until then had been transmitted orally and used for the good functioning of the communities in that region.

A few technical data will show the structure of the analysed document from 1508. It is composed of about 35 articles, which regulate both important legal elements and different facets of the daily life of the Făgăraș Wallachians (Romanians). The articles contain, among other matters, the following aspects: the amount of fines paid for convictions in court and the redemption of penalties, in cases of homicide, bloodshed, theft, occupation or misuse of the property of others; for dishonest words spoken in judgement; the redemption for the tongue; the false oath; punishments specified for traitors and infidels, arsonists, counterfeiters, for the activity carried out by heretics and for those who rose up against the castellans or their men; further family issues, like the marriage of the girls, the repudiation of the wife; as well as inheritance issues, like the inheritance of girls and widows, the inheritance in case of a boyar deceased without a male offspring and the possibility of transforming the daughter into a male heir; the legal proceedings in case of rape; the procedure for handing over the saddled horse and spear in the case of the dead boyars; imposed taxes and works for

⁴⁴ János (John) Bornemisza (b. ? – d. October, 1527, Bratislava) probably descended from a peasant family of the Tolna county; he started his career as Orbán Nagylucsei's notary, ending up in the service of the treasury; between the years 1487 and 1493 he was vice-treasurer, between 1492 and 1496 he was a royal *familiaris*, then from 1500 to 1504 treasurer, and from 1506, for the next 20 years, he was castellan of Buda and count of Bratislava (1514–1526); he was also the tutor of King Ladislaus II and after the battle of Mohács he went to Bratislava with Queen Maria, where he died the following year (1527). See his biography in: *Magyar életrajzi lexikon A–Z*, javított, átdolgozott kiadás, ed. Á. Kenyeres: <https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-magyar-eletrajzi-lexikon-7428D/b74700/bornemisza-janos-74D3D/> [accessed 26.03.2024].

⁴⁵ Pál (Paul) Thomori (b. around 1475 – d. August 29, 1526, Mohács), originated from the county of Abauj, starting his career as a *familiaris* of János (John) Bornemisza; between the years 1501 and 1514 he was *comes* of the Salt Chamber and from 1505 until 1514 he was captain of the Fogaras fortress; he took part in the suppression of the Szekler revolts in 1506 and of the peasant war from 1514; between 1514 and 1518 he was captain of Făgăraș and Mukacevo, and in 1519 captain of Buda; in 1520 he retired to a Franciscan monastery, but in the next year he was asked by the Pope to take over the position of bishop of Kalocsa and – together with György (George) Szapolyai – that of captain general of the realm, from 1522 fighting against the Turks; he died in the battle of Mohács on 29 August 1526. See: *Magyar életrajzi lexikon*: <https://www.arcanum.com/hu/online-kiadvanyok/Lexikonok-magyar-eletrajzi-lexikon-7428D/t-ty780F8/tomori-pal-782CA/> [accessed 26.03.2024].

the fortress of Făgăraș; fairness in judgment: fairness and honesty of judges and defendants etc.

It is important to note that – although the phrase *ius Valachicum/Valachorum* is frequently used in Romanian historiography, as well as in the documents of the time, in order to designate the customs and the unwritten laws that guided the Romanians in their everyday life – in the document analysed here the term *ius* (*ius, iuris* = law) is not used at all, being replaced with the following notions: *more* (*mos, moris* = custom), *consuetudo* (*consuetudo, -inis* = habit, custom) and *lex* (*lex, legis* = law), as for example in the formula: *Boyarones more et lege ipsorum* (the boyars' customs and their law).

Some clarifications should also be made regarding the term *statute* (statutes) used in connection with the document considered here, because it does not appear in the text, where we meet instead the cumulative notions *dispositione et ordinatione* (disposition and order). In the Romanian historiography, in 1921 Ștefan Meteș designated this document with the name *Statutes of the Land of Făgăraș Region from 1508*⁴⁶ for the first time and in 1934–1935, referring to the same document, the cited historian mentioned once again the *Statute of 1508 of the Făgăraș district*.⁴⁷ Thus the term used by Ștefan Meteș remained established in Romanian historiography. As regards the Hungarian historiography, I will mention only Sándor Kolozsvári and Kelemen Ovári, the very editors who first published the document in 1885, which they called *Făgărașvidéki Statutumok*⁴⁸ (Statutes of Făgăraș Land).

A COMPARISON WITH THE CUSTOMARY LAWS OF THE TRANSYLVANIAN SAXONS AND SZEKLEERS

The question of how proper is the use of the denomination *statute* regarding our document of 1508 could be clarified by comparing, for example, the statutes of the Făgăraș Romanians with those of the Transylvanian Saxons or Szeklers from the second half of the 16th century.

The important collection of Saxon laws that bore the term *statute* in its title is the one drawn up by Thomas Bomel (or Bomelius) in 1560, namely *Statuta iurium municipalium civitatis Cibiniensis reliquarum civitatum et universorum Saxonum Transsylvaniae*. This draft, with some modifications, was sent in 1582 to Prince Stephen Báthory, the *Statuta* of the Saxon *municipia* (cities) receiving official confirmation on February 18, 1583. These *Statuta iurium municipalium Saxonum* codified the elements of written and customary laws long used in the Saxon cities of Transylvania. Structured in four books, the Saxon code of laws regulated the fol-

⁴⁶ Șt. Meteș, *Vieața Agrară*, p. 243.

⁴⁷ Idem, *Din istoria dreptului românesc*, p. 93.

⁴⁸ S. Kolozsvári, K. Ovári, *Magyarországi jogtörténeti emlékek*, p. 169.

lowing aspects: the first book contains the principles of the legal order; the second one refers to the family law; the third book covers the real rights or civil law, being inspired by Roman law; the fourth and last book deals with criminal law. Among other issues, the following were targeted: the type of courts; no condemnations based solely on suspicion should be made; the sons were not due to answer for the actions of their parents and *vice versa* the parents for those of their sons; punishments were prescribed for those who could not prove their claim against someone; the penalties for treason, homicide, theft and robbery, forgery, adultery and verbal insult etc. were established.⁴⁹

Of course, the *Statuta iurium municipalium* were not the first attempt of legislative codification in the Transylvanian Saxon environment. It is worth mentioning here the *Codex* made in the 15th century by the mayor of Sibiu, Thomas Altenberger, which was inspired by the legislation of the German cities of Nürnberg, Magdeburg and Iglau. Among the sources of the Saxon statutes of 1560, we can mention, as well, the contributions of the Saxon humanist reformer Johannes Honterus (1498–1549), who drew up a (less used) legislation inspired by Roman law, and the *Compendium juris civilis in usum civitatem ac sediu Saxonicalium in Transsylvania* from 1544.⁵⁰

As for the Szeklers, at the Diet held in Târgu Mureș (Marosvásárhely) on April 24, 1555, the question of their customs differing from those of the other Transylvanian privileged *nations* (Hungarians and Saxons) was raised. However, only on April 28, 1555, in the Assembly of the Szeklers held in Odorhei (Udvárhely), the voivodes of Transylvania, Francis Kendi and Steven Dobó, confirmed in writing their old customs, thus resulting the *Municipalis consuetudo Siculorum ex Judiciis*. In the 88 articles of the document, all areas of life were touched, regarding: criminal law (including punishments for premeditated and culpable murder, for robbery etc.), property rights, Court fees, salt trade, summoning the army and various aspects of inheritance.⁵¹ It is worth noting that, similar to the document issued for the Romanians of Făgăraș, neither in the case of the Szeklers the term *statute* does not appear in the Latin original, but only that of *consuetudo* (custom).

Moreover, looking back in time several decades and analysing the decrees of the kings of Hungary, one can notice that sometimes the term *statute* is used with re-

⁴⁹ *Istoria dreptului românesc*, ed. V. Hanga, vol. 1, București 1980, p. 218–219; L. Mádly, *Statutele municipale săsești 1583 – geneza lor istorică și prevederile penale*, “Acta Musei Napocensis” 2000–2001, vol. 37–38, p. 259–266.

⁵⁰ *Ibidem*, p. 260.

⁵¹ *A Nemes Székely Nemzetnek Constitutiói, Privilegiumai, és a Jóság leszállását tárgyzó némmelly törvényes ítéletei, több hiteles Leveles-tárokból egybe-szedve*, Pest 1818, p. 40–51; *Székely oklevéltár*, vol. 2 (1520–1571), ed. K. Szabó, Cluj 1876, p. 119–127; *Monumenta Comititalia Regni Transylvaniae. Erdélyi országgyűlési emlékek*, vol. 1 (1540–1556), ed. S. Szilágyi, Budapest 1876, p. 470–471, 539–548 (here the articles no. 12 and 15, p. 542–543); *Székely oklevéltár*, vol. 3 (1270–1571), ed. K. Szabó, Cluj 1890, p. 306–307, no. 628; L. Szádeczky Kardoss, *A Székely Nemzet története és alkotmánya*, Budapest 1927, p. 54.

spect to the laws / customs gathered together in those decrees. An example would be the so-called *Decretum Secundum* of King Wladyslaw (Ulászló) II of 1495, in which, in the opening part, it is stated that the previous statutes and decrees were resumed here (*prenotata nostra statuta et decreta in se verbaliter continentes*), but new ones were also formulated.⁵² These statutes and decrees take into account the customs and laws of the various countries which were subjects of the Hungarian Crown: Hungary, Bohemia, Dalmatia, Croatia etc., as well as, of course, Transylvania. The regulations concern the right to property, when and under what conditions the meeting of the country Diet is required, fines for murder, penalties for the wrongful occupation of other people's property, catching thieves and other criminals, and numerous other matters.⁵³

I would also like to draw attention upon a regulation of the same legal nature regarding, once more, the Romanians, namely the *Protocolum Sedis Szelistye* (The Protocol of Săliște Seat), its first volume dating from 1585. It was addressed to the Romanians living in the Seat of Săliște in the conservative Romanian mountain region of Mărginimea Sibiului (lying in South Transylvania, near the Land of Făgăraș). About the several volumes of this *Protocolum Sedis Szelistye* historian Ioan Moga wrote that "the protocols are an invaluable source of information regarding the life of the [Romanian] seats, containing lawsuits of estates, inheritances, outrages, thefts, vain beliefs, deeds of donation, sales contracts, wills, dowry sheets, traces of Romanian law *Walachenrecht* (*Ius Valachicum*) etc."⁵⁴

FINAL REMARKS

Concluding our study concerning the statutes of the Romanians from Făgăraș, an important aspect of the above mentioned legislative codifications concerns their originators and issuers. In the case of the decrees issued by the Hungarian kings, the sovereign was the issuer, but even the king of Hungary made these decisions *in dieta, sive congregationi generali*, that is, in the Diet or General Assembly, in which the prelates, barons and other nobles of the kingdom took part. Then, in addition to the general decisions concerning the whole kingdom, a large part of the statutes or decrees were established on the basis of local, regional specificities, according to the customs of the place: Hungary, Croatia, Slavonia, Transylvania etc.⁵⁵

⁵² J.M. Bak, *Decreta Regni Mediaevalis Hungariae. The Laws of the medieval Kingdom of Hungary*, Budapest 2019, p. 890, 902: https://digitalcommons.usu.edu/cgi/viewcontent.cgi?article=1003&context=lib_mono [accessed 27.03.2024].

⁵³ Ibidem, p. 890–918.

⁵⁴ I. Moga, *Din trecutul economic și administrativ al Săliștei în secolul al XVI–XVIII-lea* [in:] Ioan Moga, *Scrieri istorice (1926–1946)*, eds. M. Dan, A. Rădițiu, Cluj 1973, p. 113–129 (here: p. 114).

⁵⁵ J.M. Bak, *Decreta Regni Hungariae*, p. 890.

Among the Transylvanian Saxons and Szeklers the initiative came from the representatives of the two privileged “nations”, on behalf of their entire community. Later the statutes of the Saxons and the customary laws of the Szeklers were confirmed by István (Stephen) Báthory, king of Poland and prince of Transylvania (1571–1576), respectively by the Transylvanian voivodes Kendi Ferenc (before 1558) and Dobó István (1553–1556).

The situation of the Făgăraș statutes differs from that of the statutes involving other regions of Transylvania, for at least two reasons, the second resulting directly from the first one:

1. Făgăraș was a domain, inhabited mainly by Romanians, while in the case of the Saxons and Szeklers their entire “nation” was taken into consideration;
2. the approval of the legislative articles was carried out by the nobleman who ruled the domain at that time (1508), namely János (John) Bornemisza, advisor of the king and castellan of Buda.

However, there is another aspect impossible to neglect, which makes the document granted to the people of Făgăraș more than a simple regulation for the adequate functioning of a field. Namely, the document’s regulations and legal prescriptions explicitly focus on the Romanian boyars and lowborn Romanians of the respective region. Thus, the document nominates: *Paulus [Thomori] cum Boyaronibus uniuer-sisque Walachis eiusdem Districtus nostri Făgăraș* (Paul [Thomori] joined by the boyars and by all Romanians of the same district of ours Făgăraș).

Therefore, the common point of the three legislative codifications, of the Saxons, of the Szeklers and of the Romanians (from the domain of Făgăraș), is the ethnic one, each of the enactments taking into consideration a certain ethnic population (nation) of Transylvania, the respective decisions being confirmed by the directly superior authority.

We have compared above the articles of the statutes of Făgăraș with the similar aspects and situations contained in the statute articles of the Saxons, *Statuta iurium municipalium (...) et universorum Saxonum Transsylvaniae* (1560), in the *Municipalis consuetudo* of the Szeklers (1555) or in the decrees of the Hungarian kings issued for the Transylvanian Hungarian nobility (around 1500).

The Latin term of *statutum* has the meaning of “ordinance” (e.g., *statutum facere*, to issue an ordinance, an establishment), “practice”, “decree”.⁵⁶ According to Du Cange, *statutum* refers to a local custom (*consuetudo recepta in loco* or *coutume locale*).⁵⁷ As a matter of fact, when establishing and deciding certain issues, some of the Transylvania’s Diets held in the second half of the 16th century used the acknow-

⁵⁶ *Glosar de termeni și expresii din documentele latine privind istoria medie a României*, ed. D. Prodan, București 1965, p. 180. In the *Oxford Latin Dictionary*, Oxford 1968, p. 1817, *statutum* is translated as “an ordinance”. In the *Merriam-Webster Dictionary*: “An ordinance is an authoritative decree or direction; a law; a prescribed usage, practice”; <https://www.merriam-webster.com/dictionary/ordinance> [accessed 27.03.2024].

⁵⁷ Du Change et al., *Glossarium mediae et infimae latinitatis*, t. 7, Niort 1886, p. 590.

ledged formula *statutum est* (it was statuated).⁵⁸ Or, in a letter sent by Georgius Bebek to Georgius Lorantffy, on 26 September 1567, the issuer wrote about the decisions of the Country Assembly held between 8 and 17 September in Alba Iulia using the following formula: *Statuta Regni Transilvaniae in praesentibus comitiis Albae Iuliae circa festum Nativitatis Mariae virginis celebratis*.⁵⁹

In the document granted to the Romanians from Făgăraș, the issuer instructed and ordered certain legal prescriptions inserted in the articles, through which various aspects of criminal and private law, as well as extant customary practices were enacted and regulated. In conclusion, we can assert that the term *statutes*, entrenched in historiography, is correctly used when referring to the regulations of 15 May 1508 regarding the Land of Făgăraș, even if the term in question was not mentioned in the document itself and although the words *customs* or *customary practice* would have been, maybe, more appropriate.

A final, but essential aspect is the fact that the Land of Făgăraș belonged to Wallachia for a long time, which allowed and even contributed to:

1. The permanent maintenance of a large and compact Romanian population;
2. The preservation of the customs (*more, consuetudo, lex*) of the Romanian population and Romanian nobility;
3. The specific terms used for designating the Romanian nobles, called “boyars” (*boyarones* in Latin, *boieri*, in Romanian).

All these realities clearly emerge from the document discussed above, bearing a totally justified title, *The Statutes of Făgăraș* from the year 1508.

⁵⁸ Some examples can be found in: *Monumenta Comititalia*, vol. 1, p. 164, 165, 170, 545; *Monumenta Comititalia Regni Transilvaniae*, vol. 2 (1556–1576), p. 100, 107 etc.

⁵⁹ *Monumenta Comititalia*, vol. 2, p. 265, footnote 1.

ANNEX

THE *STATUTES OF FĂGĂRAȘ* (1508): LATIN TEXT⁶⁰

Nos Ioannes Bornemizza Castellanus huius Castri Bwdensis Consiliariusque Regiae Maiestatis memoriae commendamus universis, quod Egregius Paulus Thomori Castellanus Castri nostri Fogaras videns gravitates Boyarorum et universorum aliorum Walachorum nostrorum in Districtu et Pertinentiis dicti Castri nostri Fogaras, quas in exactionibus birsagiorum ab antiquo consuetorum secundum processum Iuris paterentur et item sepius etiam per Castellanos praeteritos diversis adinventionibus birsagiorum inconsuetorum passi fuissent, propter quas Districtus et Pertinentiae eiusdem Castri non poterant restaurari, ob hoc ipse Paulus cum Boyaronibus uniuersisque Walachis eiusdem Districtus nostri Fogaras cum moderamine et diminutione birsagiorum et exactionum, ut huiusmodi Districtus et Pertinentiae dicti Castri nostri Fogaras multitudine populorum decorentur, fecit dispositionem et ordinationem, quae infra scriptis articulis continentur.

Item primo. Ex quo hucusque universi Boyarones, dum casualiter in homagio hominis in aliqua causa iudicialiter convicti fuerint, tunc semper extorquebantur per Officiales, Iudices et Castellanos florenos sexaginta sex. Quare statutum est, ut de cetero Boyarones in homagio convicti semper solvant tantummodo 33 florenos Castellanis et Officialibus supradictis aut, qualiter cum ipsis conuenire possunt, infra numerum triginta tres florenis, sed altius non ascendant.

Rusticis Walachis similiter primitus fuit talis consuetudo, ut, dum iudicialiter in homagio hominis convicti fuerunt, solvebantur pro homagio floreni triginta tres. Igitur statutum est, ut tales rustici, qui iudicialiter convicti fuerunt, solum in florenis 25 conuincantur, vel infra viginti quinque florenos concordare valeant et possint.

Proditores, infideles Castri, capite priuentur vel, si possunt, obtineant gratiam Domini Nostri.

Ex quo ab antiquo consuetum erat, quod Officiales, dum aliquos Praedones vel Fures aut alios quoslibet malefactores in Regno vel extra Regno captivassent et pro conservatione et introductione ad Castrum alicui Villano sive Rustico assignavissent, si huiusmodi captivus aliquo casu inopinato evasisset, tunc homagium semper per Possessionem talis loci exigeretur. Quare ordinatum est, ut de cetero, dum Officiales huiusmodi captivum haberent et ad importandum ad Castrum ad alicuius vel aliquorum manus darent, ab illo vel illis repetant et, si reddere non possint, tunc alios propterea impedire non praesumant; si autem manibus Villanorum assignaverint et reddere non possent vel de captivitate emitterent — prout non fuit auditum, quod aliquo modo voluntarie eliberassent — et tunc homagium insimul persolvant; sed, si tantum-

⁶⁰ The Latin text after S. Kolozsvári, K. Ovári, *Magyarországi jogtörténeti emlékek*, p. 169–175; Șt. Meteș, *Vieața Agrară*, p. 243–248.

modo personae vel personis accomodaverit, a tali vel talibus homagium malefactoris exposcant.

Prius erat consuetudo, quod pro effusione sanguinis florenos 13 pro birsagio exigebant. Igitur pro commoda utilitate et restauratione pertinentiarum conclusum est, ut de caetero tales per adversarium iudicialiter convicti solum florenos quattuor pro birsagio solvant. Puer infra decem annorum existens faciens casu sanguinis effusionem birsagium non solvat, sed soli ipsi inter se disponant, prout honestum erit.

Qui domum vel curiam vel hortum in aliqua villa, vel terris, agris, sive pratis eiusdem absque Iuris ordine potentialiter occupaverint, si tandem ordine Iuris observato iudicialiter convicti fuerint, pro huiusmodi potentia 13 florenos solvere tenentur.

Antea erat consuetum, quod, qui fecit actus potentiarum in territoriis, puta arando terras vicinorum, ac prata falcando, segetes cum pecudibus perlustrando pro talibus similibus solvebantur floreni tres.

Pro restauratione pertinentiarum conclusum est, ut tales iudicialiter convicti solvant solum florenum unum.

Ordinatum est, quod, prout solent nonnullae puellae Valachales absque consensu parentum ire ad matrimonium ex voluntate ambarum partium, et, si postea maritus suus cum ipsa matrimonialiter perseverare vellet, extunc solvat florenos duos pro birsagio, prius autem pro tali facto habebant soluere florenos sex.

Ordinatum est, quod, si aliquis filiam alterius virginem aut sororem violenter oppresserit et deturbaverit, extunc birsagium solvant florenos tredecim.

Si vero violatam puellam ad se maritus recipere vellet, et e converso, si puella cum marito manere non vellet, solvat birsagium solum quattuor florenorum, prius autem solvebant florenos 12.

Boyarones, si more et lege ipsorum uxores a se abiicere vellent et cum eisdem amplius manere nollent, pars separans Castellano seu Officiali solvat pro birsagio florenum unum.

Rusticus Valachicus similiter, si uxorem abiicere vellet, modo prenominato pars separans Boyaroni suo, sub quo existit, solvat aspras novem.

Boyarones sive Rustici Valachi uxoribus propriis matrimonialiter iuncti, si maritus vel uxor verum matrimonium non observaret, extunc talis pars non observans portionem suam tam in hereditatibus quam in rebus amittat, portio vero partis observantis unacum hereditatibus suis sola remaneat.

Consuetum erat prius, quod Boyaro vitam claudens equum sellatum cum hasta Castellano dare coactus fuerit, si vero equo deficiebat, etiam equum dare pro ipso oportebat. Igitur ordinatum est, quod de caetero Boyaro equo carens post mortem teneatur Castellano pro equo solvere solum florenos tres.

Haeretici vel opera illorum exercentes consanguineos usque ad tertium gradum opprimentes vel violantes sive etiam cum brutis vel aliter qualitercumque haeretica pravitate se defoedentes sine misericordia aliqua, ut hactenus consuetum fuit, ignis incendio comburantur.

Incendiarii falsarum monetarum cussores similiter ignis incendio comburantur.

Singulis annis ad Castrum portent duo plaustra lignorum per singula capita semel: in festo Natalis Domini, altera vice in profesto Beati Michaelis Archangeli.

Falcare debeant more alias consueto tantum duabus diebus et tandem accumulare et importare teneantur.

Quando aliquo Boyarorum mori contigerit et heredes non habuerit, extunc prima uxori de bonis mobilibus extradetur tertia pars, aliae vero duae partes Domino simul cum hereditatibus remaneant, ex quo non parturit.

Si aliquis masculo caruerit et filiam habuerit, extunc filiae omnia bona mobilia succedant: de hereditatibus autem cum quarta parte puellari eiiciatur tali ordine observato iuxta aestimationem, quod a singulis sessionibus populosis dentur puellae denarii decem et duo, a desertis denarii sex; de desertis vero aedificiis penitus carens denarii tres et, si fratres divisionales habuerint, is vel tales prefatam puellam contentant et hereditatem cum prefata aestimatione ad se redimant. Casu vero, quod fratribus divisionalibus deficeret — quod raro vel nunquam eveniet —, Dominus Terrestris cum praefata aestimatione huiusmodi puellam de talibus hereditatibus excludere valeat hoc non pretermisso, si filia fuisset ante obitum patris maritata, nullas portiones de rebus mobilibus auferre queat, sed in Dominum Terrestrem conferatur, tantummodo de hereditatibus cum aestimatione praefata excludatur, quia in lege Valachorum hereditates sexum foemineum non concernunt, demptis semper portionibus uxorum, quemadmodum sepius praefatum est.

Si quis filiam vel filias optans in rebus hereditariis prefacere heredem masculinum, extunc primum a Domino Terrestri et tandem a Iuratis habeat litteras efficaces sigillo munitas et sic tandem huiusmodi hereditates ad talem tanquam virum masculinum succedant.

Alias redemptiones linguae fuerint in florenis 13, conclusum est, quod tales ab Officialibus pro redemptione eiusdem linguae convincantur in florenis 6.

Si in Sede Iudiciaria alter alteri verba dehonestatoria dixerit, tunc ille convincatur in floreno uno, quia Sedes Iudiciaria debeat libera et honesta esse.

Si quis Sigillo Castellani monitus vel Officialis eiusdem et non curaverit, extunc in floreno uno convincatur.

Alias consuetum fuit, quod sive quis accedens erga Officiales et susurravit sibi aliquem, quod is talis est, Fur vel Latro vel cuiusvis mali patrator, quibus auditis Officiales talium bona abstulerunt, ita ut se velint a tali fama expurgare et rectificare, ille autem, qui ad illum conquestus est, saltem subticuit vel aliquando iudex fuit, quod contra Deum et eius iustitiam fuit et Officiales fuerunt eius causidici⁶¹. Ut igitur tales e medio nostri evellantur, statutum est quod de cetero nullus Castellanos seu Officialium ante decisionem litis et causae aliquem de predare valeat vel birsagiare, sed prius sedendo pro Tribunali et, si talis se iustificare poterit, bene quidem, alioquin iuxta deliberationem sedis soluat birsagium. Si autem compertus fuerit inanius,

⁶¹ In the original text: *causidicti*, corrected *causidici*.

extunc Officiales in partem alteram querelatam birsagium illius noxii e conuerso extorqueant et exigendi habeant facultatem.

Ex parte Furum observetur antiquus modus, ita videlicet quod, si unum ovem vel porcum, sine alias pecudes et pecora furaverit duodecies tantum solvat et sic caput suum redimat a patibulo, sicuti hucusque consuetum fuit in talibus; ita etiam ad futura observetur eadem consuetudo, si unum equum furaverit, teneatur solvere duodecim equos aut pro singulo equo florenos duos, hoc est florenos 24, et sic vitam suam a patibulo redimere valeat.

Si in furtu vestigia quarumlibet animalium vel pecudum aut aliarum rerum ad aliquam possessionem portaverint et persecuti fuerint et damnificati ad vestigium intraverint, Possessio autem talis loci furtum negat ibi esse, ordinatum est, si tota Possessio iuramento se expurgauerint, extunc illa Possessio fiat pacifica, casu autem, quo iurare nollent, extunc talis Possessio damnificatum contentet, insuper consuetum birsagium talis exolvat.

Si quando Castellani prohiberent, quod nullos equos, boves, oves vel alia extra Regnum vendere auderet et aliquis violaret, extunc illius pecuniae medietatem, pro qua summa vendidisset, Castellani et Officiales a talibus venditoribus contra prohibitionem extorquere valeant, alia vero medietas illi venditori pacifice remaneat.

Ordinatum est, quod more alias consueto, qui false iurauerint, prout Christiani solent, ut humanitatem et res amittant, hoc non assumptum, sed tantummodo solvat Officiali florenum unum et pristino honore permaneat, prout ab antiquo observatam fuit.

A scrophis Colonorum huius Districtus et Pertinentiarum more alias consueto, dum glandines erunt et contingunt esse, nec Domini Terrestres, nec Boyarones a Colonis Pertinentiarum huius Districtus Castri exigere valeant quicquam excepto hoc, ut in cuius silva crescunt glandines, Villani aliorum Villis residentes a Boyaronibus talis loci debeant reconciliare Boyaronem cum uno cubulo avenae vel una pinta vini.

Qui domos aliorum foderint vel de fenestra intraverint, capite priveantur.

Qui ex ipsis contra Castellanos vel Officiales et homines eorum insurgere audent, extunc capite priventur.

Pro sedatione igitur prefatorum birsagiorum et allevatione, unanimi proposito et consilio et pro conservatione [pertinentiarum] Castri Castellanis per singula capita florenum unum dare et solvere ordinavimus et conclusimus demptis prioribus uno cubulo tritici et uno cubulo avenae.

Qui vicinum suum siue absque aliqua proditione domus, hoc est extra domum, puta in curiis, stabulis, hortis subtraheret aliquas res, extunc convincatur in florenis sex, ut intelligatur Fur iste solito more vocatur Induspes.

Petendo et supplicando nobis, ut huiusmodi articulos ratos, gratos et acceptos haberemus, quos nos de verbo ad verbum acceptavimus et approbavimus et, si quid ulterius pro commodo, bono et statu eorundem et pro augmentatione et nobis significaverint nostram benevolentiam ab eisdem non retrahemus harum nostrarum vigore et testimonio litterarum mediante.

Datum Budae in festo Beatae Sophiae Viduae anno Domini millesimo quingentesimo octauo.

THE STATUTES OF FĂGĂRAȘ (1508): TRANSLATION

We, Ioannes Bornemisza, castellan of this Fortress of Buda and counsellor of the Royal Majesty, let everyone know that the distinguished Paulus Thomory, castellan of our Fortress of Făgăraș, seeing the hardships of the boyars and of all our other Romanians in the district and in the dependencies of our mentioned Fortress of Făgăraș, oppressions which they endure because of the collecting the taxes which were imposed to them since ancient times, according to the course of the law, and also seeing that they suffered even more often from all sorts of unusual taxes invented by the previous castellans, because of which the district and the possessions of this Citadel could not be restored, so, for all these reasons, the same Paulus, together with the boyars and all the Romanians of our same district of Făgăraș, has disposed and ordered that this district and the dependencies of our mentioned Fortress of Făgăraș should be populated with a multitude of people, concomitantly with the moderation and reduction of charges and taxes, such a provision and ordinance being comprised in the articles written below.

Thus, firstly: All the boyars, whenever they happened to have to ransom a homicide, were always fined 66 florins by the officials of the Fortress, namely by the judges and the castellans, wherefore it has been decided that the boyars punished with the ransom of homicide should always pay only 33 florins to the castellans and to the above-mentioned officials, or how much they may agree with each other less, but in no case a number higher than 33 florins.

Similarly, the custom of the Romanian peasants was at first that, whenever they were punished for the ransom of homicide, they had to pay for the ransom of the crime 33 florins. It was therefore decided that the peasants in question who had been punished with the ransom of homicide should be fined only 25 florins or less than 25 florins should they be able to agree upon this.

Traitors, unbelievers of the Fortress should be beheaded, or, if they can, they should benefit of our Lord's pardon.

As a result of the fact that it was a custom since ancient times that, whenever robbers or thieves or any other villains, from the country or from abroad, were entrusted to a villager or a peasant for guarding and taking them to the Citadel, if it happened that the prisoner escaped by fleeing, then the ransom of the crime was demanded to be paid by the possession of that place. Therefore it was decided that, moreover, whenever the officials seize such a captive and deliver him into the hands of another or others in order to take him to the Citadel, then they should demand him from them, and if they are not able to fetch him, they should not dare to prevent others from doing so; but if they have delivered him into the hands of the villagers,

who are unable to return him or they release him from captivity – anyway nobody has heard that somebody was ever willingly released – then the village community must pay the ransom of the crime; and also if the villagers have housed him in someone's house or houses, the ransom of the wrongdoer must be demanded from the respective individual or individuals.

In older times it was a custom to pay for bloodshed a fine of 13 florins. But, for the safe benefit and restoration of the dependencies, it has been decided that individuals defeated in law by the opposite side should pay a fine of only 4 florins. A child under ten years, who commits bloodshed, should not have to pay any fine, yet this should be agreed by the officials as they would find it to be most righteous.

If some have forcibly occupied a house or a yard or a garden in any village, or have entered unlawfully the lands, fields, or pastures of the same village, and if, finally, after the lawful order was imposed, they were punished for this transgression let them be made to pay a fine of 13 florins.

Formerly it was the custom that whoever committed an act of violence in this region, namely by ploughing the lands of his neighbours and mowing pastures or crushing the cornfields underfoot with their beasts, had to pay 3 florins for such acts.

In order to restore the dependencies, it was decided that those punished by law should have to pay a fine of only 1 florin.

It has been ordered that, just as some Romanian girls used to engage, without the consent of their parents, into a matrimony by will of both parties, and if afterwards the husband wished to continue the marriage, then he should have to pay 2 florins as a fine, whereas before, for such a deed, they had to pay 6 florins.

It has been ordered, too, that if anyone exerted violence and desecrated the virgin daughter or sister of another, then he should have to pay a fine of 13 florins.

And if the raped girl wanted to receive him as her husband, but also, on the contrary, if the girl did not want to stay with her husband, he would have to pay a fine of only 4 florins, although previously he used to pay 12 florins.

If the boyars, according to their custom and law, wish to repudiate their wives and do not wish to remain with them any longer, the separating part shall have to pay to the castellan or servant a fine of 1 florin.

Likewise, if a Romanian peasant wants to repudiate his wife, the separating part has to pay to the boyar he serves 9 *aspros*.⁶²

With regard to Romanian boyars or peasants bound in marriage to their own wives, if the husband or wife does not respect the true marriage, then the part not respecting the matrimony should lose its portion in both inheritances and assets, and the part respecting the marriage contract should keep his or her portion together with the inheritance.

⁶² The *aspros* (*aspras*, in Latin) were small Italian coins (issued in Genoa) in contrast to the more valuable Habsburg silver *florins*.

It was another custom in elder times that a boyar who was ending his life (dying) was obliged to give to the castellan a saddled horse and a spear and, even if he was deprived of a horse, he had to give another horse in exchange. It has been therefore ordered that, moreover, the horseless boyar should be kept to pay for the horse only 3 florins to the castellan after death.

Heretics or those who carry out their work by oppressing and violating their relatives up to the third degree of consanguinity, or who mercilessly defile themselves with animals or in any other way through heretical crookedness, are to be burned at the stake, just like it used to be hitherto.

Similarly, the executioners should burn at the stake the counterfeiters of money, too.

Every year, the boyars should carry to the Citadel each of them two carts of firewood: once on the feast of the Nativity (at Christmas), the second time on the eve of the feast of Saint Michael the Archangel.

They should have to mow, according to the custom once observed, only two days a year and at the end they are compelled to collect the hay and transport it to the Citadel.

When it happens that a boyar dies and he has no heirs, then first of all a third of his movables will be given to his wife, and the other two thirds will remain with the landlord, because she did not bear a son.

If a boyar shall have been deprived of a male son, and should he have only one daughter, then all the movables are inherited by the daughter; but she is to be deprived of her inheritance, as well as of the daughter's quarter, according to the following order, by virtue of a just appraisal: the girl should receive 12 dinars for each populated plot of land and for each deserted plot of land 6 dinars. And if she has one or more brothers enjoying communal property, let the latter compensate the aforesaid girl, and appropriate their inheritances by observing the above mentioned appraisal. But in case she has no brothers – which seldom or never happens – by virtue of a due appraisal, the landlord may exclude the girl from her inheritance, yet without overlooking the fact that, if the girl has married before her father's death, she will not be able to seize any portion of the movables. Instead, these [movables] should be assigned to the landlord, and she should be excluded only from inheritance, after a due appraisal: because in the law of the Romanians, inheritance does not concern the female sex, the portions of the wives being always deducted (lessened), as mentioned here several times before.

If a boyar would wish to change his daughter into a male heir of his hereditary assets, then he must obtain a certificate reinforced with a seal first from the landlord and then from the jurors, and thus finally a heritage of this kind can be transmitted by succession to her [the boyar's daughter] as a heir of male rank.

Formerly, the ransoms of the tongue used to be 13 florins: instead, it has now been decided that such persons should pay to the officials for the ransom of the tongue a fine of 6 florins.

If a boyar addresses to another heavy words in the Seat of Law, he'll be fined 1 florin, because the Seat of Law has to be free and honest.

If any boyar is warned by the castellan or his officer's seal and disobeys [the warning], let him be fined 1 florin.

Once it was a custom that if anyone went to the officials and accused another one, whispering in their ears that he was so and so, namely a thief or a robber or any kind of wrongdoer, upon hearing these things the officials confiscated the assets of the defendant, as if they wanted to cleanse themselves of such rumour and to rectify it, while the complainant – who was maybe a former judge – kept silent about the fact that he was against God and His justice, and the officials were his false advocates. Therefore, in order to remove such individuals from among us, it has been decided that none of the castellans or officials can injure or fine any one before the verdict of the litigation or of the case is given, but first the complaint must be brought to the court of law, and if he is able to exonerate himself, good for him, otherwise he'll have to pay the fine according to the judgement of the Seat of Law. But if it has been discovered that he has made a false claim then the officials can fine him for that guilt and transfer the fine to the other part, the accused one.

With regard to the thieves, the ancient measure must be observed, that is, if one has stolen a sheep or a pig or other beasts and cattle, he should pay only 12 florins, and thus he can save his head from the gallows, as it was the custom hitherto in such cases. So in the future, too, the same custom will be observed: if one has stolen a horse, let him be made to pay 12 horses or for each horse 2 florins, that is, 24 florins, and thus he'll be able to save his life from the gallows.

If, in the case of a theft, the traces of animals or beasts or others lead to a particular possession and they are followed by the injured who is on the tracks, yet the possession of that place denies that the theft was there, it has been ordered that, if the whole possession shall be cleansed by oath, then let that possession be peaceful, but if they do not want to swear, then such possession must compensate the injured. Moreover, it should also pay the usual fine.

If at sometimes the castellans will forbid anyone to dare to sell horses, oxen, sheep, or other beasts outside the country, and this prohibition shall be violated, then the castellans and officials shall be able to confiscate from such sellers half of the amount for which they have sold, and the other half can remain peacefully upon that seller.

It has been also ordered that, according to the custom once observed, those who have sworn crookedly shall not lose their humanity and goods, as Christians use to do, but without assuming the [old] law, they shall have only to pay the official 1 florin and so they can keep their old esteem, as it has been observed since ancient times.

As regards the sows of the serfs of this district, and according to the custom formerly observed, whenever the acorns shall and happen to be ripe, neither the landlords, nor the boyars can claim anything from the serfs belonging to this district of the

Citadel, unless the villagers living in the villages of other boyars must reconcile the boyar – of the place with the forest where the acorns grow is located – with a bucket [approximately 100 kg] of oats and a pint of wine.

Those who have broken into other people's homes or have entered through windows should be beheaded.

Let those of them who dare to rebel against the castellans or officials and their men be beheaded when they do it.

Therefore, in order to relief and remove the above mentioned fines, as well as to preserve [the dependencies of] the Citadel, we have ordered and decided, by unanimous resolution and advice, the castellans to be given and paid 1 florin per capita, also deducing beforehand subtracting a bucket of wheat and a bucket of oats.

He who would steal from his neighbour certain stuff, even without entering his house, that is, from his yards, stables, gardens, should be fined with 6 florins, so that anyone can understand that he is to be called “a thief who enters in the back of the house” or “a thief who sneaks in”.

We were asked and begged to hold on to these articles, which we have accepted and approved word for word, and if anything else – for their advantage, welfare and good condition, as well as for their increase – is brought to our further attention, we will not withdraw our goodwill from them, through the vigour and testimony of this letter of ours.

Given at Buda, on the feast of Saint Sophia the Widow [15 May 15] in the year of the Lord one thousand five hundred and eight [1508].

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