

Archives of the Dead: Administration of Last Wills in Medieval Hungarian Towns

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Fig.1. Dictating the will
The Sobieski Hours (c. 1420-1425)
The Royal Library at Windsor Castle, fol.
111v.
(Published by Eleanor P. Spencer, London:
Academic Press, 1977)

*“In the name of the Lord. The testament and last will is noted down, that I, Albert Gailsam, citizen of Pressburg, made and ordered in my sick-bed and illness, though in good sense and freely, for the benefit of my soul in the presence of my later named will executors as follows, in order that I find my death in the Almighty God and my soul...However, in order that my testament and last will should be legally binding, through God’s will I asked the honourable wise men, Andrew Holzer, town judge, Wolfgang Aigner, furrier, members of the town council, and John Fleisch, town scribe of Pressburg, that they should carefully execute my written words and that they should strengthen it with their own seals without harm to them or to their descendants. It was done on Thursday after Invocavit Sunday [20.02.] in the year of 1483....It was entered [into the ‘Protocollum Testamentorum’] on Friday after Ascension Day [09.05.] in 83.”*¹

¹ Archiv mesta Bratislavy (henceforth AMB), “Protocollum Testamentorum” I. B 4n-1 (henceforth PT), also as a photograph in the collection of the National Archives of Hungary (Magyar Országos Levéltár, henceforth MOL), DF 277056, fol. 194r-195r. “In nomine Domini Amen. Vermerckht das geschefft und letzten willen, so ich Albrecht Gailsam, burger zu

By using these words and dictating his last will, Albert Gailsam, a prominent citizen of late medieval Bratislava (Pozsony, Pressburg), followed a tradition present in his own town for more than a century and even longer in other towns of Europe.

Hungarian Name	POZSONY	SOPRON	EPERJES	BÁRTFA	KASSA
German name	Pressburg	Ödenburg	Eperies/ Preschau	Bartfeld	Kaschau
Slovak name	Bratislava	-	Prešov	Bardejov	Košice
First privileges²	1291	1277	1299	1320	1319/1321 ³
Town Books extant from the 15th century⁴	1402–1472 1427 onwards	1390–1517	1424–1509	1416– 1434; 1429 1436– 1498	1393– 1405 1460– 1526
Population in the late 15th century	5,100/ 5.600	3,200/ 3.500	2,900/3,000	3,000	4,000/ 5,000

Table 1. Some Data on the Investigated Free Royal Towns in the Medieval Kingdom of Hungary

Late medieval testamentary practice was the result of a gradual development of several legal systems which evolved to fit the needs and interests of various social groups. Both orality and literacy were present in making wills, and even as

Pressburg in meinem siechpett und krankchait, doch mit guter vernufft wolbedeichtigklichen zu hail meiner sel getan und geordent hab in gegenburtigkait meiner hernachgeschriben geschefftherren als hernach volgt, damit bevilch ich mein letzt end dem Almechtigen Got und mein sel....Das aber solh mein gescheft krafft hab und letzter wille, so hab ich durch Gots willen gepeten die ersamen weisen herren Andren Holczer statrichter, Wolfgangen Aigner kurssner, gesworn des rats und Hannsen Fleisch statschreiber zu Presburg, das sy es treulich in geschrift brachten und mit irm aigen betschaden bewart haben, doch in und irm erben an schaden. Actum an Phintztag nach dem Suintag Invocavit Anno Domini etc. *LXXXt*ertio... Actum des einschreiben des Freytags nach Ascensionis domini 83.”

² Erik Fügedi, “Középkori magyar városprivilegiumok” (Medieval Hungarian Town Privileges), in Erik Fügedi, *Kolduló barátok, polgárok, nemesek. Tanulmányok a magyar középkorról*. (Budapest: Magvető, 1981), 238-310.

³ Košice might have had a privilege issued before 1249, but it has been lost. In the 1290s it received some ecclesiastical privileges, but the first extant town privilege was issued in 1319 by Charles I, probably as a reinsurance of an earlier privilege. See *Ibid.*, 238.

⁴ Béla Iványi, “Vázlatok Eperjes sz. kir. város középkori jogéletéből, főleg a város 1424-1509-ből való jegyzőkönyve alapján (Sketches from the Medieval Legal History of the Free Royal Town of Prešov, Especially on the Basis of Its Town Protocol from 1424-1509)”, *Századok* 43 (1909): 218 (hereafter Béla Iványi, “Vázlatok Eperjes sz. kir. város középkori jogéletéből...”).

the role of literacy increased, it apparently never became exclusive. Oral forms and actions have been maintained in the formulation and execution of last wills up to the present day. Clues to the different distributions of the numbers of wills preserved from late medieval towns can be found in the answers to some questions, for example: What was the role of literacy and in which ways did it replace the oral transmission of dispositions? Was there a difference between the probative value of oral and written testimonies? Whose interest did it serve to put the wills in writing? What were the forms of administering wills in urban contexts? and, Was the administration of wills in any way different from the administration of other matters in towns? The primary area of investigation for this paper is the medieval Kingdom of Hungary, or better to say, its five free royal towns from the north-western and northern region – Sopron, Bratislava, Prešov, Bardejov, and Košice – in the fifteenth and early sixteenth centuries (table 1).

First, some short notes will be presented on the features of medieval testamentary practice in Hungary and for the relevant medieval archives for administering last wills.⁵ The influence of canon law on the system of medieval bequests was decisive because the Church claimed authority over legal matters concerning birth, marriage, and death. In addition, in Hungary it was canon law which transmitted the influences of European legal development.⁶ A further element, perhaps the most important in the development of urban wills, was town law, which evolved from the privileges granted by the king or other landlords and the customary law of the community. The autonomy of the members of a given community was emphasized, among other things, by the freedom to make their own wills. In Hungary the most important towns which formed the basis of the urban network of the country received their privileges during the late thirteenth and early fourteenth centuries. In the next phase of their legal development, around 1440, a code book of the so-called tavernical law (the law of the seven free royal towns

⁵ For this see Katalin Szende, “A magyarországi városi végrendeletek helye az európai joggyakorlatban. (A középkori Sopron, Pozsony és Eperjes példája)” (The Place of Urban Last Wills from Hungary in the European Legal Practice, [The Examples of Medieval Sopron, Bratislava, and Prešov]),” *Soproni Szemle* 53, no. 4 (1999): 343-356 (henceforth Szende, “A magyarországi városi végrendeletek helye az európai joggyakorlatban;”) Katalin Szende, “Testaments and Testimonies. Orality and Literacy in Composing Last Wills in Late Medieval Hungary,” in *Oral History of the Middle Ages: The Spoken Word in Context*, ed. Gerhard Jaritz and Michael Richter, *Medium Aevum Quotidianum*, 12 – CEU Medievalia 3 (Krems-Budapest, 2001), 49-66 (henceforth Szende, “Testaments and Testimonies”); Katalin Szende, “The Uses of Archives in Medieval Hungary,” paper presented at the symposium “The Development of Literate Mentalities in East Central Europe,” Utrecht University, 2001, (forthcoming, *Utrecht Studies in Medieval Literacy* 4.)

⁶ György Bónis, *Középkori jogunk elemei. Római jog, kánonjog, szokásjog* (The Elements of Medieval Hungarian Law. Roman Law, Canon Law, Customary Law) (Budapest: Közgazdasági és Jogi Könyvkiadó, 1972), 61-140.

used at their common court led by the *magister tavernicorum*) was compiled, which, among other things, contained regulations on testamentary practice.⁷ The recording of legal regulations paralleled the increasingly frequent use of writing in the legal actions these laws referred to.

Legal regulations were precise in describing the conditions for making wills, defining who was allowed to make an authentic will, when, how, and in front of whom.⁸ However, real life produced quite varied circumstances and the authorities implementing the laws usually showed greater flexibility than those who made them. The testaments themselves often give insight into the procedure which took place in the presence of the testator. Wills in medieval Hungary were usually composed only shortly before death, or in a few cases in critical situations or before risky enterprises such as going on pilgrimage, giving birth or joining a military campaign. In the urban context especially there was rarely a significant gap between the date of a will and the death of the testator, thus the most typical scene of making a will was on one's sick- or deathbed. In many cases it was also so stated.⁹ As parallelly noted dates from urban protocols indicate (see fig. 2), wills were entered into the relevant town book shortly, usually weeks or months, after their composition. This shows that even in the case when illness was not directly stated, the testator did not live long after having composed his or her will.

The most important participants of will-making were those who were theoretically no relation of the testator: the witnesses.¹⁰ In medieval urban law the

⁷ Relevant paragraphs 224-229, *Codex authenticus iuris tavernicalis*, ed. Martinus Georgius Kovachich. (Buda, 1803), 221-235. See also Gusztáv Wenzel, *A tárnoki jog* (The Tavernical Law) (Budapest, 1890), see esp. 13. For more on tavernical law see Gusztáv Wenzel, "A XV. századi tárnoki jog" (Fifteenth-Century Tavernical Law) *Értekezések a társadalmi tanulmányok köréből* 5, no. 1 (Budapest: Magyar Tudományos Akadémia [henceforth MTA], 1878); see also Štefánia Mertanová, *Ius tavernicale. Studie o procese formovania práva tavernických miest v etapach vyvoja tavernického súdu v Uhorsku (15–17 stor)* (Studies on the Developmental Process of the Law of Tavernical Towns during the Existence of Tavernical Court [Fifteenth-Seventeenth Century]) (Bratislava, 1985).

⁸ József Holub, "Végrendeleti jogunk kialakulása (The Birth of Hungarian Testamentary Law)" *Akadémiai Értesítő* 37 (1926): 232-240.

⁹ In the case of the last wills analysed from the "Protocollum Testamentorum" from Bratislava (1409–1493), 37 % of the testators stated clearly that the reason for leaving a will was their illness, 1% mentioned war or pilgrimage, and the rest were silent about the reason, PT, passim.

¹⁰ Concerning Prešov, Béla Iványi ("Vázlatok Eperjes sz. kir. város középkori jogéletéből...", 291.) wrote that at least two burghers were supposed to be present, and one of them or an additional third was in most cases the town scribe. A priest (parish priest or confessor) might be present, but his absence did not invalidate the action. Of 500 wills analysed from Bratislava for the period 1409–1493, the number of witnesses and people present at the time of making the will were: 3 cases no witness named; 3 cases only 1 witness; 81 cases with 2 named; 225 cases with 3 people; 119 cases with 4 people; 38 cases with 5 names; 21 cases with 6 names; 7 cases with 7 people and in 3 cases 8 people were named, PT, passim.

testator's signature or an autograph manuscript of a last will had no legal validity. It was the testimony of the witnesses, the seals put on the document, and/or the entering in a town book which made a will valid.¹¹

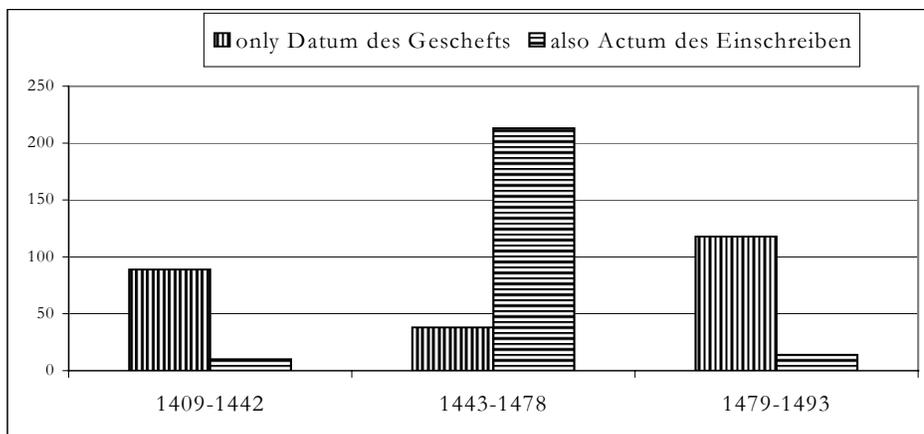


Fig.2. The numbers of records of *Datum* and *Actum* in the “Protocollum Testamentorum” of Bratislava (1409–1493)

One of the main considerations of urban legislation in connection with last wills was to restrict the influence of the Church over the property of the citizens, even if actions related to the inhabitants' death would have concerned the ecclesiastical authorities. Both the question of witnesses and the measures taken to protect the urban tax base were part of the rivalry between town and Church. Town councils insisted that wills witnessed solely by priests should not be considered valid – as formulated in a Sopron ordinance from 1418.¹² The Church claimed supremacy in

¹¹ “Der zu eynem gescheft wirt gepeten, das er das furen sulle, der sal dor zu gehen mit andern gezeugen. Unnd so der mensch, der das gescheft gethon hat, stirbt, so sullen dy gescheft hern unnd dy gezeugen mit schrift ader mit priefen wor den Rat chomen, ap das sey geschriben worden. Ist aber des nicht, so ist iß genug mit den czeugen, unnd schol melden alle stuck, dy der mensch hat geschafft, Das elles ordenlich sol peschriben werden yn das stat pueh unnd dor nach sullen dy gescheft herren frist haben sechs monet dy nechsten zu verfuren unnd auß zu richten ganz unnd gar das gescheft. Nach den VI mont zu hant schol der Richter des monden seyn, das er dy selbigen gescheft herren pfende unnd all dy dor czu gehoren. Unnd was er dan findt, das nicht auß gericht ist, das sol er an allis lenger vor czyhen auf richten unnd enden.” This can be read in *Das Ofner Stadtrecht. Eine deutschsprachige Rechtssammlung des 15. Jahrhunderts aus Ungarn. Hrsg. von Karl Mollay. Monumenta Historica Budapestinensia 1* (Budapest: MTA, 1959) (henceforth *Das Ofner Stadtrecht*): 161-162.

¹² Jenő Házi, *Sopron szabad királyi város története. II. rész, 1. kötet: Végrendeletek és egyéb feljegyzések, 1390–1524* (The History of the Free Royal Town of Sopron. Part 2, Vol. 1, Last Wills and Other Notes, 1390-1524) (Sopron: Székely és Tsa, 1930) (henceforth Házi, *Sopron*): 159-160: “das sachen zu gach und zu pald wern, so mag man nemen zwen oder mengern erber gesessen leüt zu demselben geschefft.” See also Szende, “Testaments and Testimonies,” 55.

all spiritual matters, therefore it tried to keep its control over testamentary practice as much as it could.¹³ The religious background of leaving behind testaments, for example the teachings of the Church on Purgatory and the presence of the confessor at the deathbed, supported the ecclesiastical side, while the role of the town authority in legalizing and actually helping to fulfill the will supported the latter's side. The shift from one side to the other was different from town to town.

The initiative to make a will, since it was a voluntary arrangement, was generally taken by the testator, but it happened, probably more often than we hear, that he or she was reminded by laymen or clerics to do so.¹⁴ It was even more usual for someone to influence the course of will-making, for instance by putting questions to the testator whether he or she would like to leave something to a given person or institution. In most of the cases noted the testators showed remarkable determination not to change their original decision. For instance, Niclas Gutgesell refused to give anything to the church, shifting the responsibility to his father-in-law, to whom the property was already bequeathed.¹⁵

Entering wills into the town book or depositing and reading the original document in front of the town council meant more than handing over the text for safekeeping. As a consequence of the town's autonomy and authority to proceed in cases connected with the wills, the council assumed responsibility for their execution.

As far as the replacement of orality by literacy is concerned, the appearing of written wills did not replace or discredit their oral counterparts. The relationship

¹³ A document from Bratislava dated to 1348, issued by ecclesiastical people together with town authorities, stated the way to leave testaments: "quod per quemcunque aut quoscunque ultimae voluntates, seu testamenta fuerint legata, aut facta, duae personae unus canonicus et unus a iudice, iuratis et civibus, ad hoc deputati, unacum plebano, seu eius vicario debeant interesse, ut sciatur quid esset, quod canonicis et quod plebano detur, vel legetur; a quibus videlicet testamentis decima pars cedere debedit ecclesiae nostrae praedictae custodi," in Georgius Fejér, *Codex Diplomaticus Hungariae ecclesiasticus ac civilis*, vols. 1-11 (Buda, 1829-1844), Vol. 9 no.1, 604-605.

¹⁴ Házi, *Sopron*, 233-235: "habm si mich untterweist die ersamen und geistlichen herren." From the inventory of Bálint Alföldi, a merchant and royal tax-collector who owned houses in both Győr and Sopron. The final text of the will is not known.

¹⁵ "Item also manten in die geschefftherren und der Lachutel zu dem paw zu Sand Mertin und zu unser frawn in das tal oder zu andern paw, also anttwurt der Gutgesell, er hett ims nu geschafft und vergeben seinem sweher so er wer sein nymer mochtig, was er da mit nu tuet oder tun wolt, das stünd zu ain und wer auch sein guter will." (21 December 1436) PT, fol. 21r. Similar examples can be found in the will of *Martine Pernhertel* (11 September 1436) "Item zu dem ander mal manten wir obgenante geschefftherren den Martine, ob er ich wolt schaffen zu Sannd Merten oder anderswo hin, do anttwurt er uns auf meinen herren den Lachutlein der würd wol wissen, was er da mit thun sol, der sol sein gantz mugig sein, was er da mit thün wirt." PT, fol. 24v; or that of Katherina, Michel Stainbrecher's wife (20 April 1495) (PT fol. 244v).

between orality and literacy was rather complementary than competitive. The growing demand for literacy in certain circles of a still mainly illiterate society was only one side of the coin. Even if the testator's wish was to put his or her will into writing, several oral actions had to be performed both before, during, and after formulating the will in order to have it executed. However, a great number of wills existed only in the oral form. What writing replaced or extended was basically the scope of human memory, especially when it came to testifying and controlling the testaments.¹⁶

Two types of medieval archives were relevant in the preservation of urban wills. For the earlier period they were the ecclesiastical institutions, basically those bodies fulfilling the function of a *locus credibilis*, a place of authentication, which was entrusted with functions filled by notaries public in other European countries.¹⁷ However, for the later period the municipal archives of the towns are more relevant. In the first decades of their existence the municipal archives were primarily recipients' archives, their main function being the safekeeping of the royal charters that granted their privileges. These records later formed the basis of the so-called 'secret archives' which were set up from the first quarter of the fourteenth century onwards. In some places, a transitional phase to the independent production of charters by the towns as legal entities can be traced from the documents. This was a period when the leaders of the town – the judge (*judex*), or in places under stronger German influence, the mayor (*magister civium*, *Bürgermeister*) – appear with the representatives (*praeceptor*, *prior*, etc.) of the closest *locus credibilis* as issuers of documents concerning the town. This transition lasted from the second half of the thirteenth century, when the most significant settlements were granted urban status by the king, until the middle of the fourteenth century, when the towns began to have the full rights to issue charters in their own matters.¹⁸ From then on it became customary for the burghers of a town to turn to the local council rather than to a place of authentication to have their cases put into writing.

It is uncertain whether the archives of the emerging new communities in the first century of their existence were kept by their leaders or by the places of

¹⁶ See Szende, "Testaments and Testimonies," 64-65.

¹⁷ Ferenc Eckhart, "Die glaubwürdigen Orte Ungarns im Mittelalter," *Mitteilungen des Instituts für österreichische Geschichtsforschung* IX. Ergänzungsband (1913/1915): 395-558; Alfonz Stolz, *A hiteleshelyek és azok jelentősége a középkorban Magyarországon* (Places of Authentication and Their Importance in Medieval Hungary) (Újvidék, 1912). György Bónis, "Les autorités de 'foi publique' et les archives des 'loci credibiles' en Hongrie." *Archivum* 12 (1962): 97-104. For more recent work see Tamás Kőfalvi, "Places of Authentication." *Chronica: Annual of the Institute of History, University of Szeged* 2 (2002): 27-38.

¹⁸ Jenő Házi, "A városi kancellária kialakulása Sopronban" (The Development of the Town Chancery in Sopron), *Soproni Szemle* 10 (1956): 202-215.

authentication. Perhaps the latter is more likely, since most towns did not have a town hall until the beginning of the fifteenth century. In any case, after the towns became independent in their written activities all the charters concerning the community must have been handed over by the places of authentication, since the earliest documents of the best preserved town archives date back to the middle of the thirteenth century. However, in some places (for example in Bardejov) the municipal archives were kept in the sacristy of the local parish church, similar to the practice of ecclesiastical institutions.¹⁹

An important step towards the professionalization of urban administration was the introduction of town books: registers of documents issued by the town or of cases that came before the local court. Since the entries in the town books were considered legally authentic, writing in them was strictly regulated, as is revealed in the Lawbook of Buda,²⁰ which was also used as a basis for the other royal towns. In that law book, for example, the price of writing a testament was set at a hundred denars while a normal letter cost only one quarter of that sum.²¹ The first such town book volumes, which appeared in the last third of the fourteenth century (see Table 1), were used as notebooks by the local authorities. They contained unspecified collections of all sorts of written records dealing with matters of the town as a community or with the cases of individual citizens. The keeping of town books of

¹⁹ *A magyar levéltártörténet kronológiája, 1000–2000* (The Chronology of the History of Hungarian Archives, 1000–2000), ed. Klára Dóka et al. (Budapest: MOL, 2000), 27-39, passim.

²⁰ “Dy stat sol haben ein pesunderr mergklich puech, das sol alle Iarr in anfang und in gang des gerichtes vermergkt und vernewt werden underr des Richter und der Ratherren namen, als das statgrundtpuech, do sol der statschreiberr dy maynung und in haltung aller prief, dy vber erb und gescheft und anderr nam haftige trefliche sach geschriben und under der stat sigil gesigelt werden, gar ordenlich und gruntlich vermergken und in schreibung mit derr zall und des tages namen und alle ausweisung, Wen und zu welichen zeiten der statbrief gescriben und aus geben ist. Auf das, ob einem menschen sein prief verloren oder verprandt oderr sunst under christen oderr Iuden entpfrombt worden, so sol man dem selbigen menschen ob er des pegert, des rechten helfen mit anderen statbriefen nach inhaltung und ausweisung der ob geschriben vermergkung.” “Kain schreiber sol in das statpuech schreiben, denn nur der statschreiberr allain...”, and related orders can be found in *Das Ofner Stadtrecht*, 80-81, 82. Among the later statutes of Košice is the following: “Item kein brieff noch register sollen genomen werden on willen und wissen des herrn richters und dees ersamen ratts, die man aber heraus nimptt, das man sie widerumb dahin legtt und das drey ader 4 personen allzeit noch brieffen ader stattbuchern dahin gehen,” in “Kassa város statutumai a XVI. század második feléből” (The Statutes of the Town of Košice from the Second Half of the Sixteenth Century”), ed. Béla Iványi, *Történelmi Tár* (1893): 380-382.

²¹ “Von des Statschreibers schreib lonn. ...Item umb ein schlechten offen procurator prief den. XXIII....Item umb gewain christen phandt prief den XII....Item von einem geschlossen gewalt prief, damit ainer dem anderen sein sach wepflicht und in möchtig mahet den. XXIII....Item vom geschefft oderr testament prief den. C.” *Das Ofner Stadtrecht*, 79.

mixed contents remained the practice in smaller places up to the end of the Middle Ages, while in the major towns of Hungary, thematically arranged volumes were introduced. For instance, court protocols, collections of last wills, registers of real estate (mainly houses and vineyards), account books, tax rolls, and lists of new burghers were kept in separate volumes.²² Due to the advantages for daily use, these books preserved many documents for posterity that would otherwise have been discarded due to their short-term validity.

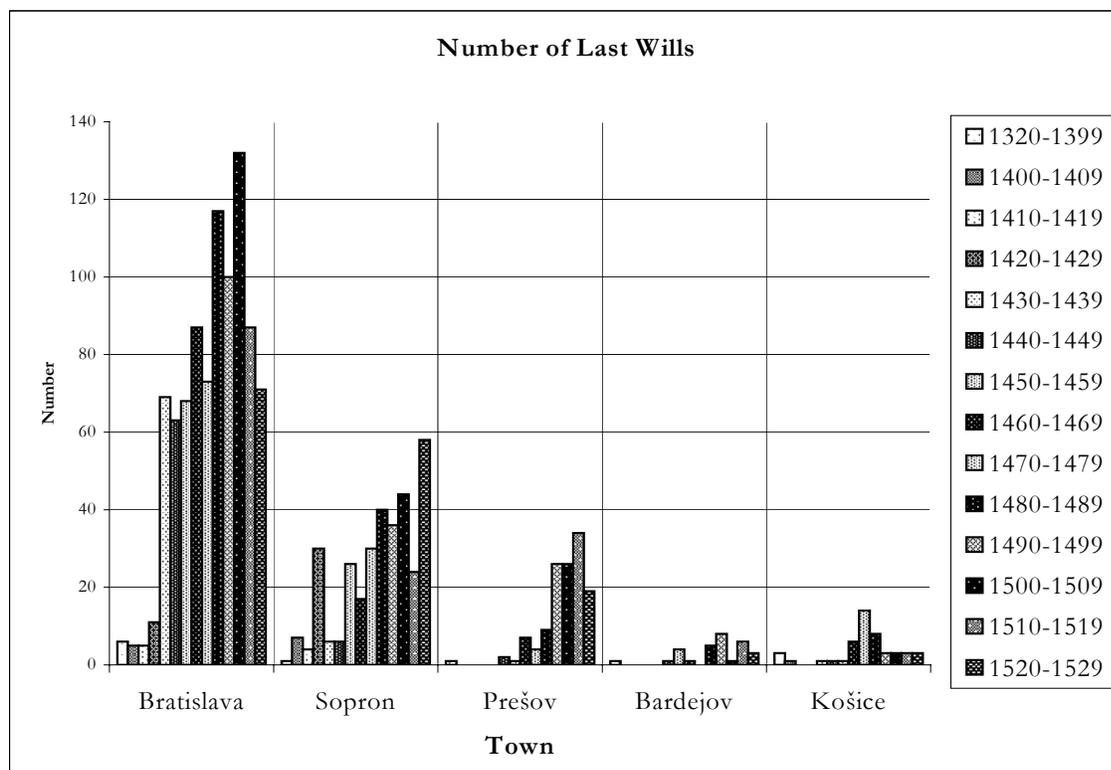


Fig.3. The numbers of last wills from the Free Royal towns of medieval Hungary investigated in this study.

The following discussion will cover how all this affected the preservation of last wills in different towns. Three of the towns analyzed (Bratislava, Sopron, and Prešov) had already gained their first privileges by the end of the thirteenth century, while the other two (Košice and Bardejov) were granted their main rights in the early fourteenth century. The practice of leaving testaments, though, started in the fourteenth century,²³ became widespread in all of these towns by the second half of

²² Ilona Pálffy, “Városi levéltáraink kezdetei (The Beginnings of Hungarian Town Archives)” *Levéltári Közlemények* 18–19 (1940–1941): 18–19; Antal Fekete Nagy, “A levéltáraink kialakulása (The Birth of Hungarian Archives)” *Levéltári Közlemények* 14 (1938): 23–36.

²³ To date the first extant data found concerning Košice is from 1328 (*testamentariae voluntatis Nicolai filii Pauli Genadiors Cassoviensis*, MOL, Óbuda Rolls C36/1, Archivum Secretum,

the fifteenth century. Through comparing the population of these towns at the end of the fifteenth century (see table 1), it can be observed that Bratislava was the largest. It was followed by Košice, while Sopron by the end of the century had lost quite a number of inhabitants (its population fell back from 4,100 to 3,200/3,500). At the same time Prešov and Bardejov had similar fairly low numbers of inhabitants.

When viewing the chart on the numbers of last wills from the free royal towns of medieval Hungary (fig. 3), what is immediately apparent is the great difference in the number of extant wills from these towns, a phenomenon which definitely cannot only be explained by their sizes. Besides the obvious reason that the devastation of medieval documents varied from place to place, several other factors must have influenced the quantity of wills surviving. Among others, – of course not exclusively – the way of administering them, and higher demand of the burghers themselves for written and well-preserved wills or, on the other hand, the longer predominance of orality in certain places, could have also been influential. The following examples illuminate something about how and why numbers of wills survived and the conditions of their survival.

In Bratislava the practice of leaving testaments might have started earlier than the middle of the fourteenth century, but the first indirect data about the investigation concerning the last will of a canon is available only from 1350. The first extant will in full length was written in Latin and is the joint testament of Heinrich Vogl and his wife, Elisabeth, from 1356. The next document was written in German by a wealthy citizen in 1375.²⁴ Though the practice of issuing private charters under the seals of the witnesses was present in Bratislava in the later period as well, the survival of these documents in the later decades is more and more sporadic and accidental. From the beginning of the fifteenth century onwards the role of preserving wills was taken over by the town books. Wills and orders in case of death were noted down, mixed with the payments due, contracts, and documents of other legal transactions into the so-called “Protocollum Actionale” (1402-1506).²⁵ By 1427 the town administration reached such a level of special-

TAMK, C/Ecclesia, nr. 5.); concerning Bratislava it is from 1350 (see note 22.), from Prešov it is from 1380 (see note 34.); concerning Sopron it is from 1393 (*Geschefft Hannsens des Agendorffer*, Hází, *Sopron*, 144); and concerning Bardejov it is from 1399 (an investigation of the will of the *consors magister Johannis filii Petri de Somos*, dated to 16 January 1399 and issued in Eger). Archiv mesta Bardejov, nr.33. A photocopy of the document is to be found in MOL, DF212711).

²⁴ The will of Hans Lang, canon, 13 January 1350. AMB, no. 108; Heinrich Vogl *und hausfrau* on 6 March 1356. AMB, nr. 133. Hans Poll, who had at least four shambles, in 21 January 1375. AMB, nr. 327 and a photograph in MOL, DF238910. For the AMB items see D. Lehotská et al. *Inventár stredovekých listín, listov a iných príbuzných písomností*. Archív mesta Bratislavy (Prague: Archivna Správa Ministerstva Vnútra, 1956).

²⁵ AMB, nr. 2a-1. Photograph in MOL, DF286772.

ization that a separate book was begun for testaments. The first volume of the “*Protocollum Testamentorum*,” containing wills for the interval from 1427 to 1529, was followed by several others until the second half of the nineteenth century (1872).²⁶ A unique case among the extant documents of Hungarian towns, this collection is completely uniform in its contents (since only wills were entered), though concerning the formal elements of testamentary practice it also preserved some changes. In the early decades, besides wills made orally and entered later, one also finds examples of copies of charters with seals. Besides the “oral report” and “sealed document” types, in some examples the formulation suggests that the witnesses relied on some sort of written notes, so one may call them a “transitional” type. By the end of the fifteenth century the practice was much more uniform, the oral presentation of the witnesses almost disappeared together with the transitional type, and generally only sealed charters were copied into the book. However, if one investigates some of the very last years of the first volume of the “*Protocollum Testamentorum*” it is surprising that the process of standardization did not continue. The transitional type seems to reappear, and there are sealed wills in the town archives that were not copied into the book.²⁷ In this later period there is an exceptional case of Friedrich Voyt, lord mayor, who not only wrote his will by his own hand but also sealed it with his own seal.²⁸

Concerning the quantity of wills from Bratislava for the period between the mid-fourteenth century and 1529, almost 900 wills are available, 844 preserved in the *Protocollum Testamentorum* (among which 11 also exist in their original forms), six were written into the *Protocollum Actionale*, and the rest (38) are preserved as individual documents.²⁹

²⁶ For the first volume see AMB, nr. I. B 4n-1; photograph in MOL, DF277056.

²⁷ See Szende, “A magyarországi városi végrendeletek helye az európai joggyakorlatban,” 352.

²⁸ “mit meiner aigen handt geschriben und mit meinem sigel verpetschafft,” PT, fol. 398v-401v.

²⁹ There are altogether 844 wills in the PT (8 are also to be found in the town archives as individual charters); additional 40 are listed with archive numbers in Szende, Katalin. “Otthon a városban. Urbanizáció, társadalom és anyagi kultúra a késő-középkori Sopronban és Pozsonyban a végrendeletek tükrében” (Home in Town. Urbanisation, Society and Material Culture in Late Medieval Sopron and Bratislava in the Mirror of Last Wills), Ph.D. dissertation (Budapest: Eötvös Loránd Tudományegyetem (henceforth ELTE), 2000), 222 (henceforth Szende, “Otthon a városban”). Among these 37 are individual charters and four are actually in the “*Protocollum Actionale*.” See Arne Ziegler, *Actionale Protocollum. Das älteste Stadtbuch von Bratislava/Preßburg aus den Jahren 1402–1506*. Acta Carpatho-Germanica 4 (Bratislava: Múzeum kultúry karpatských Nemcov, 1999) (henceforth Ziegler, PA). Five additional wills can be added to her list: those of Hanns Lachhutlein from 1414 (PA, fol. 109-110, see the text edited in Zeigler, PA, 122-123), Symon Trampler from 1420 (PA, fol. 155, see the text edited in Zeigler, PA, 168-169), Wenig Hensel from 1423 (PA, fol. 173-174, see the text edited in Zeigler, PA, 186-187), Nicolas Poherlitz *plebanus* from 1427 (MOL, DF 277990 Register des Gottleichnams Bruderschafts, fol. 131v-132v), and *Bartholomeus filius Iohannis de Tyrnauia alias dictus Juncher Pertel* from 1404 (see the text edited in *Zsigmondkori oklevéltár. II. kötet:*

In neighbouring Sopron the distribution of the wills and inventories is more unequal over time, which can be partially explained by the nature of the sources. Altogether, 314 wills have survived from the period between 1393 and 1526. Before the 1430s these were mostly administered in the town books of the city.³⁰ This was the period when the practice of leaving testaments was established, probably due to the influence of larger settlements nearby such as Vienna, Wiener Neustadt, and Bratislava. The low number of surviving wills between 1430 and 1450 can be attributed to the unsystematic and casual keeping of town books. After the 1470s, however, testaments in most cases are extant as separate documents. The practice of preparing testaments before a public notary was almost absent from Hungarian practice in the period.³¹ Among the towns investigated only Sopron had cases (five) when the *publicus notarius* collaborated in the preparation of the will. However, interestingly, most of the five testators stood outside the civic society of the town; two of them were beneficiary priests and the other two were nobles.³² While the fifth, though a simple member of the town council, had a son who was a notary public.³³

Moving to Košice, in the northeastern part of Upper Hungary, the picture is completely different from what is described above.³⁴ The regular administration of last wills started quite late, since the first extant “Liber testamentorum” and later “Liber haereditatum” are, respectively, from the late sixteenth and late seventeenth

1400–1410 (The Cartulary of the Sigismund Era. Vol. 2.: 1400 to 1410), ed. Elemér Mályusz. Magyar Országos Levéltár Kiadványai II, Forráskiadványok 3-4 (Budapest: MOL, 1951), II/1, 410, no. 3468.

³⁰ Házi, *Sopron*, 1-139 and 140-177, also Katalin Szende, “A soproni polgárság anyagi kultúrája a késő-középkorban” (The Material Culture of the Burghers of Sopron in the Late Middle Ages) *Aetas* 5 (1990/3): 69-123, especially 70-72, 118.

³¹ István Barta, “Középkori közjegyzőségeink történetéhez” (On the History of Hungarian Medieval Public Notaries), in *Emlékkönyv Szentpétery Imre születésének hatvanadik évfordulója ünnepére* (Festschrift Celebrating the Sixtieth Anniversary of the Birth of Imre Szentpétery) (Budapest, 1938), 31-46; András Kubinyi, “Írástudás és értelmiségi foglalkozásúak a Jagellókorban” (Literacy and Professional Intellectuals in the Age of the Jagiellonian Rulers), in *A magyar hivatali írásbeliség fejlődése 1181–1981* (The Development of Hungarian Official Literacy), ed. István Kállay. Magyar Herold–ELTE Történelem Segédtudományai Tanszék kiadványai 1 (Budapest: Magyar Herold–ELTE Történelem Segédtudományai Tanszék, 1984): 186-208.

³² The two nobles were Barbara *des edlen herren Lassla graffen zwu Gemarn seling witib* (21 July 1482) and Widhalm (!) Sudala (26 January 1518), respectively in Házi, *Sopron*, 204-206 and 345-348. The priests were Jacobus Resch *presbiter* (30 April 1485) and Hans Edelmann *beneficiat* (18 November 1521), respectively, in Házi, *Sopron*, 217-219 and 345-348.

³³ See the will of Peter Seinreich (1483), Házi, *Sopron*, 128-129 and 212.

³⁴ For Košice and Bardejov, however, it should be mentioned that with a systematic – one by one – investigation of the individual documents and other, seemingly non-relevant types of sources, more extant wills might be revealed.

century (1593 to 1600 and 1698 to 1736). Or perhaps earlier such books have simply perished. The practice of leaving testaments, however, started quite early – seemingly even earlier than in Bratislava. The first surviving document to be found in the “secret archives” of the town is from 1328; an additional two date from the fourteenth century, another from the fifteenth, and two more from the early sixteenth century. The town protocols with mixed documents survived for the period between 1393 and 1405 and then only much later, from 1460 to 1526. The majority of the wills known presently (36 in number) are extant in the latter volume, with the exception of five individual charters (one issued by the nearby *locus credibilis*, the chapter of Szepes). There are references to bequests, however, among other documents, such as notes on the wealth and income of the Saint Elisabeth church, or those of the Holy Spirit hospital, in other words among the documents of the institutions receiving the donations. An illustration of the sporadic appearance of wills from Košice is the example of a will issued in Košice in 1456, which was found in the town archives of the neighbouring Bardejov.³⁵

Bardejov is the most under-represented town. The first extant testament is from 1399, but from then until the 1440s no available wills came down to us, and even later their number is surprisingly low. Only 29 individual charters of wills have been discovered until recently, although 22 other documents are connected to testamentary matters. Among them, for example, one finds a record from 1519-1520 resembling a chronicle, narrating the death of the former parish priests of the town, their testaments and the election of their successors.³⁶ Two other interesting documents concern the fate of a will or actual bequests. In 1523 the parish priest of a nearby village wrote to the judge of Bardejov telling the story of a deceased cannon-master whose last will was taken by a certain person who did not want to give it over to the son of the master.³⁷ Another document expresses the complaint of the parish priest of Bardejov that certain executors of wills withheld the donations given to churches, confraternities, hospitals or the poor and kept them for themselves, therefore a canon of Eger ordered that the parish priests in all the

³⁵ See Béla Iványi, *Bártfa szabad királyi város levéltára, 1319–1526* (The Town Archives of the Free Royal Town of Bardejov, 1319–1526) Vol. 1 (1319–1501), (Budapest: Magyar Tudományos Akadémia, 1910), 140, no. 884 (11 June 1456). Laurencz Kreutzberger and Jakob Nestler, citizens of Košice, presented to the town council the last will of Jakob Kunesch, carryman from Košice, who had told them to on his death-bed.

³⁶ Béla Iványi, “Bártfa szabad királyi város levéltára, 1319–1526” (The Town Archives of the Free Royal Town of Bardejov, 1319–1526), Vol. 2 (1501–1526) (manuscript) (henceforth Iványi, “Bártfa”), 209, no. 4848.

³⁷ Archiv mesta Bardejov, no. 5241, a photocopy in MOL, DF218142 (20 April 1523). *Michel capplan pharer czu Reless to Andres Rawber ratherr* of Bardejov wrote a letter in favour of the son of Michel Rormayster proving that the will of Michael master has been taken over by Jorg Schad, who does not want to give it back (see Iványi, “Bártfa,” 270, no. 5241).

surrounding villages should warn the people that they must return everything to the legitimate bestowed institution, otherwise they would be excommunicated.³⁸

Prešov was in some sense similar to Bardejov as to its population, to the date of the earliest extant will (from 1380),³⁹ and in the fact that wills are basically available after the 1440s, although the custom of written testaments became widespread only at the very end of the fifteenth century.⁴⁰ Another similar feature concerns form; for the whole period separate charters characterized the practice. The testaments were not copied into a book, but preserved as copies in the town archive in order to be available in the case of any debate or lawsuit, as is written explicitly in the town protocol.⁴¹ During the fifteenth century, however, the issuer and the outlook of these charters varied considerably. The earliest pieces were issued by the town judge and the members of the town council were named as witnesses. In the 1460s and 1470s it was mostly the witnesses who issued testaments with the *coram nobis* introductory formula or their content is known from an excerpt in a *registrum* to be discussed below. There are also examples of autograph and self-sealed wills⁴² as well as ones issued by the nearby *locus credibilis*, the chapter of Szepes.⁴³ The standardization of the testamentary form was brought about by the regular involvement of town scribes from 1492 onwards.⁴⁴ The impressed seals of the

³⁸ Archiv mesta Bardejov, no. 3707, a photocopy in MOL, DF216594 (30 June 1512, issued in Eger). Peter from Keresztúr, canon of Eger, wrote to the parish priests of Sárpatok (today Mokroluh, Slovakia) and Lófalva (today Kobyly, Slovakia) after receiving a complaint from John, parish priest of Bardejov (*Joannis de Bonsy plebanus et archidiaconus*), and ordered that the people should be warned that if they did not return everything within a month they would be excommunicated (see Iványi, “Bártfa,” 22, no. 3702).

³⁹ In this case it was the will of Nicholas *condam Stir dicti Theberkas* dated 23 July 1380. See Béla Iványi, “Vázlatok Eperjes sz. kir. város középkori jogéletéből, főleg a város 1424–1509-ből való jegyzőkönyve alapján” (Sketches from the Medieval Legal History of the Free Royal Town of Prešov, Especially on the Basis of Its Town Protocol from 1424–1509), Parts 1-2, *Századok* 43 (1909): 218-231, 281-297, and for the will mentioned, 291; Archiv mesta Prešov, no. 87.

⁴⁰ Until the 1490s only about one will is extant yearly as an average, and several years have none.

⁴¹ An entry in the town protocol dated to 10 June 1493 concerns a quarrel over the testament of Gertrud Prewssin; it reads: “Wir abir fuernemende das testament, betrachtende und wegende gar eben alle artikel desz zelbigen testamentisz...,” Archiv mesta Prešov, no. 133., fol. 84-85. Selected entries from the town protocol are edited in Béla Iványi, “Eperjes szabad királyi város jegyzőkönyve 1424–1509. I-II. rész” (The Town Protocol of the Free Royal Town of Prešov 1424–1509. Parts 1-2) *Történelmi Tár* 10 (1909):118-133, 161-184; for the quotation see 164.

⁴² For example the will of Gregorius Seecz (27 March 1464), Archiv mesta Prešov, no. 340; a photocopy in MOL, DF228827.

⁴³ For example the will of Andreas Tordaj *civis civitatis Epperiensis* (c. 1490). Archiv mesta Prešov, no. 520; a photocopy in MOL, DF229024.

⁴⁴ Johannes Glogovita from 1492 to 1497, Cristan Bacchus from 1499, and between Cristan Czibner from 1510 to 1523. See Béla Iványi, “Das Deutschtum der Stadt Eperies im Mittelalter,” *Südost-Forschungen* 5, no. 2/3 (1910): 361-402, especially 377-378.

witnesses were consequently put on wills from 1501 onwards. An interesting phenomenon in the practice of administering wills in Prešov is the existence of a register⁴⁵ titled the “*Exerpta testamentorum*” that can be considered a kind of Kirchenbuch or special testamentary book registering only pious donations. This “*Exerpta*,” preserved in the town archives, was probably prepared by the town scribe in or after 1513 for some unknown reason. It covers the years between 1474 and 1513, and records exclusively the pious donations of 47 wills of which only 18 originals are preserved. One of its peculiarities is that the excerpts were not made in chronological order and in many cases the date was not indicated at all. On the other hand, there are several other wills (more than 32) with pious donations that are not listed in this collection.

In the practice of Prešov, from the 123 testaments investigated 101 were written in Latin. This differs from the other towns, where the majority of the wills were written in German. In Sopron and Bratislava the proportion of Latin texts remained well under 5 percent.⁴⁶ The impact of town scribes in the standardization of wills in Prešov has already been mentioned, but seemingly they influenced the administration of wills in other ways, too. The humanist scholar Cristanus Czibner,⁴⁷ who graduated from Cracow University, after becoming the *notarius civitatis*, decided to break with the old tradition of using German in administration. From his time onwards the town books were kept in Latin, which must have had an impact on the dominance of Latin in wills.

If we project this data to generations (see fig. 4), given that the population of a city changed completely in every 30 to 35 years and given that approximately 60% of the population were adults, the result is that by the turn of the fifteenth century in Bratislava 10.4%, in Sopron 6.3% and in Prešov 6% of the population left behind written wills. Even considering a 10 to 20% loss, these proportions seem relatively small.⁴⁸ However, the case of Bratislava with its more than 10% is quite striking compared to other European towns. Though such comparisons should be made very cautiously, it can be mentioned that this percentage was greater only in Toulouse and

⁴⁵ “*Exerpta testamentorum ecclesiam divi Nicolai confessoris, necnon ecclesiam sancti trinitatis et hospitale concernentium*,” Archiv mesta Prešov, no. 399, a photocopy is to be found in MOL, DF228090. It was published (with some mistakes) in Béla Iványi, “Eperjes város végrendeleti könyve, 1474–1513” (The Testamentary Book of Prešov, 1474–1513), *Történelmi Társulat* 10 (1909): 438-449.

⁴⁶ For example, among the 844 wills of the “*Protocollum Testamentorum*” of Bratislava altogether 16 were in Latin (until 1500 twelve, and after 1500 four).

⁴⁷ “*alme universitatis Cracoviensis arcium liberalium baccalarius*,” see Béla Iványi, “Das Deutschtum der Stadt Eperies im Mittelalter,” *Südost-Forschungen* 5 (1910): 361-402, especially 389.

⁴⁸ For the arguments on calculation see Katalin Szende, “A soproni polgárság anyagi kultúrája a késő-középkorban” (The Material Culture of the Burghers of Sopron) *Aetas* (1990/3):69-123; relevant pages are: 70-71 and 108, table no.1.

Vienna at that time, and for example Cologne or Paris reached and exceeded this average only during Early Modern Times.

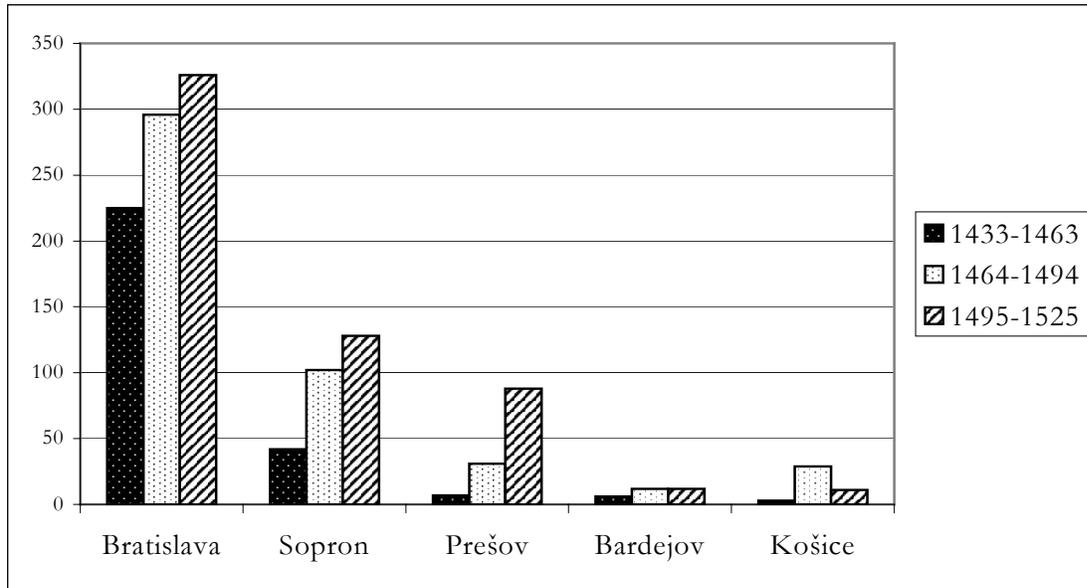


Fig.4. The numbers of last wills projected to generations

* * *

To sum up, besides the very nature of medieval sources and their preservation in the region, some factors should be stressed that might have affected the distribution of wills in number and time in these late medieval Hungarian towns. One factor could be the role of literacy, how and to what extent it replaced the oral transmission of dispositions in certain towns or regions. In some regions written and oral testaments existed parallelly for a longer time than in other regions. Behind this feature could have been several reasons, such as a stronger devotion towards the Church, the varying economic level of the burghers or at least the lower level of consciousness about their personal wealth and its fate, and so on. Whose interest was served by putting the will in writing could have also been influential, as well as how strong the pressure was from the burghers' side towards town authorities to administer their final bequests for eternity. In certain places – for example Prešov or Bardejov – the influence of the Church was strongly preserved for a long time, even through the civil administration of the city.

MEDIUM AEVUM
QUOTIDIANUM

48

KREMS 2003

HERAUSGEGEBEN
VON GERHARD JARITZ

GEDRUCKT MIT UNTERSTÜTZUNG DER KULTURABTEILUNG
DES AMTES DER NIEDERÖSTERREICHISCHEN LANDESREGIERUNG

niederösterreich kultur

Titelgraphik: Stephan J. Tramèr

Herausgeber: Medium Aevum Quotidianum. Gesellschaft zur Erforschung der materiellen Kultur des Mittelalters, Körnermarkt 13, 3500 Krems, Österreich. Für den Inhalt verantwortlich zeichnen die Autoren, ohne deren ausdrückliche Zustimmung jeglicher Nachdruck, auch in Auszügen, nicht gestattet ist. – Druck: Grafisches Zentrum an der Technischen Universität Wien, Wiedner Hauptstraße 8-10, 1040 Wien.

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