

# The Organization of the Central Court of Justice in Transylvania in the Second Half of the Sixteenth Century

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This study analyzes the organization of the independent Transylvanian central court of law, the so-called Royal/Voivodal/Princely Table (*Tabula*) and its court of appeal, the court of personal presence (*personalis presentia*), in light of the modest secondary literature, the dietary decisions, and archival sources. We offer a sketch of the organization of the Hungarian royal and Transylvanian voivodal court of law in order to present the model on which the central court system was established in the period of the Principality. We also present the characteristics of the functioning of the central court that can be attributed to the special features of Transylvanian society and the newly emerging state.

Keywords: Principality of Transylvania, Age of Principality, umpirage, courts of law, Princely Table

## *Introduction*

It is probably a commonplace by now that the political history of the new state that emerged in the eastern part of the Kingdom of Hungary, which was splitting up in the aftermath of the battle of Mohács (1526), is much better known than the economic, social, cultural, or legal history of this region. Uncommon topics, such as the organization and the functioning of the central judicial system of Early Modern Transylvania, have basically escaped the attention of historians, and thus the secondary literature on them is relatively poor.<sup>1</sup> This is surprising, given that many of the sources (and in the case of family archives the clear majority) were produced in the course of court cases and thus primarily are documents which concern and reflect the functioning of the judicial branch.

This study presents the structure of the Transylvanian princely high court and its court of appeal, the court of personal presence, in the second half of the sixteenth century. We chose this period as the focus of our investigation

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1 Oborni, “Zoltay János,” 141–62; Bogdándi, “Az erdélyi központi bírászkodás,” 117–39; Dáné, “Minden birodalmak,” 50–56; Trócsányi, *Törvényalkotás*, 237–68.

as these were the decades during which the basic offices of the independent Transylvanian state, such as the autonomous courts of law, came into existence. These offices functioned according essentially to the same principles for the next ca. 150 years. We do address the so-called Princely Table in order to avoid confusion, as during the reigns of king elect János II Szapolyai (1556–1571) (also known as János Zsigmond) in Transylvania and in the counties of the Hungarian Kingdom that were attached to it (called the *Partium*<sup>2</sup>) royal high court and under the reign of the Báthorys (1571–1602), which lasted almost until the end of the period investigated here, a voivodal high court was functioning, though with a structure and jurisdiction that was somewhat different from the medieval royal and voivodal seat.

It is important to clarify the names that were used to denote the central court of the political entity in the given period. In the diplomatic sources, i.e. the summonses (*evocationes*) and the reports (*relationes*), the “court” (*curia*) is the most frequent term used. This term clearly referred to the Princely Table.<sup>3</sup> From the plentiful examples that illustrate the identical meaning of the two terms, let us just refer to a few: in his mandate dated November 3, 1585, Zsigmond Báthory (voivode/prince of Transylvania with interruptions between 1585–1602), ordered nobles to send István Keresztúri to the high court (“*coram nobis in curia nostra*”) for the eighth day (*octava*) to stand trial for the acts of might of which he was accused.<sup>4</sup> In the report of the bailiffs of the voivode, which is dated two days later and written in Hungarian, they referred to the court of law in the native Hungarian form: the suspects are called to appear at his Table (“*táblájára*”) and his court (“*udvarába*”) to give an explanation of their deed.<sup>5</sup> *Curia/Court/Table* consequently were all used to denote the high court of the ruler. Most of the mandates of judges were issued in the name of the ruler. Cases in which the prosecutors referred to a mandate of the institutionalized high court, such as when in 1572 court scribes Dániel Vadai and Gábor Bósházi summoned someone on the mandate of the court of the ruler (“*ex commissione sedis judicariae spectabilis magnificentiae vestrae*”), were rare.<sup>6</sup>

2 This term refers to the eastern territories of the Hungarian Kingdom that joined the estates of Transylvania and formed the Principality under Ottoman suzerainty.

3 On the close association between the *curia* as a court of law and the royal court, see: Kubinyi, “A királyi udvar,” 16–17.

4 MNL OL, GyKOLt, Cista comit. (F4), Cista Dobocensis, fasc. 4., no. 48.

5 Ibid., for further Hungarian-language examples of the usage of the term *tábla*, see: Szabó T. et al., *Erdélyi Magyar Szótörténeti Tár*, 12: 781–82.

6 SJAN-CJ, Arch. Bánffy (Fond 320), no. 59.

For those interested in the judicial system of Early Modern Transylvania, the scope of the sources on which one can touch when analyzing the characteristics of a certain period is limited. The decrees of the Transylvanian and Hungarian diets contain many measures on the central jurisdiction, but these measures formed only a framework, and sometimes it is rather unclear how the different acts, which in many cases simply reasserted previous regulations, were implemented. In order to understand the functioning of the so-called high (curial) courts, it is therefore necessary to study the documents they issued and the formulary books they composed. This is particularly true, given that the archive of the high court did not survive. In the period studied, of course, one cannot talk about an institutionalized archive of the Princely Table. The relevant documents were kept in the lodgments of the protonotaries (*protonotarii*), and after their deaths, these documents were inherited by their successors.<sup>7</sup> It is possible that fragments of the “archives” of the protonotaries survived the upheavals of the age of the Principality and were incorporated into the Archive of the Transylvanian Royal Table (*Tabula regia iudiciaria Transylvaniae*), which was established at the beginning of the eighteenth century, and were only destroyed during the siege of Budapest in 1945. It is also not clear whether in the sixteenth century some kind of minutes (*registrum*) were kept during the functioning of the high court<sup>8</sup> or the follow-up of a lawsuit was limited to the notes made by the protonotaries at the back of the mandates (*mandatum*) and sentences (*litterae iudiciariae*). Nor has any register survived of the distribution of letters of fines (*litterae iudiciales*) or the order of taking up (*levata*) and adjudicating the cases.

### *Antecedents: The Royal Curia and the Court of Law of the Voivode of Transylvania<sup>9</sup>*

The structure of the medieval royal courts of law is well known, and their close association with the king’s court is well reflected by its name, “curia.” Since the legislative reform of King Matthias (1458–1490), three “major judges” were in

7 Bogdándi, “Az erdélyi ítélőmesterek,” 144.

8 The first reference to a list of the lawsuits that were heard at the court is from February 1676. It was made in the course of a court session which was held in Segesvár (Sighișoara/Schässsburg): *In nomine domini. Series causarum levatarum in anno 1676 in civitate Segesvar pro dominis regnicolis, magistro S. [?] ac domino Stephano Sarpataki existente celebratarum*. Copy in the volume *Promptuarium stylorum patvaristicorum*, compiled in 1703. BCU, Ms. 309., f. 12–23.

9 From the secondary literature on the royal courts, we build on the following works: Hajnik, *Bírósági szervezet*, 31–58; Bónis, *Magyar jogtörténet*, 72–75; Bónis, *A jogtudó értelmiség*, 245–65; Eckhart, *Magyar*

position: the judge royal, (*index curiae regiae*), the count palatine, and the royal personal presence (*personalis presentia regia*).<sup>10</sup> The royal court of law in Buda consisted of these chairs, the leading chair of which usually was the judge (*személynök*). By issuing summons with short deadlines (fifteen and thirty-two days), the royal court transformed itself into a permanent court of law.<sup>11</sup> This permanence, however, is relative, as towards the end of the Middle Ages more and more cases to be continuously heard were postponed to a certain court period.<sup>12</sup> These periods were more or less regularly held on the *octava* of the main feast days, such as on that of the *octava* of St. George, the *octava* of St. Michael, Epiphany, and the *octava* of St. Jacob.<sup>13</sup> After the establishment of the Table, the court of the personal presence of the king did not cease to exist. In certain cases (in matters of knightly honor, major acts of might, and guardianships), the King acted as *propria in persona*. In matters of perfidy, the person was summoned to appear in front of the king, but the judgments were declared by the whole diet and the letters of sentence were issued in the name of the prelates, barons present, and the whole nobility. In the royal high court, a special chair was kept for the king, who sometimes occupied it. Apart from him, the members of this court were the ordinary judges, their deputies and protonotaries, the assessors, and a scribe for each protonotary. In preparing and deciding on the cases, as well as in general throughout the whole lawsuit, in most cases the protonotaries, who were the representatives with legal expertise, were the most important persons. With the establishment of the Royal Table the jurisdiction of the royal council also did not cease to exist. The king and the members of his council (prelates and barons) held court if one of the parties was not satisfied with the decision made at the high court and held the case in the personal presence of the king.<sup>14</sup> On these occasions, the major judges, the protonotaries, and the assessors had the right to attend but were entitled neither to speak nor to vote. The case under appeal was presented by the judge under whose presidency the former decision had been made, and this decision was then either approved or changed.

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*alkotmány- és jogtörténet*, 140–46; From the recent international literature of the topic, see: Rady, *Customary Law in Hungary*.

10 This was the main royal court of justice, which issued sentences under the king's judicial seal. Its ruler was the *locumtenens personalis presentiae* or later, simply *personalis* ("személynök").

11 Bónis, *Magyar jogtörténet*, 73–74; Béli, *Magyar jogtörténet*, 94–96.

12 Hajnik, *Bírósági szervezet*, 212–13.

13 *Ibid.*, 210–11; Béli, *Magyar jogtörténet*, 94.

14 On the court of the royal personal presence, see: Hajnik, *A király bírósági személyes jelenléte*; Bónis, *A jogtudó értelmiség*, 134–48, 245–65, 333–54.

In Transylvania, the voivodal court, following the pattern of the royal high court, was usually held in fixed locations connected to the Church feasts.<sup>15</sup> The court periods were usually held first in Szentimre (Sântimbru) and Torda (Turda/Thorenburg) and later in Székelyvásárhely (Marosvásárhely, Târgu Mureş/Neumarkt), and from the end of the fifteenth century onwards more or less consistently in Kolozsvár (Cluj-Napoca/Klausenburg). In the early period, the dates of the courts changed frequently. From the fifteenth century onwards, usually four *octavas* were held, the *octava* after Epiphany, the *octava* of St. George, the birth of St. John the Baptist, and the *octava* of St. Michael. The holding of the sessions was later regulated with some minor modifications by the 1486 decree of King Matthias and in a decree of Wladislas II (1490–1516).<sup>16</sup>

### *The Foundation of the Princely Table*

From the perspective of its foundations, the political entity that gradually came into existence in the eastern part of the Kingdom of Hungary following the fall of Buda (1541) could build on the juridical system sketched above. After the period between 1541 and 1556, which can be considered more as a period of orientation, the formation of the independent state of Transylvania took place after the end of 1556, during the period of Queen Isabella (1541–1559) and after the return of King elect János II Szapolyai. The decisions made in Kolozsvár at this time reflected the preparations for independent statehood. They ordered the election of judges, protonotaries, assessors, and a legal director (*director causarum*) on the condition that they could not claim a share of the income of the court of law, but they would be paid by the queen and her son based on an individual agreement.<sup>17</sup> Despite the early statutes, the central juridical system did not come into existence immediately, and in the early stages its functioning was not undisturbed. The initial disorder is reflected in the archival sources, and it is also indicated by the lack of charters. There are no surviving documents from the first two court sessions, which decided on the “*de iure*” foundation of the high court at the end of 1556, even if theoretically they should have been exceptionally long. One year later, Queen Isabella, in a charter she issued in the market town of Torda on July 2, 1557, mentioned a court session to which the diet, which was also held in Torda beginning on June 1, postponed every lawsuit

15 Janits, *Az erdélyi vajdák*, 32–35.

16 Ibid., 34.

17 Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 58.

of all the three Transylvanian nations.<sup>18</sup> The document, in reference to the decrees of the 1556 diet of Kolozsvár, approved almost verbatim the previous judgment of the voivodes of King Ferdinand, István Dobó and Ferenc Kendi (1553–1556).<sup>19</sup> It is clear from a later source that the court session began on June 24 (“*pro festo Nativitatis beati Joannis baptistae*”), and here, unlike later, following the example of the medieval voivodal court of law, the cases of the three nations of Transylvania were heard together. The decree of the diet held in June 1557 probably referred to the same court session, when the lawsuits related to the acts of might committed since the incursion of Péter Petrovics<sup>20</sup> were postponed to the *octava* of the feast of the Holy Trinity.<sup>21</sup> Then the *octava* of Michaelmas day was also mentioned, to which the “bigger” lawsuits were postponed, but there is no surviving evidence relating to that court session, nor is there any similar source on the session of March 1557, to which a letter of sentence refers.<sup>22</sup> The

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18 The case in question was heard on June 25: “... instante scilicet termino brevium et continuorum iudiciorum, ad quem videlicet terminum universae causae fidelium nostrorum regnicolarum trium nationum partium regni nostri Transilvanensis, juxta publicam constitutionem eorundem hic Thordae ad primum diem Junii ex edicto maiestatis nostrae congregatorum, videlicet factum honoris, novorumque actum potentiariorum, transmissionumque tangentes et concernentes et aliae in articulis in ipso conventu editis denotatae adiudicari debentes, per maiestatem nostram generaliter fuerant prorogatae ...” The members of the court were nobles, sworn assessors, and the protonotary (here they refer to only one, and the document was endorsed solely by László Mekcsei). MNL OL, GyKOLt, Cista comit. (F4), Comitatus Albensis, Cista 2, fasc. 3., no. 5. The three feudal “nations” (*natio*) of Transylvania were the largely Hungarian nobility, the Saxon patricians, and the free Székelys.

19 According to the text of the document: “... cum autem juxta publicam constitutionem fidelium nostrorum ordinum et statuum regni pro festo beatae Catherinae virginis et martiris proxime preterito in civitate Koloswar ex edicto maiestatis nostrae congregatorum factam et per nos confirmatam, universae causae tempore imperii prefati regis Romanorum in hoc regno... suis processibus in suis vigoribus relictas sint.” Cf. Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 64.

20 Péter Petrovics was a pro-Ottoman magnate, ban of Lugos (Lugoj) and Karánsebes (Caransebes), and a fervent supporter of King János I Szapolyai (1526–1540) and his son.

21 “Maiores causae differantur in octavum diem festi sancti Michaelis discutiendae, alie vero causae videlicet factum honoris decimarumque universae concernentes, noui actus potenciarij ab ingressu domini Petrowyth comitis spectabilis et magnifici patrati vel patrandj, transmissiones item comitatuum Saxonum et Siculicalium sedium ac literae transmissionis quae in curiam regis Romanorum per appellationem deducendae erant, causae eciam dotum, rerum parafernalium, jurium impignoraticiorum et diuisionum inter fratres carnales patruales, matruales fientium sine intermissione discutiuntur; discussionis autem dies sit die octauo post festum sancte trinitatis.” Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 80.

22 “... litteras nostras adiudicatorias sententiales Albe Julie decimo sexto die diei sabbati proximi post dominicam Oculi in anno 1557, in termino celebrationis iudiciorum profesti beati Gregorii papae ...” See: SJAN-CJ, Arch. of Dés (Dej) (Fond 24), no. 172; In February 1557, the court period was set as St. George’s day, but it was postponed, probably due to the harvest and other problems. See: Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 80.

decree of the diet of June 1557 relating to the judicial system was limited to a stipulation according to which eight assessors should partake in the work of the court of law. This stipulation probably goes back to medieval origins. In a mandate issued in 1561, nine assessors were listed. Thus, when each seat of the assessors was filled, the Princely Table consisted of twelve legists, including the two protonotaries and the legal director (*director causarum*).<sup>23</sup> It is worth noting that the Transylvanian legal director took part in the work of the Table, because there is no information indicating the involvement of the *director causarum* of the Partium area in the work of the high court. The jurisdiction accessible to him was probably limited to the counties in Partium.

It is clear from the above that the activity of the Princely Table was not permanent or continuous, but rather was connected to different sessions, so-called *termini* for all the nations of the estates (Transylvanian nobles, nobles from the Partium, Székelys) as well as to the Transylvanian diets. After the reorganization of the high court, the aim was to have two court sessions a year for each nation, but the dates varied frequently and sometimes sessions were cancelled. As far as one can tell on the basis of the decrees, the six legislative sessions were reinstalled during the reign of István Báthory (1571–1586) at the end of 1571, with some adjustments of the previously indicated dates. The two court sessions of the Transylvanians were held beginning on the Monday after Reminiscere Sunday and the *octava* of St. Luke, that of the Székelys' beginning on the *octava* of Epiphany and June 1 and for the Hungarian nobles from Partium beginning on the *octava* of St. George and December 1. Not counting Sundays, for the latter the two sessions were ordered to last for twenty-five days and the sessions for the first two nations were to last thirty days.<sup>24</sup> This structure was formalized in the *Approbatæ*.<sup>25</sup>

The Princely Table also had jurisdiction in the cases appealed from the court of the Saxons, the *Universitas*,<sup>26</sup> the seat of which was in Szeben (Sibiu/Hermannstadt), but without a separate court session for them their cases usually were discussed during the diets.<sup>27</sup> There was no need for a separate Saxon court

23 Bogdándi, "Az erdélyi és partiumi," 14.

24 Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 496–97. On the court periods, see: Bogdándi, "A fejedelemség kori törvénykezési szakaszokról," 64–83.

25 Kolosvári and Óvári, *Erdélyi törvények*, 168–69. The *Constitutiones Approbatæ* is a collection of decrees and legal practices which were codified in the seventeenth century and published in 1653.

26 The *Universitas Saxonum* was an administrative and legal entity of the Transylvanian Saxons, headed by the comes Saxonum, who resided in Szeben.

27 Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 530. On the separate courts of law of the Saxons, see: Szabó, "Az erdélyi százszok bíraskodási szervezete," 31–40.

session, as the cases of Saxons were only rarely appealed to the princely high court, and they only could have been summoned at their own court.<sup>28</sup>

The diet held in March 1557 decided, on the question of the location of the courts (both in the case of the lawsuits of the Hungarian nobles of Partium and the Transylvanians), that they were to be held where the royal majesties were actually residing, but for the periods to follow separate sessions were to be held for the Transylvanian nobility, the Székelys, and the nobles of Partium.<sup>29</sup> In the Middle Ages, if the king was presiding at the high court, the court held its meetings in one of the council chambers of his palace. In other cases, however, it met in the house of the Primate of the country (the Archbishop of Esztergom) in Buda, probably at the same place where the “official room and archive” of the smaller chancery was kept.<sup>30</sup> It seems likely that, based on medieval model, when the ruler was in Gyulafehérvár (Alba Iulia/Weissenburg) and took part in the work of the princely high court, the location of the sessions was one of the rooms of the princely palace, while on other occasions the previously mentioned *domus iudiciaria*, i.e. the lodge of the protonotary (and in the meantime certainly of the smaller chancery), could have served as the site of the trials. This was true, of course, only when the court session was held in Gyulafehérvár. Because of the features of the new state, in order to meet the needs of the nations that formed the state, the princely court of law was itinerant. Thus, one cannot speak of a permanent seat for the Princely Table. In Kolozsvár, Vásárhely, or Torda the *domus iudiciaria* was a rented lodge that suited the needs of the court.<sup>31</sup>

At the abovementioned 1557 diet, a decree was issued which according to Zsolt Trócsányi “disposes a separate high court for the Partium region... (let Bálint Földváry be the protonotary, let the separate Hungarian high court be established).”<sup>32</sup> However, in my assessment, in light of the legal evidence this decision did not undo the unity of the princely high court. In the text of the decree

28 Dósa, *Erdélyhoni jogtudomány*, 104–5.

29 Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 89.

30 Hajnik, *Bírósági szervezet*, 232. See also Kubinyi, “A királyi udvar,” 16–17.

31 There is concrete data on this from the court session of St. Luke’s day in 1590. Dániel Pápai and Mihály Kolozsvári, who were notaries at the court, reported that they disembarked on November 3 “hic in praedicto civitate Coloswar, apud domum circumspecti Joannis Hozzu, *domum videlicet iudicariam* celsitudinis vestrae.” There, they summoned János Gyerőfi to appear at the *curia* on the sixth day. See: SJAN-CJ, Arch. Kornis (Fond 378), no. 231.

32 Trócsányi, *Törvényalkotás*, 238. At the diet of June 1557, the possibility of sending one special judge to Várad (Oradea) for the nobility of Partium (Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 81) came up, but probably because of the perpetual state of war this could not have been accomplished.

there is no reference to a high court of Partium. The decree mentions only an expert *protonotarius* designated to judge on the cases brought by Hungarian nobles from the Partium region, similarly to his fellow who was working in Transylvania. This was also when the question of the number of assessors was raised (“*assessoribus pluribus iuris peritis sedem iudicariam ornare dignentur*”), with members who were probably more familiar with the customary law of the Hungarian nobility from the Partium. Accordingly, in 1559, the Table adjudicated during the St. Luke’s day court session of the Hungarian nobility from Partium held in Gyulafehérvár as a unified body, and as had become customary in Hungarian documentary practice by the mid-fifteenth century, the protonotaries indicated on a letter of sentence who the person was who would revise and issue the document (“*Lecta et extradata per me magistrum Valentinum de Fewldwar serenissimae regiae majestatis prothonotarium*”), and in addition, the document was also indorsed by László Mekcsei (“*Coram me Ladislao de Mekche eiusdem serenissime regie majestatis prothonotarium*”).<sup>33</sup> The jurisdiction of the two protonotaries had not yet been clearly defined, so there was no person who was assigned exclusively to the cases of the Hungarian nobles of Partium, the Székelys, or the Transylvanian nobles. This is probably why, during the court session held for the Hungarian nobility from Partium after St. Luke’s day, the order of their signatures on a letter of sentence that was issued in a case concerning a major act of might was just the opposite.<sup>34</sup> The joint jurisdiction of the two protonotaries was also expressed in a decree issued in June 1558, according to which justice was to be served in the presence of both persons and both persons should agree on the incomes and the usage of the seal.<sup>35</sup> This was probably done in order to avoid the related controversies which would have arisen if a person who was expert in Hungarian law were to be chosen to act as president of the high court, to be present at the hearings, to handle the income of the court, and to pay the assessors from this income and turn over the rest to the treasury.<sup>36</sup> This position, however, referred

33 SJAN-CJ, Arch. Bethlen of Iktár, (Fond 329), chronologically organized documents. Cf. MNL OL, Arch. Wesselényi (P 702), 1. item, chronologically organized documents.

34 16 May 1560: “Proclamata, publicata presentata, lecta et extradata per me Ladislauum de Mekche serenissime electe regie majestatis Hungariae protonotarium. Coram me magistro Valentino de Fewldwar serenissimae regie majestatis prothonotario.” MNL OL, GyKOLt, Cista comit. (F4), Comitatus Bihar, Cista Bihar, fasc. 1., no. 21.

35 Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 99. According to Trócsányi, this is when Mekcsei was designated as protonotary of Transylvania, but he had been appointed to this office earlier, in 1554. See: Trócsányi, *Törvényalkotás*, 238. Cf. Jakó, *A kolozsmonostori konvent*, no. 5316.

36 Szilágyi, *Erdélyi Országgyűlési Emlékek*, 2: 97.

to as *super intendens*, most probably remained vacant, as there are no references to the activities of this figure in the legal evidence or the later decrees; a person with the similar task of presiding over the high court was only invested in 1589. It is more important that at the same time, on the basis of a medieval model,<sup>37</sup> a court of appeal to the high court was founded. This made it clear that the cases judged by the protonotaries could be brought to the personal presence of the queen and her son, who judged with their councilors.

### *The Court of Personal Presence (personalis presentia)*

In the late medieval period, the king held a court of appeal with the prelates and barons in cases in which a person was discontent with the decision reached by the major royal courts and their protonotaries at a trial held at the high court and appealed to the personal presence of the king.<sup>38</sup> In these cases, the judges ordinary, the protonotaries, and the assessors had the right to attend but were not entitled to take the floor;<sup>39</sup> the case appealed was presented by the judge ordinary in front of whom the case previously had been presented, and then the decision of the first instance was either approved or changed. Precisely this procedure was employed in Transylvania in the second half of the sixteenth century: the case was presented by the protonotary in front of whom the case originally had been presented; then the decision was either changed or approved at the *personalis presentia*, and the letter of sentence was issued (similarly to that of the Princely Table) in the name of the ruler (elected king, voivode, prince), with the judicial seal and the *lecta* of the protonotary.

The court of appeal of the high court usually appears in the sources as “*solius majestatis nostrae presentiam*” or in Hungarian as “*felséged tulajdon személyé*” (“the personal presence of your majesty”). It is not clear how much this indeed meant the personal presence of the ruler, but for instance on May 27, 1570 in Torda the letter of sentence issued emphasized the actual presence of János II.<sup>40</sup> Of course, this suggests that the ruler was not always physically present. From

37 Hajnik, *Bírósági szervezet*, 57–58; Hajnik, *A király bírósági személyes jelenléte*, 24–25.

38 Hajnik, *Bírósági szervezet*, 57–58.

39 Banyó and Rady, *Laws of medieval Hungary*, 142.

40 The respondents who were dissatisfied with the decision brought the case “... pro maturiori discussione in solius majestatis nostrae presentiam ...” where the king adjudged with councilors and legal experts on the cases appealed from the high court to the personal presence of the king (“de sede nostra iudicaria in solius majestatis nostrae presentiam appellatarum *personaliter* in iudicio pro tribunali consedissemus”). MNL OL, KmKOLT, Cista comit. (F 17), Comitatus Doboka, N, no. 12.

the period of János II, there were instances, if only rarely, when some persons of the court of the personal presence were mentioned by name; Mihály Csáki, who served as chancellor and councilor (1549–1551, 1556–1571), appears twice, and Jakab Pókai, master of ceremonies (*magister curiae*), is mentioned once among the assessors.<sup>41</sup> In most cases, however, the identity of the councilors who formed the court remains unknown. While the Princely Table's personal composition was determined by the decrees, the sources suggest that the members of the court of the *personalis presentia* were chosen by the ruler and depended on the circumstances. While the court of the personal presence of István Báthory, voivode of Transylvania during the diet of Torda on May 30, 1573, was formed by some magnates, councilors, Transylvanian nobles, and legal experts,<sup>42</sup> the sources from September 1582 mention only councilors, protonotaries, and legal experts,<sup>43</sup> while in March 1592 councilors, legal experts, the president of the high court, protonotaries, and assessors adjudicated.<sup>44</sup> In the period of the Triple Council (1583–1585) designated to govern Transylvania by István Báthory, who had earlier been elected king of Poland, the *praesides* who represented the prince took part in the court of appeal, and for the court session on the *octava* of St. Luke's day in 1583 they even took the young prince with them to Kolozsvár.<sup>45</sup> They did so primarily because they (and probably expert legal officers) were entitled to revise the appealed cases "*in persona Principis*," which role was later taken over by János Ghiczy (1585–1588) when he became governor.<sup>46</sup> We have a concrete example when, at the court of personal presence, the governor was adjudging: in a lawsuit concerning the ownership of the Kund (Cund/Reussdorf) estate the first instance was held at the high court of Kristóf Báthory (1576–1581), but after the death of the voivode, the case was appealed to the court of

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41 János II addresses his letter to one of the market towns. He informs the town that when on the last day of the court period over which he presided with councilor and chancellor Mihály Csáki, master of ceremonies Jakab Pókai, and other legal experts ("*pro causarum de sede nostra judiciaria in solius majestatis nostrae presentiam appellatarum revisione et adiudicatione pro tribunali consedissemus*"), protonotary Miklós [Wesselényi] explained that the claimant was not satisfied with the result and so he had appealed the case to the court of *personalis presentia*, where the previous decision of the high court was approved. See the formulary book of János Báchy, BCU, Ms. 1271., f. 196<sup>v</sup>–197<sup>r</sup>.

42 SJAN-CJ, Arch. Bánffy (Fond 320), no. 63.

43 MNL OL, KmKOLt, Cista comit. (F 17), Comitatus Doboka, K, no. 54.

44 MNL OL, KmKOLt, Protocolla (F15), no. 12. p. 108–11.

45 Veress, *Báthory István király levélváltása*, 107–8.

46 Jakab, *A Ghyezyek Erdély történetében*, 58.

*personalis presentia*, where the decision was made by the governor with councilors and legal experts.<sup>47</sup>

It is relatively easy to determine when and where the courts of personal presence were held. The *personalis presentia* was presiding in the same periods as the high court of law, i.e. during the high court sessions and the diets, and also at the same locations. We have data from the beginning of the period discussed here when the *personalis presentia* gathered on the fourth day of the *octava* of the Epiphany session in 1559 held in Gyulaférvár.<sup>48</sup> A decision was made on a case which originally had been heard at the high court in the session that began on June 24, 1557 (members of the court were “*nonnullis dominis et nobilibus, sedis nostre judicarie juratis assessoribus magistroque prothonotario nostro,*” as at the time Mecssei was the sole protonotary). The claimant, however, was not satisfied with the decision, so he appealed to the personal presence of the queen and her son. László Mecssei, the protonotary, approved this appeal, but because of the obligations of the rulers (“*nobis itaque diversis quidem arduis nostris et regni nostri negociis occupatis existentis*”), the case was postponed to the Epiphany session of 1559, where “*unacum nonnullis dominis proceribus ac aliis nobilibus prestantibusque viris consiliariis regni nostri prothonotariisque nostris pro tribunali sedentibus prenominate protonotarius noster seriem dicte appellacionis nobis requirentibus refferre curavit.*” After this, the privilege presented was read out, those present were consulted on the case (magnates, nobles, councilors, protonotaries), and the decision of the high court was approved.<sup>49</sup> Interestingly, the protonotaries were mentioned as members of the court of *personalis presentia*, i.e. the same people who had made the decision at the first instance. In medieval legal practice, however, they had the right to attend the court hearing but did not have a say. However, in this case, alongside the councilors, they also seem to have been able to adjudge (again). Later, however, this practice was not typical. In the court of the *personalis presentia*, with only a few exceptions, the councilors decided with the assistance of legal experts.

47 SJAN-CJ, Arch. Thoroczky (Fond 444), no. 98.

48 MNL OL, Documents on Transylvanian matters (R 298), 8. box (Documents concerning the Vitéz family).

49 “Nos igitur preinsertis litteris privilegialibus dicti capituli in specie produci ac perlegi facientes quesitoque superinde prefatorum dominorum procerum ac nobilium prestantiumque virorum consiliariorum, prothonotariorumque nostrorum nobiscum in discussione et examine presentis cause constitutorum et existentium consilio prematuro, habito superinde cum eisdem diligenti tractatu, de eorundem itaque consilio et sana deliberatione iudicium prefatae sedis nostrae judicariae tanquam rite et legitime factum in omnibus punctis, clausulis et articulis tanquam rite et legitime factum laudandum et approbandum et ratificandum judicialiter decrevimus et commisimus.” See *ibid.*

There was a telling example of a case in March 1577 which sheds some light on the functioning of the *personalis presentia* during the court sessions and the strict division of the courts according to nations. On March 25 (i.e. at the session after Reminiscere Sunday for the Transylvanian nobility), in Gyulafehérvár a letter of sentence was issued in the name of Kristóf Báthory which tells of a lawsuit which had begun one year earlier at the session held on St. Luke's day in Kolozsvár between István Lázár of Szárhegy (Lăzarea) and Boldizsár Bánffy of Losonc (Lučenec) concerning a piece of land by the Tapolca River in the Székely seat of Gyergyó. A common inquest had been ordered, but the respondent had not been satisfied with the decision, so he had appealed "*in solius nostri presentiam*." There, on March 23, 1577 (a Saturday), in the presence of the voivode, his councilors, and legal experts, the respondent's lawyer presented his argument according to which the claimant could not summon him to the court of the voivode, but rather only to the Székely seat and the session held for the Székelys. He therefore requested that the case be sent back to the court of first instance and the appeal be terminated.<sup>50</sup> The objection of the respondent was accepted at the court of personal presence, as the claimant had no right to summon the respondent to the session held for the Transylvanian nobility, but only to the Székely seat and their session. They nonetheless stipulated that the claimant had the right to summon the respondent to appear at the next Székely court session ("*proclamari facere possit*").

Regarding the jurisdiction of the court of personal presence, one can only sum up by saying that the decrees do not include any related regulation, so appeals to the *personalis presentia* depended only on the financial resources of the contestants.

### *The Foundation of the Presidency of the Princely Table*

The diet held in Medgyes (Mediaş/Mediasch) in December 1588 ordered a "chief legal expert" to lead the process (*processus*) of the Princely Table.<sup>51</sup> Earlier, I thought that this office had been created in 1558 with the establishment of

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50 "... in curiam nostram citari et evocari facere nequaquam potuisset sed suis modis in sede Siculicalia et sic tandem in termino celebrationis iudiciorum pro dominis Siculis regnicolis Transilvanensis celebrandorum proclamari facere debuisset, sicque causam intentare et prosequi potuisset." MNL OL, GyKOLT, Cista comit. (F4), Cista Gömöriensis, no. 6.

51 Szilágyi, *Erdélyi Országgyűlési Emlékek*, 3: 242.

the office of *super intendens*. However, there is no sign of its actual functioning.<sup>52</sup> Trócsányi emphasizes the dubious effectiveness of this act,<sup>53</sup> and as we could not find data on the bearer of this office in the sources, it seems more and more likely that this 1558 decree remained on paper only. Accordingly, the *praesidens* was only appointed during the diet of Medgyes (or as a consequence of this diet, at the beginning of the next year). Why was there a need for this office, and why was the president installed in his office precisely when he was? It is known that at the diet of December 1588 Zsigmond Báthory was bestowed with his princely rights. In return, the estates managed to expel the Jesuits and to remedy their smaller legal complaints.<sup>54</sup> The establishment of the office of *praesidens* may indicate strengthening of the estates, or one may think that the magnates who possessed power tried to take control over jurisdiction and prevent the young prince from strengthening his hold on power. As we have seen in discussion of the personal presence, the method was given, as previously, the Triple Council designated by István Báthory and then János Ghiczy, the governor, oversaw the activities of the court of law *in persona principis* (as later the president did). The text of the decision of Medgyes does not mention the name of the designated *praesidens*, but we have data on the president of the high court from the court session that began on February 23 of the following year.<sup>55</sup> Previously, I thought that the anonymous *praesidens* in the letters of sentence could be identified as a *literatus*, Gergely Szentgyedi Somlyai. The only pitfall of this identification is that he appears in the sources as *director causarum* of Transylvania in 1591,<sup>56</sup> and he appears as the president of the princely high court only in September 1592. Consequently, he assumed this office two years earlier than suggested by Zsolt Trócsányi, and he remained in this position up until his death at the scaffold erected on the main square of Kolozsvár.<sup>57</sup> But who was the first *praesidens* of the high court, who was in office between 1589 and 1592?

The identification of the magnate *praesidens* appointed at the diet of Medgyes was not made possible by study of the letters of sentences but rather

52 Bogdándi, "Szentgyedi Somlyai Gergely," 43–44.

53 Trócsányi, *Törvényalkotás*, 238.

54 Trócsányi, *Az Erdélyi Fejedelemség korának országgyűlései*, 188.

55 "... instante scilicet termino celebrationis judiciorum diei dominicae Reminiscere, ad quem utputa terminum universae causae dominorum nobilium Transylvaniensium ab obitu [...] Ludovici regis Hungariae [...] ex publica eorum constitutione adiudicari solitae per nos generaliter fuerant prorogatae, una cum domino praesidente, magistrisque nostris prothonotariis et juratis assessoribus sedis nostrae judicariae ..."

MNL OL, GyKOLT, Cista comit. (F4), Comitatus Albensis, Cista 3, fasc. 3., no. 13.

56 Bogdándi and Gálfi, *Az erdélyi káptalan*, no. 816; Fejér, Rác and Szász, *Báthory Zsigmond*, no. 1614.

57 Bogdándi, "Szentgyedi Somlyai Gergely," 43–44.

by a note in the royal book (*liber regius*) of Zsigmond Báthory. On March 7, 1589, Zsigmond Báthory gave councilor, president of the high court, and count of Torda County Boldizsár Bánffy and his wife the market town of Marosszereda (today Nyárádszereda/Miercurea Nirajului) and the part of the estate of Nagyadorján (Adrianu Mare) in return for one fourth of the castle of Bethlen (Becclean).<sup>58</sup> This means that Bánffy was presiding at the first court session after the diet of Medgyes. Probably, there was some hope that the prestige enjoyed by the magnate and count of Torda County would help maintain the undisturbed functioning of the high court. There is no data on the legal erudition of the first *praesidens*. This may explain that his – lacking in sources difficultly definable – tasks were taken over by “*egregius*” Gergely Szentegedyi Somlyai in 1592, who was advancing as a practicing legal expert to this office. We do not know the circumstances of the dismissal or rather voluntary demission (as he was able to keep all his other offices) of Bánffy, but it clearly shows the caliber and the high ambition of the *litteratus* Gergely Somlyai that as a *praesidens* he followed an “*in persona principis*” councilor.<sup>59</sup>

There is increasing uncertainty concerning the fate of the office of the president of the high court after the violent marginalization of the group of magnates who raised objections to the break with the Porte. Given the limited number of letters of sentences, it is increasingly certain that the usual court sessions were cancelled after February 23, 1592 (Reminiscere Sunday) and the high courts were only functioning during sittings of the diet. This could be explained by the confused internal political situation, the participation in the war, and the perpetual state of crisis, but in fact we do not know the precise reason for this transformation.<sup>60</sup> A letter of sentence dated to the period of the diet held in Gyulafehérvár beginning on April 25, 1593 mentions some councilors, legal experts, the president, the protonotaries, and the assessors as members of the princely high court.<sup>61</sup> At the same time, the *sententiae* issued the following

58 Fejér, Rác and Szász, *Báthory Zsigmond*, no. 946.

59 Of the presidents of the high court, only Gergely *litteratus* is not referred to as councilor in the sources. See: Trócsányi, *Központi kormányzat*, 356. On his career, which ended tragically, see: Bogdándi, “Szentegedyi Somlyai Gergely,” 37–46.

60 It is not by chance that this is the court session when the jurisdiction of the county courts was broadened and achieved its final state. See: Dáné, “*Az Ónagysága székei így deliberála*,” 27.

61 SJAN-CJ, Arch. Kornis (Fond 378), 5. box “... una cum nonnullis dominis consiliariis nostris aliisque prestantibus et jurisperitis viris, necnon praesidente, magistrisque nostris prothonotariis et juratis sedis nostrae judicariae assessoribus.”

year had different wording. The letter of sentence dated May 10, 1597<sup>62</sup> was issued during the diet in Gyulafehérvár that began on April 27 and to which the guardianship cases, further acts of might cases appealed from the county courts, and other short procedures usually heard at the personal presence of the prince (“*coram propria nostrae serenitatis presentia*”) were postponed. The hearing of these cases during the diets was decided because of the cancellation of the court sessions, which was decreed in Act 9 of this very diet: “until the Lord God shows the dates when the sessions should be hold.”<sup>63</sup> Compared to the previous period, the composition of the high courts that gathered during the diets also changed. Along with the protonotaries and the assessors, the “presence” of Zsigmond Báthory was represented (“*in persona nostrae serenitatis*”) by Pongrác Sennyei, master of ceremonies (1593–1598), according to what was noted above in May 1597 but also in January and March 1598,<sup>64</sup> with the important difference that the title of *praesidens* was no longer part of his title. We know that, in 1598, the influential councilor Pongrác Sennyei performed the tasks of a chancellor, such as opening the report of an interrogation.<sup>65</sup> His tasks may have been associated with his jurisdictional duties, but as the sources do not mention him as the president of the high court, his title remains unclear.

According to Trócsányi, the “Transylvanian national high court was single-leveled and the diet also was unicameral.”<sup>66</sup> The part of his statement regarding the jurisdiction is true only to a certain degree. It is clear from the documentary evidence that until the 1590s the court of the *personalis praesentia* functioned as

62 For a summary of the letter see Bogdándi and Gálfi, *Az erdélyi káptalan*, no. 955. It was published with partially erroneous identification of the dates in Barabás, *Székelly Oklevéltár*, 8: 324–37.

63 “addig, míg az Úristen az terminusok szolgáltatásának idejét mutatja,” Szilágyi, *Erdélyi Országgyűlési Emlékek*, 4: 118–19.

64 In a letter of sentence issued on January 15, 1598, the court is explained in the following terms: “[...] instante scilicet termino brevium judiciorum sub comitiis generalibus dominorum regnicolarum Transsilvaniensium, nec non etiam partium regni Hungariae ditioni nostre subiacentium, in civitate nostra Alba Julia ad festum Epiphaniarum domini novissime praeteritum indictis celebratorum, ad quem videlicet terminum causae tutelarum, nec non etiam factum transmissionum super novis actibus potentiariorum in sedibus comitatuum confectarum et similium negotiorum brevi processu juridico terminari solitorum tangentes et concernentes, coram propria persona nostrae serenitatis ex publica eorundem regnicolarum nostrorum constitutione adiudicari solitae per nos generaliter fuerant prorogatae, una cum fidelibus nostris magnifico domino Pancratio Senniei consiliario et magistro curiae nostrae, magistrisque nostris protonotariis et juratis sedis nostrae judicariae assessoribus.” A homicide case appealed from the County Court of Zaránd was heard at the high court. See: SJAN-CJ, Arch. Teleki from Luna (Fond 438), no. 88; Cf. SJAN-CJ, Arch. Bánffy (Fond 320), fasc. IVa, no. 27.

65 On this, see: Fejér, “Kancelláriai jegyzetek az erdélyi fejedelmi kancellária okleveles gyakorlatában,” 91.

66 Trócsányi, *Központi kormányzat*, 355.

the court of appeal of the high court. The curial judicial system, thus, was two-leveled. Further investigations will also determine whether in the seventeenth century, after the end of the period of war, the court of appeal of the high court functioned again or not.

### *Conclusions*

For the Principality of Transylvania, which came into existence after 1556, the constitutional setup of the medieval Kingdom of Hungary was the model. With regards to the formation of the central court of law, usually referred to as the Princely Table, the medieval models were tailored to local circumstances. This explains the characteristics of the judicial system: the originally separate protonotaries for Transylvania and for the Partium region, which were originally separate (but not with separable jurisdiction); the separate *director* for Transylvania and *Partium* (the scope of whose activity cannot be precisely defined); the separate court sessions for each nation (later, with the frequent contraction of the sessions held for the nobility of Partium and Transylvania); the holding of these events in different locations; and the voluntary and partial absence of the Saxons from this system (the civil suits of the Saxons were only rarely brought to the high court, and these suits, for which there was no separate court session, were usually discussed at the diets). The medieval models were also followed by ordering the court of personal presence as the court of appeal to the high court, where the chair was supplemented by councilors and which occasionally was attended by the ruler himself. The establishment of the office of *praesidens* is also related to the question of the structure of the high court. Although there was an earlier attempt to appoint a *superintendens*, the establishment of the presidency of the Princely Table took place only after the diet of Medgyes in 1588, probably at the initiative of the powerful estates and probably based on the model of the medieval *personalis praesentiae regiae in judiciis locumtenens*.

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