



**BABEŞ-BOLYAI UNIVERSITY OF CLUJ-NAPOCA
FACULTY OF HISTORY AND PHILOSOPHY
DOCTORAL SCHOOL OF POPULATION STUDIES
AND HISTORY OF MINORITIES**



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Supervisor:

C.Ş. I., dr. Tudor-Alexandru SĂLĂGEAN

Phd. Candidate:

Maria-Alexandra FRÎNC

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***QUARTA FILIALIS* IN BISHOPRIC OF TRANSYLVANIA**
THE LAW OF INHERITANCE ON THE FEMININE LINE
IN MIDDLE AGES (XIIIth-MIDDLE OF XVIth CENTURY)

summary

Supervisor:

C.Ș. I., dr. Tudor-Alexandru SĂLĂGEAN

Phd. Candidate:

Maria-Alexandra FRÎNC

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KEYWORDS

Quarta filialis, law of inheritance, Bishopric of Transylvania, nobility, customary law, royal decree, Kingdom of Hungary.

SUMMARY

Thesis entitled *Quarta filialis in Bishopric of Transylvania. The law of inheritance on the feminine line in Middle Ages (XIIIth-Middle of XVIth century)* defines, by analyzing its applicability, a succession's right of girls from Middle Ages. Mentioned for the first time in article four of the Golden Bull, the *quarta filialis/puellaris/quartalitium* is more and more common in the charters of the time in the Kingdom of Hungary and implicitly in Transylvania, until the 19th century, when it was abolished. Over time, this institution has been better defined in the decrees of kings of Hungary, as well as in the *Tripartitum* book by István Werbőczy. According to them, the girls could inherit a quarter from their father's estates in monetary value. If they were married to a non-nobleman and with the consent of their father or brothers, then they received a quarter from the domain in land. In the case of marriage to a non-nobleman, but without the consent of the father or the marriage to a nobleman, the girls received only money, as part of the paternal lands. Not infrequently, the claim of feminine inheritance caused animosity among the descendants, misunderstandings that had to be debated and judged before the ecclesiastical courts. The church assumes the right to judge cases that arise on the basis of the daughter's quarters, because the *quarta filialis* is an institution influenced by marriage, one of the seven sacraments administered by the church. For this reason, the jurisdiction of the courts of *quarta filialis* by the ecclesiastical courts, the law of female succession is analyzed in this paper in the Bishopric of Transylvania. The title of the present thesis reflects both the jurisdiction of the church over the daughters inheritance and the geographical limit considered, namely the thirteen archdeaconries of the diocese of Alba Iulia. The wealth of the charters material and the relatively short time for an extensive study on this topic imposed beyond a geographical limit and a focus on the practice of feminine heritage only among the nobility, leaving aside the custom of succession to Romanians, Saxons or Szeklers. Even if in the cases of feminine inheritance from 1265-1382 there are situations of *quarta filialis* in the areas inhabited by Romanians, those who took part in the succession table are analyzed, as mentioned by sources, as nobles, and not as part of an ethnic group. Moreover, the central topic of this paper is the quarter of daughters and how this right, contained in the royal decrees and customs of the country, is applied, so that, other

practices of feminine inheritance are not discussed in detail or mentioned in the thesis. The practice of the right of inheritance on the feminine line is followed in the chronological interval, the 13th century and the middle of the 16th century. The motivation for establishing these limits is given by the first charter that mention the *quarta filialis* in the Bishopric of Transylvania and the secularization of the ecclesiastical institution in the 16th century.

The thesis is divided into five chapters totaling 299 pages. The structure of the scientific approach taken follows a diachronic and geographical line, starting from the codes of the barbarian kingdoms, established in Western Europe, in the early Middle Ages and ending with case studies from the diocese of Transylvania.

The first chapter deals with the right of inheritance in the Middle Ages, being a theoretical discussion on the succession of women in Western and Eastern Europe. The law of succession is discussed on the codes of law of the barbarian kingdoms of Visigoth, Burgundian, Frankish and Longobard, with special attention to the type of property that the girl can acquire, the condition of female inheritance and the time of her compensation. Through this preamble, which occupies a small space in the economy of the study, the difference between the west and south-east of the continent are more obvious, regarding the female succession and the geographical limits and the particularities of the daughter's quarter can be dawn more clearly. Such an analysis is all the more important since in the origin of the daughter's quarter hypotheses were formulated according to which some codes of laws of the barbarian kingdom played a significant role in the establishment of the female succession in the Hungarian monarchy.

The theories formulated over time in historiography on the origin and factors that played a predominant role in the establishment of the daughter's quarter in the Kingdom of Hungary are discussed in the second part of the first chapter. The origin of a legal institution is not easy to understand and find out, so the researching of such a topic raises wide debates, but extremely useful in the development of scientific knowledge. Contradictory discussions and arguments to strengthen ideas are presented impartially, without tipping the scales in favor of one or the other, because the purpose of the paper is not to analyze the *quarta filialis* from the perspective of its origin, which may be a separate topic, but to mark its applicability among the Transylvanian nobility.

The theoretical analysis is then followed in the subchapter suggestively entitled *The type of good inherited on the feminine line*. In this part of the paper are analyzed the royal decrees and custom that define the property that falls under the incidence of *quarta filialis*.

The understanding of the sources of law is mediated by the studies of historians and jurists whose theories on the estates that make up the source of the succession of nobles are reviewed. The indicated subchapter deals with the way in which girls should be compensated, according to royal decrees and custom, and formulates a definition of terms such as hereditary estates, purchased and acquired land, clarification without which the hereditary right on the female line in the diocese of Transylvania would not be clear.

The analysis of the practice of female succession in the bishopric of Transylvania begins with the second chapter of this paper. In the first part are investigated the cases of *quarta filialis* in the diocese, in the chronological limit 1265-1382, years which represent the first mention of the daughter's quarter in this area, respectively the end of the reign of King Louis I of Anjou. The chronological delimitation is imposed by the increase of the situations of female inheritance starting with the Angevin monarchy. The cases are analyzed from a statistical and geographical perspective, as well as how to compensate the girl for her share of her father's estates. From a statistical point of view, the two centuries considered are divided into ten-year intervals, thus making it easier to capture the metamorphoses that occurred in Transylvanian society on the issuance of documents on the quarter of girls. The written sources are analyzed not only numerically, but also by the issuer, their type, as well as their form of storage. For a better understanding of the role played by the written act in the succession of nobles, the subchapter is accompanied by appendices, which visually reflect the findings made in this part of the study. Statistics is a winding line of research that can be further modified by the discovery of other charters. However, such an analysis highlights more clearly the changes that have taken place at the social and institutional level.

The charters, through their elaborate or incomplete content, mention the estates claimed by the descendants based on their hereditary right. Possessions thus constitute the substantial vector by means of which the cases of *quarta filialis* can be placed on the map. The analysis from a geographical point of view was undertaken in the subchapter entitled *Cases' geography of quarta filialis in the diocese of Transylvania*. In this part of the thesis, an attempt was made to create an administrative unit in the Transylvania, where the female inheritance is prominent, as well as highlighting some factors that led to an increase in cases in a certain area. It should be noted that, although the *quarta filialis* is analyzed in the diocese of Transylvania, a diocese divided administratively into archdeaconries, vice-archdeaconries, etc., the lands claimed for female inheritance are mentioned in appendices and in chapter regarding the cases' geography in the area administered by the bishopric. In other words, the Suceagu possession, for example, was placed in the county of Cluj, and not in the

archdeaconry of Cluj, although it, according to the administrative division of the church, was also in the archdeaconry.

Following the mapping of the estates claimed for the girls' compensation, the situations of their compensation are viewed in more detail from the perspective of the practice of the female inheritance law by the local nobility. It was taken into account the type of property of the descendants, respectively money or land, the right of possession imposed on them on the acquired property, perpetual and irrevocable or revocable, as well as the type of estates claimed, hereditary and acquired or purchased. All the perspective of analysis of the cases of *quarta filialis* in the diocese of Transylvania are passed through a legal, theoretical interpretation, thus bringing to light the elements of practice that agree with the legal norms, but also those that differentiate them.

Like the another historiographical examples that research the daughters' quarter in a narrower register of a noble family, are the three case studies in this paper. Unlike the studies carried out so far, in which the daughters' inheritance is discussed tangentially, in the scientific approach assumed this topic is treated in more detail. All case studies begin with a history of the nobles of Geoagiu, Jucu and Hărănglab, without claiming that the presentation is exhaustive. It covers issues such as the political and military activity of nobles, kinship with other families through marriage, and, in some cases, religious issues. The research on the history of families, as well as the way in which the girls among them were compensated is not uniform, it being influenced by the informational content of the charters. The selection of the three noble families is driven by the documentary sources, as well as by the undersigned's interest in observing the practice of the female inheritance of the nobles with different county residences. The choice of case studies also took into account the documentary evidence of several claims of goods on the female line within the same family. Of course, situations of compensation for the daughters are found in many other families in the diocese, but the approach to the topic in a limited time led to the selection of the three case studies. However, in the analysis of the practice of female inheritance from the noble families of Geoagiu, Jucu and Hărănglab, were tried to insert and other similar examples found in different families from Transylvania or the Kingdom of Hungary.

Following the brief tracing of the family's past, necessary for the knowledge of those who claim or from whom the part of the female inheritance is claimed, its land domain is reconstituted, which is the object disputed at the succession table. Such a chapter is relevant in the analysis of the girls' succession both through knowledge a typology of estates by way of origin, and by detailing the real estate that falls under the daughter's patrimony, when the

charters vaguely mention them as paternal property. Knowing the way in which the estates entered the family patrimony helps to detect the observance or deviation from the norm of female succession by the local nobility. The deviation from the legal path comes to light when the girls claim equal share with the boys in a certain estate, on the grounds that the land is purchased, a claim that proves to be unfounded because the possession is hereditary. On the other hand, there are situations in which written sources mention claims of paternal offspring without mentioning the lands to be estimated. Thus, a review of the possessions that make up the family property is indispensable in clarifying such claims.

The claims from the paternal wealth made by the nobles are analyzed in the subchapters on the statistics of the charters regarding the cases of *quarta filialis*, the cases' geography, as well as the claims of the goods. In all these parts the same objectives were pursued as in the previous chapter *quarta filialis* in the diocese of Transylvania, namely, the number of cases of daughter' quarter, issuers of charters, type of charters, form of custody, administrative unit in which succession debates are encountered, type the goods claimed, the manner in which the girls were compensated and their right of possession over the acquired property.

In order to achieve all these objectives mentioned above, the editions of Romanian and Hungarian charters that cover a certain chronological period, the databases <https://hungaricana.hu> and www.arhivamedievala.ro, were really useful for me.. Despite all the efforts to know as thoroughly as possible the practice of the inheritance right of daughter in Transylvania, there are also aspects that could not be clarified. The loss of some documents, as well as the incomplete information provided by them, causes a lack of accuracy in certain respects in this study. For these reasons, in some cases, it has not been possible to determine the social status of the husband, which influences the way the woman is compensated. At the same time, the type of possessions was probably attributed, not knowing exactly the way in which the land entered the family patrimony. The loss of sources, but also their diffuse preservation, in various funds and archives, make the statistics of the situations of *quarta filialis* in the diocese of Transylvania to get a note of probability. It should not be ignored that the numerical representation of cases of *quarta filialis* is influenced, not only and perhaps, by the context of the issuance of documents, highlighted by the prominent situations in which the daughters' quarters are mentioned in sources, namely the conflicting ones. Rarely, when family members agree on the compensation of the girls, they ask for a letter to strengthen their agreement. Usually, the daughters' inheritance arouses animosities, which, to the extent of the economic possibilities of those involved, bring them before the courts. Thus,

in these judicial contexts, the *loca credibilia* issue letters, which, protected from the vicissitudes of the times, can be known today.

Following the research of the right of inheritance on the feminine line in the diocese of Transylvania from the above mentioned perspectives, a dichotomous reality can be captured, described by following closely the legal framework, but also by situations in which the nobility deviated from legal and customary norms. Such an image arises from many cases of daughter inheritance that reflect the concordance or non-concordance with the laws and customs of the time regarding certain defining aspects of the institution, namely, the category of estates that fall under the daughter's inheritance, the goods which the girls received and the daughters' right over the property acquired.

The norms formulated by the monarchs over time, as well as the custom established in the Kingdom of Hungary and implicitly in Transylvania provide that girls can receive a quarter from the hereditary and acquired estates. When the nobleman buys the possession and didn't let a testamentary disposition regarding the land, this estate after his death is inherited equally by his female and male heirs. After the first generation, purchased possession becomes hereditary. Thus, if the daughters of the owner who bought the property have an equal inheritance with their brothers, the granddaughters of the nobleman's son can claim only a quarter of those lands. The type of possessions changes only in the case of their inheritance. In the event of an exchange, they retain their characteristics. In other words, if a nobleman owns an hereditary estate and exchanges it with another owner, the estate obtained in exchange falls into the category of the property given in return, namely hereditary. The claims of daughters or their heirs, presented in this paper, reveal that they knew the rules and practices stated and require, in this regard, a quarter of the hereditary and acquisition possessions of the father. The demand for their share of such goods is majority both in the cases of *quarta filialis* from the XIII-XIV centuries, and in the noble families of Geoagiu, Jucu and Hărănglab. Moreover, the inheritance of Osana de Geoagiu confirms the unchanging of the category of goods if they were obtained by exchange, and on the other hand, the example of Ana and Dorothy from the same noble family, proves the change of their typology in the situation of their inheritance.

Although, usually, the compensation of the beneficiaries was carried out from *possessio avitica*, there were also deviations from the rule, the nobles receiving the part of the wealth from the land bought by their father. Significant in this sense are the examples of the inheritance of a quarter of Ciunga by Luca's daughter, as well as of the Coroiu estate by Marcu de Sânmărtin's daughters. Both cases represent the effect of the consent of the father

who has free will on *possessio emptitia*. Granting a part bought to the girl on the basis of her right of inheritance may also reflect a precarious economic situation of the nobleman, who cannot afford compensation from another land or payment in cash. Even if it is recorded in documents from the diocese of Transylvania, the compensation of the heiress from the father's purchase lands is in a numerical ratio clearly lower than the hereditary estates.

In addition to this deviation, in cases of *quarta filialis* there are also situations in which the girls want to obtain a larger share of the paternal wealth than they deserve, stating that they have an equal share with their brothers in certain estates, because the possessions were bought by father. Although they appeal to legal and customary norms, trying to justify their justice, the classification of some possessions in the category of those of purchase is unfounded. Documents on the economic history of the nobles record the lands as inherited, so girls can acquire only a quarter of them. Speaking in the light of the above are the claims of Catherine de Geoagiu, Ana and Dorothy de Geoagiu, discussed at length in this paper. Ecaterina's case reflects another extremely important detail in knowledge of the practice of female inheritance, namely, the lack of adverse reaction of relatives to the petitioner's unlawful request. The agreement of those obliged to compensate the daughters can be determined by the ignorance of the way of acquiring some estates. In line with the illicit demands of the girls, there are also the requests of their heirs to receive the inheritance of their mother or grandmother, claiming a large part of what they should have been entitled to. As an argument to the above is the lawsuit filed by Gaspar, the son of Ursula of Hărănglab. The nobleman claims the property as if his grandmother, Ana, had not been deprived of the right of *perfectio*, which happened before Gaspar filed a complaint.

Once the possessions in which the daughters have the right of inheritance have been established, the practice of compensation provides that the properties, together with all those belonging to them, living forests, ponds, etc., must be evaluated according to quantity, quality and productivity. Their price is to be divided into four, and the resulting quarter must be given to all the girls in the family. Although many Transylvanian charters mention the patrimony estimate or that the girls were compensated according to a suitable estimate, in the case studies from this paper no details of the valuation were found, as is the case in other situations from second half of the 16th century. This does not mean that the estimation did not take place, but the written sources investigated mention only the order to perform it or the amount of money or the piece of land resulting from the estimation of the paternal domain. Even if it is difficult to present the assessment in detail, the right of all heirs from the noble family to only a quarter of their father's patrimony is affirmed in the situations of *quarta filialis*

encountered in the noble family of Silivaş, Ecaterina, daughter of Iacob de Ciuci, Ursula from the noble family of Jucu etc.

After estimating the paternal estates, the girls must be given back the due part. The decrees of the kings of Hungary as well as the customary law establish the moment of compensation after the conclusion of the marriage of the girls. Until then, noblewomen can stay in their father's house and own a quarter of his estate. After the marriage is established, the daughter must receive a quarter of the paternal property in the land or money, depending on the social status of her husband. The form of compensation reveals, on the one hand, the intention to preserve the noble status of the girl, in the case of her marriage concluded with *homo imposessionato*, and, on the other hand, it shows the efforts of relatives to preserve the land. The landowner's compensation with land causes a rupture in the family's patrimony, by including that estate in the fortune of the woman's husband. For this reason, all noble families converge to preserve their lands and try to give money to their daughters.

The payment in monetary value as an effect of the marriage with a nobleman is found in the cases of daughter' quarter from the bishopric of Transylvania. Such situations are visible in the compensation of Clara, the daughter of Iacob of Ciuci, of Elisabeta from the Geoagiu family, of Elisabeta from the Jucu family, as well as in many other families discussed in this paper. At the same time, in the situation of concluding a marriage with a man without an estate, the girls received a piece of land from their father, brothers or relatives, fact confirmed by the restitution of possessions of Ecaterina from the family of Silivaş, Ecaterina, daughter of Iacob of Ciuci, Anich etc. When the descendants have to receive land, those who have to compensate them try to give them a piece of possession in one place, so as not to shatter the field. The request for the restitution of a compact unit was formulated in the case of the nobles of Silivaş, Hărănglab, Jucu, discussed in the paper.

In the history of the Transylvanian nobility, the marriages of girls with nobles are recorded, which forces their fathers, brothers or relatives to give them their share in money. However, the charters of the time show cases in which brothers or relatives do not have sufficient monetary resources to compensate their sister, which is why they give land to the girls. The owners own the property as a pledge, the relatives reserving the right to repurchase the estate. Such a situation has been described in the case of the *quarta filialis* from the middle of the 14th century, when the nobles of Galda granted part of the possession to the girl, until they could redeem her. Subsequent documents confirm that the relatives did not recover the land, as they had promised, which is why the estate is left to the heir with perpetual right. Due to the same poverty, other Transylvanian nobles were forced to

compensate the girls in kind, recording in the charters the clause of restitution of the land, if the girl dies without male heirs. The property returns to the family's patrimony not only after the daughter death without male heirs, but also by restricting the right to alienate the possession, sale that can be concluded only with those who gave the land to the girl or their descendants.

The modalities of compensation of the beneficiaries, described in the above lines and presented in detail in the present paper, emphasize a harmony between the compensation of the descendants by the Transylvanian nobility and the legal framework. On the other hand, however, the clauses of the return of the possessions given as a pledge reflect the adaptability of the legal norms to the economic situation of the relatives. The customary law presented by Werbőczy in the *Tripartitum*, as well as in Hungarian historiography, emphasized the custom of the girl has a perpetual and irrevocable right, only if she marries with a non-nobleman. Apart from this condition, her possession is only temporary, until the relatives will be able to compensate her with money. The investigation of the cases of *quarta filialis* from the XIII-XIV centuries recorded in the legal area of the diocese of Transylvania sheds light on the fact that the girls inherited land, for the most part, with perpetual and irrevocable right. The marriage of all these girls to non-nobles cannot be stated, because situations have been detected in which they had as noble spouses and received part of their father's wealth with perpetual right. The expression *iure perpetuo et irrevocabiliter*, as stated by the historian József Holub, should be seen rather as a cliché, a statement contained in the stylist of the time, which undergoes changes in the event of a relatives' contradiction and their desire to compensate the daughters with money.

Lack of monetary resources is not the only reason for relatives to compensate girls in kind, even if they are legally required to receive money. The legal norms regarding the female inheritance are not followed as an effect of the love carried by the owner for his sister or her children. Probably, the compensation in this form was also made for economic reasons, but the poverty is overshadowed by the care of the nobleman, pronounced by Pethew, son of Sumbur, Akus or Peter of Fazukas. The concern for the girl to be fully compensated, giving her a piece of land in this regard, is also found in the case of the Silivaş family. The relatives give Margareta, married to a nobleman, a part of the Şopteriu, for a sufficient compensation of the petitioner.

In a discordant note with the legal framework of the female inheritance are included the letters issued by the kings of Hungary, ordering the givind lands to the girls, without taking into account the custom of the country. Ana de Hărănglab and Bagow de Geoagiu

received such a grace. Although she enjoyed the monarch's mercy, Bagow was eventually deprived of her right to inherit real estate because it harmed her relatives. The girl can only receive the value of a quarter in money. In Ana's case, the noblewoman was able to acquire land because her relatives did not oppose the inheritance of a quarter of her father's estate. The example of the two girls suggests that the king's mercy is not immutable, but it can be changed if it harms relatives and if they oppose it.

The part received by the heirs from the paternal wealth is a very important source of income not only for the nobles, but also for their spouses or descendants. Numerous examples of spouses who use the inheritance of their wife, of sons, daughters or grandchildren who request the share due to their mother or grandmother can be extracted from the chartes, that records the practice of the institution of the daughter' quarter. The husbands of girls, who are in charge of managing their wife's inheritance, do not always perform the task in a way that is favorable to the woman's wealth. Written sources record cases of men who sell or want to sell their wife's property without the latter's consent, causing great harm. The complaint of the girl or her relatives submitted to the court may stop the illegal acts. In the absence of such opposition, it was observed from the above that, the compensation of the daughters was made in disagreement with the legal framework of inheritance. Thus, the application of the right of female inheritance by the local nobility emphasizes the fact that the agreement of the parties transcends the legal framework, which is referred to only when the form of compensation of the girl fed dissatisfaction to his relatives.

Through a journey of about four centuries on the right of inheritance on the female line, geographically limited in the legal area of the diocese of Transylvania, this paper tried to bring to the attention of those interested in the history of law and not only, the institution of daughters' quarter in which it was assumed by the local nobility. Of course, the paper does not represent the end of the study of this topic, but only a first more extensive research of it in Romanian historiography. Despite the scientific diligence of the undersigned, there are still details about the practice of female inheritance that did not respond in this paper. However, the limits of the study can be overcome by further research, which broadens both the geographical and chronological spectrum of the daughter' quarter, making a significant contribution to understanding what the documents mention *quarta filialis*.