

Iure Theutonico? German settlers and legal frameworks for immigration to Hungary in an East-Central European perspective

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ABSTRACT

The article discusses the strongly disputed and over-politicised presence of the Germans, the single most populous minority ethnic group in medieval East-Central Europe, and their impact on their host societies, notably the kingdoms of Hungary, Poland and Bohemia, and the duchy of Silesia. It examines the routes and reasons for the arrival of the immigrant population, the topography of settlement and the activities pursued; and it discusses the legal background to the arrival of immigrants and their co-existence with the majority society. In most of East-Central Europe, the arrival of the German settlers led to the adaptation of *ius Theutonicum*, a framework created by sovereigns to accommodate the immunities and obligations of the newcomers. In Hungary, it never took root. Instead, settlers were accommodated legally by means of the liberties of *hospites*, until this stratum of external and internal migrants was absorbed into peasantry and bourgeoisie, respectively.

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The famous charter of incorporation (*Lokationsurkunde*) of Kraków, granted to the city by Duke Bolesław the Chaste in 1257, contains the following passage:

The said settling agents (*advocati*) have promised us that they will not turn into a burgher any of our dependants or any servants of the Church or of anyone else, nor any free Poles who have lived in the countryside so far, so that our or the bishop's or the canons' or others' rural settlements do not become desolate due to this event.¹

This promise, prompted by the duke, not only limited the settling of neighbouring Polish peasants in the city, but also forced the *advocati* to attract new manpower to the place. If the 'majority' was not eligible, 'minorities' had to be invited.

By the time this charter was issued, settlers from afar were a common occurrence both in the towns and the countryside of East-Central Europe. Among the settlers, both in

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¹ 'Hoc eciam nobis iidem advocati promiserunt, quod nullum ascripticum nostrum vel ecclesie seu cuiuscumque alterius vel eciam Polonum liberum, qui in rure hactenus habitavit, faciant suum concivem, ne hac occasione nostra vel episcopalia aut canonicorum vel aliorum predia ruralia desolentur.' Quoted by Benedykt Zientara, 'Die deutschen Einwanderer in Polen vom 12. bis zum 14. Jahrhundert', in *Die deutsche Ostsiedlung des Mittelalters als Problem der Europäischen Geschichte*, ed. Walter Schlesinger (Sigmaringen: Thorbecke, 1975), 333–48 (339, n. 21).

Krakow and elsewhere in the region, Germans were the single most populous ethnic group, including several sub-groups defined by origin and dialect. This paper sets out to discuss the strongly disputed and over-politicised presence of this ‘major minority’ and their impact on their host societies.² The general question about the way the Germans and the movement traditionally termed *Ostsiedlung* or ‘Eastern colonisation’ were influential in medieval East-Central Europe will be addressed following two main lines of inquiry. The first relates to the immigrant population and their relationship to the society surrounding them. What kind of minority did German settlers constitute in the various polities of East-Central Europe? What activities were they typically engaged in at the time of their arrival, and how did this change in later centuries? The second and more challenging set of questions relates to the legal background of the arrival of immigrants and their co-existence with the majority society. How was normative legislation connected to the settlement process, and how was the term *ius Theutonicum*, a phrase apparently tailored to this ethnic group, employed and understood? In responding to both lines of questioning, it will be necessary to consider what role local rulers played in inviting and acting as patrons of these settlers, and how the settlers may have contributed to consolidating these rulers’ power.

While discussing these issues, one needs to be constantly aware that although East-Central Europe may seem to be a relatively coherent region from a distance, there were decisive differences between its constituent polities or sub-regions.³ Special attention is paid to the differences that can be observed between Hungary, a kingdom that has often been neglected by comparative research and examined in and for itself if at all,⁴ and the rest of East-Central Europe where speakers of various Slavic languages formed the majority.⁵ In fact, since this special issue includes articles that concentrate on Poland and Bohemia, Hungary will be the main focus in the first part of this piece. Besides seeking for a better understanding of processes in the Middle Ages, between the twelfth and fourteenth centuries in particular, some of the answers to these questions may also help overcome the biases and distortions in modern historiography and current political discourse.

The settlers

Old and new homelands

Modern researchers accustomed to an abundance of numerical data tend to assess the impact of minorities on majority society through demographic markers, first and foremost

² From the vast literature in the field, three volumes may serve as the most important points of reference: Schlesinger, ed., *Die deutsche Ostsiedlung*; Jan Piskorski, ed., *Historiographical Approaches on the Medieval Colonization of East Central Europe* (Boulder, CO: Columbia University Press, 2002); Nora Berend, ed., *The Expansion of Central Europe in the Middle Ages* (Farnham: Ashgate, 2012); see also Piotr Gorecki, ‘The Historiography of the So-Called East Colonisation and the Current State of Research’, in *The Man of Many Devices, Who Wandered Full Many Ways ... Festschrift in Honour of János Bak*, eds. Balázs Nagy and Marcell Sebők (Budapest: CEU Press, 1999), 654–67.

³ Nora Berend, ‘The Mirage of East Central Europe’, in *Medieval East Central Europe in a Comparative Perspective*, eds. Gerhard Jaritz and Katalin Szende (London: Routledge, 2016), 9–24.

⁴ Erik Fügedi, ‘Das mittelalterliche Königreich Ungarn als Gastland’, in *Die deutsche Ostsiedlung*, ed. Schlesinger, 471–507; András Kubinyi, ‘Zur Frage der deutschen Siedlungen im mittleren Teil des Königreichs Ungarn (1200–1541)’, in *Die deutsche Ostsiedlung*, ed. Schlesinger, 527–66.

⁵ Jozef Žemlička, ‘Die Deutschen und die deutschrechtliche Kolonisation Böhmens und Mährens im Mittelalter’, in *Historiographical Approaches*, ed. Piskorski, 107–43; Jan M. Piskorski, ‘The Medieval “Colonization of the East” in Polish Historiography’, in *Historiographical Approaches*, ed. Piskorski, 97–105.

their proportion within the total population. However, in the absence of censuses and other statistical sources for the entire medieval period, only indirect evidence is available on individuals or on settlers as a group. The movement of people was continuous, but their flow was uneven. In all the main polities of East-Central Europe between the eleventh and the mid twelfth centuries, new settlers who made it to the historical record were high status individuals who became closely attached to the ruling elite. Such persons arrived accompanying the queens who, as a rule, came from a foreign realm. For instance, Gisela, the wife of St Stephen, the first king of Hungary (1000–38), brought knights from her native Bavaria, and the ranks of such immigrants renewed with each royal marriage;⁶ however, these persons were few and quickly absorbed into the elites of their new country of residence.

The term used for settlers from the eleventh century onwards in the Latin usage of medieval Hungary, both as individuals and as a group, was *hospes*. This word denoted a ‘guest’ in the sense of immigrants to a settlement or a region (not necessarily foreigners), who were attracted by the favourable conditions.⁷ However, this usage was far from general. In Bohemia from the late twelfth century onwards, the word *hospes* denoted a status inferior to the locals and having restricted legal capacity (*Rechtsfähigkeit*).⁸ Their status could only improve if they ceased to be treated as guests but were regarded as indigenous. The views we have of them were very much subject to the political agenda of the source in question. For instance, Otakar II Přemysl was accused of expelling the locals from the Malá Strana of Prague in 1257 in order to make room for the strangers: ‘he expelled the Bohemians from the suburb and placed the foreigners there.’⁹ In sources from various parts of Poland, *hospites* were simply aliens, primarily merchants on the move, whereas the settlers recruited to a new settlement were denoted with the term *inhabitor* or *incola*.¹⁰

Whatever term was used for the settlers, their arrival was strongly conditioned by a demographic deficit that acted as a pull factor for newcomers. The land ‘in the East’ was famous for being extremely fertile but sparsely inhabited. Even as late as 1308 the author of *Descriptio Europae orientalis*, most probably a French Dominican friar, describes Hungary noting that ‘this ... kingdom seems to be completely empty because of its vast size.’¹¹ This ‘emptiness’ left plenty of room for people coming from the densely populated western and north-western parts of the Continent. Their expectant attitude is mirrored, for instance, in the song of Flemish settlers moving east, the so-called *Uitwykelingslied* that portrays people who were hoping for enough land, a warm welcome and good

⁶ See, e.g. the catalogue, Ramón Sarobe and Csaba Tóth, eds., *Princeses de terres llunyanes. Catalunya i Hongria a l'edat mitjana* (Barcelona: Departament de Cultura, 2009).

⁷ See the article ‘hospes’, in *Lexicon Latinitatis medii aevi Hungariae*, eds. Iván Boronkai and Kornél Szóvák, vol. 4 (Budapest: Argumentum, 1993), 285–6; Katalin Szende, ‘Power and Identity: Royal Privileges to the Towns of Medieval Hungary in the Thirteenth Century’, in *Urban Liberties and Civic Participation from the Middle Ages to Modern Times*, eds. Michel Pauly and Alexander Lee (Trier: Porta Alba, 2015), 27–67 (35–8).

⁸ František Graus, ‘Die Problematik der deutschen Ostsiedlung aus tschechischer Sicht’, in *Die deutsche Ostsiedlung*, ed. Schlesinger, 31–75 (33, n. 14).

⁹ ‘Pepulit Bohemos de suburbio et locavit alienigenas’: *Annales Pragenses*, in *Fontes rerum Bohemicarum. Prámeny dějin Českých*, ed. Josef Emler (Prague: Múzeum Kralovství Českého, 1874), 294.

¹⁰ See e.g. Ignacy Zakrzewski, ed., *Codex diplomaticus Maioris Poloniae*, vol. 1 (Poznań: Bibliotheca Kornicensis, 1877), 60 (Calis), 63 (Crivin).

¹¹ ‘Hoc toto videtur prefatum regnum esse omnino vacuum propter magnitudinem eiusdem’: Olgierd Górka, ed., *Anonymi Descriptio Europae orientalis Imperium Constantinopolitanum, Albania, Serbia, Bulgaria, Ruthenia, Ungaria, Polonia, Bohemia Anno MCCCVIII exarate* (Kraków: Academia Litterarum Cracoviensis, 1916), 48–9.

wine. This is one of the very few sources that reflects on the intentions of the settlers themselves, although the centuries of transmission before it ended up in a nineteenth-century collection of poems probably left their traces on the text.

We want to ride to East-land / To East-land want we to go / All over the green heaths / Freshly over the heaths / There is a better place.¹²

The variety of motives for leaving one's homeland and seeking a new one is difficult to trace, particularly in case of individuals. Crusades as a mass movement evoked the interest in 'East-land' in many who chose the land route to the Holy Land, through Moravia, Silesia and the Carpathian Basin. For Silesia and Poland, the Baltic crusades may have played a similar mediatory role. A rare example of a person known by name among the crusaders was a knight called Anselm, who after the First Crusade in 1103 gave up his residence in Braz (modern-day Belgium) to move to Hungary ('in Hungariam ire disponens') with his sons. Some scholars claim that he gave the name of his original home town to his new domicile, Broos (Oraştie, Szászváros) in Transylvania (modern-day Romania).¹³ There are several further examples of the presence of individual German 'eponymous' settlers in Transylvania, whose names turned into place-names from the twelfth century onwards, the most famous being the German name of Sibiu (Nagyszeben): *Hermannstadt*.

The first great wave of German immigration that established the 800-year presence of Transylvanian Saxons arrived in the mid twelfth century under King Géza II (1142–62).¹⁴ They covered a remarkable distance, as on the basis of their dialect their original homeland has been traced back to the area of Luxembourg.¹⁵ Likewise, the names of the first German burghers of Pécs, as attested by a list of names from 1181, derive from the Franco-German language border.¹⁶ The analysis of personal names is also relevant to understanding the settlement process in Bohemia, but in a different way. Here the names of the settling agents revealed changing proportions of Czech and German *locatores* in the thirteenth and fourteenth centuries in villages and towns alike. The fact that the length of the tax-free period for new settlers was relatively short (three to five years in most places) indicates that this option was sufficiently attractive.¹⁷

Wherever attested by ethnonyms or by personal names, from the thirteenth century onwards most foreign newcomers in Hungary were Germans. Aside from the southern Transylvanian territories, they settled in greatest numbers on the north-eastern (Spiš/Szepesség/Zips) and western (Sopron/Ödenburg, Bratislava/Pozsony/Pressburg, Kőszeg/

¹² 'Naer Oostland willen wy ryden / Naer Oostland willen wy męe / Al over die groene heiden, / Frisch over die heiden, / Daer isser een betere stee.' Jan Frans Willems, ed., *Oude Vlaemsche liederen* (Ghent: Gyselynk, 1848), 35–8. I thank Orsolya Réthelyi for her help with the translation and the contextualisation of the text.

¹³ Joseph Halkin and C.-G. Roland, eds., *Recueil des chartes de l'abbaye de Stavelot-Malmedy*, vol. 1 (Brussels: Kiessling, 1909), 133, 143, quoted by György Székely, 'Wallons et italiens en Europe Centrale aux XIe–XVIIe siècles', *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös Nominatae: Sectio Historica* 6 (1964): 3–71 (12).

¹⁴ Harald Zimmermann, *Siebenbürgen und seine Hospites Theutonici. Vorträge und Forschungen zur Südostdeutschen Geschichte. Festgabe zum 70. Geburtstag*, ed. Konrad Gündisch (Cologne: Böhlau, 1996), 46–68.

¹⁵ Thomas Nägler, *Die Ansiedlung der Siebenbürger Sachsen* (Bucharest: Kriterion, 1979), 195–6. The similarity of the Transylvanian German dialects to the German spoken in Luxembourg is still noticeable: Karl Kurt Klein, 'Luxemburg und Siebenbürgen: aus den Vorarbeiten zum Siebenbürgisch-Deutschen Sprachatlas', in *Luxemburg und Siebenbürgen*, ed. Karl Kurt Klein (Cologne: Böhlau, 1966), 1–111.

¹⁶ István Petrovics, 'Foreign Ethnic Groups in the Towns of Southern Hungary in the Middle Ages', in *Segregation, Integration, Assimilation: Religious and Ethnic Groups in the Medieval Towns of Central and Eastern Europe*, eds. Derek Keene, Balázs Nagy, and Katalin Szende (Farnham: Ashgate, 2009), 67–88 (73–4).

¹⁷ Graus, 'Die Problematik der deutschen Ostsiedlung', n. 78.

Güns) fringes of the country, but also in Buda, the most significant new foundation. The majority of Buda's German inhabitants arrived from cities along the Danube, but there were also second-generation settlers from the northern or eastern fringes of the Carpathian Basin: Trnava (Nagyszombat, Tyrnau), Krupina (Korpona, Karpfen), Rodna (Radna, Rodenau).¹⁸ Several documents attest that settlers were welcome irrespective of their ethnic background. Even Armenians and Jews are occasionally mentioned as *hospites*¹⁹ and King Charles I's charter in 1324, inviting new settlers to Sopron is addressed to 'all persons of free standing, be they Christians or Jews'.²⁰

Rural or urban? Land use and settlement patterns

To assess the impact of the new arrivals on indigenous society, it is crucial to know how they contributed to its operation. The mention of land in the poem quoted above indicates the prime importance of this resource for the migrants, which is corroborated by documentary and material evidence alike. In the sources, the process of settlement itself is often termed as *melioratio* or *aedificatio terrae*, that is, the improvement or 'construction' of the land, which clearly shows that the primary intention was to increase the extent and yield of cultivated areas.²¹ The most lucrative way of 'improving the land' was by planting vineyards, as recorded in 1240 for Pest (part of modern-day Budapest), by both *Theutonici* and *Saxones*.²² (The two names often appear interchangeably and do not refer to a clearly distinguished location of origin.)²³

Besides land reclamation, the newcomers were often expected to perform military duties. In a document from 1241, for instance, some persons describe their status as

guests and people of free standing who arrived from *Teutonia* in the land named *Zamar* to act as guests (*causa hospitandi*), cultivated the deserted wasteland, and sent one well-armed warrior for every six households to the army with the count of Trencsén.²⁴

Military service was a prime duty for the Saxons of Transylvania who had to defend the southern border area. The first German settlements there were primarily rural and became gradually urbanised when the commercial importance of the region increased during the thirteenth and especially the fourteenth century.²⁵ This observation contradicts the frequently repeated statement that urbanisation in Hungary was an imported phenomenon, under German influence.

¹⁸ András Kubinyi, *Die Anfänge Ofens* (Wiesbaden: Harrasowitz, 1972), 92–5.

¹⁹ Nora Berend, *At the Gate of Christendom. Jews, Muslims and 'Pagans' in Medieval Hungary, c.1000–c.1300* (Cambridge: Cambridge University Press, 2001), 76; 107, n. 122.

²⁰ 'Universos homines libere condicionis, qui sive sint Christiani sive Iudei': Irmtraut Lindeck-Pozza, ed., *Urkundenbuch des Burgenlandes und der angrenzenden Gebiete der Komitate Wieselburg, Ödenburg und Eisenburg*, vol. 3 (Vienna: Böhlau, 1995), 169 (no. 319).

²¹ Adrienne Körmendy, *Melioratio terrae. Vergleichende Untersuchungen über die Siedlungsbewegung im östlichen Mitteleuropa im 13.–14. Jahrhundert* (Poznań: Towarzystwo przyjaciół nauk, 1995).

²² Albert Gárdonyi, ed., *Budapest történetének okleveles emlékei – Monumenta diplomatia civitatis Budapest*, vol. 1: 1148–1301 (Budapest: A Székesfőváros kiadása, 1936), 37.

²³ Kubinyi, 'Zur Frage der deutschen Siedlungen', 540–5.

²⁴ 'Fuisent hospites et homines libere condicionis, qui de Teutonia ad ipsam terram Zamar descenderant causa hospitandi. Et eam desertam et incultam coluerunt, qui etiam de sex mansionibus unum militem armis bellicis optime preparatum cum comite de Trinchin, in exercitum cum expedierit, mittere tenentur': Arnold Ipolyi and others, eds., *Hazaí okmánytár – Codex diplomaticus patrius*, vol. 6 (Budapest: Kocsi Sándor, 1876), no. 27.

²⁵ Katalin Szende, 'Towns Along the Way. Changing Patterns of Long-Distance Trade and the Urban Network of Medieval Hungary', in *Towns and Communication*, vol. 2, *Communication Between Towns*, eds. Hubert Houben and Kristjan Toomaspoeg (Lecce: Mario Congedo, 2011), 161–225.

Documents on the expansion of cultivated land complement the results of landscape archaeology that have detected medieval fields and field systems in hilly areas, including north of Lake Balaton. In the higher hilly or mountainous areas in the northern and eastern fringes of the medieval Kingdom of Hungary, as well as in Bohemia and Moravia, terraced long strip fields on the hill slopes (lynchets) have been traced.²⁶ Land reclamation was not confined to territories inhabited by German settlers; the area affected by the transformation of the landscape was more extensive than that inhabited by Germans. Place-names alluding to forest clearings by cutting down or burning, such as Lehota, Volya, Praga, Zgorzelec, and so on, derived from Slavic languages, also indicate that the technique of transforming woodland to arable land was known and practised by indigenous people prior to the arrival of the Germans. These discoveries add further arguments to the discussion in Polish and German scholarship about the process of settlement.²⁷ It seems that the newcomers' main impact was a quantitative one, allowing for further expansion, but they were not the first in these regions to bring new lands under cultivation. The efficiency of tools and implements, including the deep plough that was introduced and promoted but not monopolised by the colonists, is another case in point.²⁸

As to the character of the twelfth- and thirteenth-century settlements, agricultural activity was predominant. In fact, rural and urban colonisation through the process of *melioratio terrae* was not distinguished at the outset but strongly intertwined and can be interpreted as a continuum, but the social status and wealth of the new arrivals may have varied. In the bigger towns or when the legal rearrangement of existing towns was on the agenda, as will be discussed below, wealthier settlers were expected.²⁹ The main difference between this wave of settlement and immigration to East-Central Europe in the late Middle Ages was that in the fourteenth and fifteenth centuries the main aim was no longer to colonise unsettled or unexploited lands, but to promote existing settlements. The settlers were therefore not typically peasants, but burghers, accustomed to and expecting to find an urban lifestyle in their new homelands.

Evidence from personal names and legal cases confirms that merchants mostly moved in from places that already had a pattern of regular trade with the target region. The main cities of origin were Regensburg and Cologne, with merchants using primarily the Danube route, and the land route through Prague and Brno (Brünn) as an alternative. There was a shift in the places that were the focus of settlement as well. Up to the 1350s for the average settlers who came in search of land and better living conditions, the peripheral areas of the Carpathian Basin were considered just as attractive as the *medium regni*. From the late fourteenth century, the typical settlers were Germans and Italians, who were first and

²⁶ József Laszlovszky, 'Agriculture in Medieval Hungary', in *The Economy of Medieval Hungary*, eds. József Laszlovszky and others (Leiden: Brill, 2018), 81–113 (82–5); Jan Klápště, ed., *Agrarian Technology in the Medieval Landscape* (Turnhout: Brepols, 2016).

²⁷ Zoltán Tagányi, *A középkor európai faluközösség genezise* (Budapest: L'Harmattan, 2015), 122–39.

²⁸ Laszlovszky, 'Agriculture in Medieval Hungary', 95–101.

²⁹ Adrienne Körmendy, 'Mittelalterliche *aedificatio terrae* im Lichte der ungarischen Historiographie', in *Historiographical Approaches*, ed. Piskorski, 145–77; Körmendy, *Melioratio terrae*; Anngret Simms, 'Mittelalterliche Gründungsstädte als Ausdruck regionaler Identität', in *Aedificatio terrae: Beiträge zur Umwelt- und Siedlungsarchäologie Mitteleuropas: Festschrift für Eike Gringmuth-Dallmer zum 65. Geburtstag*, eds. Gerson Jeute, Jens Schneeweiß and Claudia Theune (Rahden in Westfalen: Verlag Marie Leidorf, 2007), 347–54; Graus, 'Die Problematik der deutschen Ostsiedlung', 60–4.

foremost professional tradesmen, who consciously selected the commercially most significant settlements.³⁰

This shift went hand in hand with the increasing number of commercial privileges granted to towns: exemption from tolls and customs, rights of staple and the right to hold annual fairs – all available to the residents of the given place, making a strong distinction between locals and foreign merchants (*mercatores extranei*). Likewise, in the 1255 customs tariffs at Győr, frequented by German and Hungarian merchants as well as *Latini* (immigrants from Romance-speaking areas) both by the River Danube and by land, different tariffs were set for the carts of each ‘ethnic’ group (*de curru Teotonicorum / Ungarorum / hospitem Latinorum*).³¹ Such regulations made it advisable for merchants to settle or to send a family member or agent (*factor*) who established a branch of the enterprise there, enjoying the same advantages as the locals.

The processes outlined above can also be followed in settlement patterns and morphology. In the early centres of secular or ecclesiastical power, the loose and irregular topography made it much easier to integrate the newcomers: they were able to settle in a group without upsetting any existing arrangements or having to contend with a strong demand for adaptation. For instance, groups of *hospites* speaking Romance languages settled in separate streets or suburbs called *vicus Latinorum* around the most important royal residences, those of Esztergom and Székesfehérvár, as well as in Wrocław from the middle of the twelfth century onwards, whereas in Prague early German settlement units have been identified on the right bank of the Vltava.

New villages and towns on land cleared by settlers often have a distinctive ground plan that reflects their origin: plots were measured out on both sides of a road that served as the main thoroughfare of the settlement, and the land that belonged to each plot was added at the back immediately behind the residential section (*Waldhufendorf*). The main street served as a marketplace that often gained a broader, spindle-like shape to accommodate this function better, as in Košice (Kassa, Kaschau), the main commercial centre of north-eastern Hungary, or Prešov (Eperjes), its northern neighbour. The spaces of these markets (usually held weekly) became the centres of villages and eventually of emerging towns, where the parish church, the town hall and other public buildings were placed. Such an arrangement facilitated the settlers’ participation in and control of trading activity. If a settlement proved to be successful and attracted further colonists, the street system became more complex, with new streets opened up parallel to the original main street. At a later stage, the marketplace may have been extended to a regular oblong shape, as in Sroda Śląska (Neumarkt), a town in Silesia named after its original Wednesday market days.³² The initially undecided character of settlement, that over time might remain rural or develop into a town, was a common feature in all main target areas of settlement.

³⁰ Kubinyi, ‘Zur Frage der deutschen Siedlungen’; András Kubinyi, ‘Regensburg–Passau–Ungarn im Mittelalter’, in *Bayern und Ungarn: tausend Jahre enge Beziehungen*, ed. Ekkehard Völkl (Regensburg: Haus der Bayerischen Geschichte, 1988), 29–39.

³¹ Boglárka Weisz, *A királyketteje és az ispán harmada. Vámok és vámszedés Magyarországon a középkor első felében* (Budapest: MTA BTK TTI, 2013), 181–4; András Kubinyi, ed., *Elenchus fontium historiae urbanae*, vol. 3, part 2 (Budapest: Balassi, 1997), 51–2.

³² See contributions to Mária Hajduová and Martin Bartoš, eds., *Košice in the Coordinates of European History* (Košice: Košice City Archives, 2013); Marta Młynarska-Kaletynowa, ed., *Sroda Śląska. Atlas historyczny miast polskich* (Wrocław: Uniwersytet Wrocławskiego, 2003).

If many people were expected to settle within a short period of time, because an urban foundation or extension was envisaged, a grid plan was seen as the ideal solution. Hundreds of larger and smaller settlements with such a street pattern were established in Silesia, Bohemia, Moravia, and the Polish lands during the thirteenth to the fifteenth centuries.³³ The almost total absence of the regular grid plan from Hungary,³⁴ which was otherwise typical of planned towns created as greenfield development or remodelling early urban centres, can most likely be explained by differences in the legal framework of the process of settlement that will be discussed in the next section.

These observations relate to settlement structures as a whole that were connected in their genesis to population movement, but not to any particular ethnic group. In other cases, names of streets or quarters attested in the fourteenth to the sixteenth centuries refer directly to German inhabitants. In Székesfehérvár, a *vicus Teutonicalis* was situated centrally within the *Castrum*, perhaps laid out as early as 1249, after the royally mandated relocation of the suburban population.³⁵ In Zagreb, conversely, Germans resided outside the fortified area of Gradec; their quarter (*vicus Theutonicorum seu sutorum*) was set on fire in 1375.³⁶ The *vicus Teutonicalis* of Pécs, an episcopal see, is attested in 1444 as well as in the *defters* of 1546 and 1554, following the Ottoman occupation of the city.³⁷ These names testify both to the presence of German inhabitants and their mixed settlement with others: such names would have made no sense in places where Germans were in the majority or where they were completely absent.

A *civitas Theutonica* existed as a separate part of the town beside the *civitas Hungaricalis*, among other places, at Vác, an episcopal seat on the Danube Bend,³⁸ with an archaeologically attested buffer zone between the two.³⁹ At Visegrád, the royal residence of the Angevins for much of the fourteenth century, a *civitas Teutonicorum* appears, although its location is not clear.⁴⁰ In both of these cases the separate topographical position was combined with separate administration, in juxtaposition rather than subordination.⁴¹

Migrating skills: the case of the mining towns

The most direct import of legal, social and technical development took place in the mining towns where – with the exception of salt-mining – there was hardly any local tradition to build on. The need for a new skilled workforce that could run the mines triggered the

³³ Jerzy Piekalski, *Von Cologne nach Krakau. Der topographische Wandel früher Städte* (Bonn: Habelt, 2001), 176–94; Bogusław Krasnowolski, 'Muster urbanistischer Anlagen von Lokationsstädten in Kleinpolen. Forschungsstand, Methoden und Versuch einer Synthese', in *Rechtsstadtgründungen im Mittelalterlichen Polen*, ed. Eduard Mühle (Cologne: Böhlau, 2011), 275–322.

³⁴ Katalin Szende, 'Town Foundation in East Central Europe and the New World in a Comparative Perspective', in *Medieval East Central Europe in a Comparative Perspective*, eds. Jaritz and Szende, 157–84 (168–72).

³⁵ Attested in 1407: Elemér Mályusz, ed., *Zsigmondkori Oklevéltár*, part II/2 (Budapest: Akadémiai, 1958), no. 5310. On the relocation, Attila Zsoldos, *Székesfehérvár története az Árpád-korban* (Székesfehérvár: Városi Levéltár és Kutatóintézet, 2016), 209–35.

³⁶ Ivan Krstitelj Tkalčić, ed., *Monumenta historica liberae regiae civitatis Zagrabiae metropolis regni Dalmatiae, Croatiae et Slavoniae*, vol. 1 (Zagreb: C. Albrecht, 1889), 246.

³⁷ Petrovics, 'Foreign Ethnic Groups', 74.

³⁸ Ferdinandus Knauz, ed., *Monumenta ecclesiae Strigoniensis*, vol. 2 (Esztergom: Buzárovits, 1882), 768.

³⁹ Orsolya Mészáros, *Régészeti kutatás a középkori Vác német városrészében* (Budapest: Martin Opitz, 2016).

⁴⁰ József Laszlovszky, Gergely Buzás, and Orsolya Mészáros, eds., *The Medieval Royal Town at Visegrád: Royal Centre, Urban Settlement, Churches* (Budapest: Archaeolingua, 2014).

⁴¹ Kubinyi, 'Zur Frage der deutschen Siedlungen', 550.

immigration of settlers whose local customs were readily guaranteed by the rulers both for practical reasons and because of the strong negotiating position of the newcomers.⁴² Moving to newly opened mines was advantageous for both the settlers and the owners of the land where the resources lay. For the miners, ores were more accessible, and the work was therefore more profitable than at places that had been exploited for a long time; for the landlords, the special skills and knowledge of the newcomers were indispensable.

The importance of the kingdoms of Bohemia and Hungary in silver and gold production became paramount from the thirteenth century onwards. Both countries, just like Silesia and Poland, utilised the expertise of German miners, who had already developed advanced techniques of building shafts and tunnels as well as employing waterwheels for draining water in the mines of the Upper Harz mountains and the Erzgebirge. German mining experts were much in demand in all parts of Europe from the silver-lead mines of Devon and Cornwall to the Moravian and Silesian mining centres of Jihlava (Iglau), Opawa (Troppau), Złoty Stok (Reichenstein) and the richest of all, Kutná Hora (Kuttenberg) in Bohemia; and later in Serbia and Bosnia as well.⁴³

German miners most probably arrived in Hungary through Moravia and Bohemia, judging from the influence of the laws and liberties of Jihlava and Kutná Hora on the legal standing of miners. The places in the kingdom where silver-mining was first practised on a considerable scale were Rodna in Transylvania⁴⁴ and Banská Štiavnica (Selmechánya, Schemnitz) in Upper Hungary (Slovakia).⁴⁵ The presence of German settlers, who introduced the technology of underground mining instead of the initial extraction of ores from the surface, can be attested at both places before the Mongol invasion (1241–2).

For Rodna, the earliest explicit evidence is supplied by an eyewitness of the invasion, Master Roger, at the time canon of Oradea (Várad, Wardein). According to his *Carmen miserabile*, the leader of the Mongols came 'to wealthy Rodna, a town of Germans among high mountains and the king's silver mine, in which a huge crowd of people stayed'. The 'mayor' (*comes*) was captured and forced to join the invaders' army allegedly 'with his 600 selected German warriors'.⁴⁶ This large self-governing community of German miners issued a charter in a property transaction under its own seal as early as 1268. The names of all the persons mentioned in this document, both parties and the judges and jurors, were German.⁴⁷ A compilation of the rights or customs of Rodna (*berg recht von der Rodenaw*) from 1270–2, comprising a wide variety of matters

⁴² Danuta Molenda, 'Die Beteiligung fremder Fachleute im Erzbergbau im mittelalterlichen Polen', *Questiones Medii Aevi Novae* 3 (1998): 179–204.

⁴³ Ian Blanchard, *Mining, Metallurgy and Minting in the Middle Ages*, vol. 3, *Continuing Afro-European Supremacy, 1250–1450* (Stuttgart: Franz Steiner, 2005), 926–70. For Hungary, Pál Engel, *The Realm of St Stephen: a History of Medieval Hungary 895–1526* (London: I.B. Tauris, 2001), 244–66.

⁴⁴ Géza Hegyi, 'Radna és a Radna-völgy a középkorban (1241–1469/1475). Birtok- és településtörténet' *Erdélyi Múzeum* 68 (2006): 33–54; Dirk Moldt, *Deutsche Stadtrechte im mittelalterlichen Siebenbürgen. Korporationsrechte-Sachsenspiegelrecht-Bergrecht* (Cologne: Böhlau, 2009), 155–66.

⁴⁵ Ilpo Tapani Piirainen, ed., *Das Stadt- und Bergrecht von Banská Štiavnica/Schemnitz. Untersuchungen zum Frühneuhochochdeutschen in der Slowakei* (Oulu: University of Oulu, 1986).

⁴⁶ 'Ad divitem Rudanam inter magnos montes positam Theutonicorum villam regis argentifodinam, in qua morabatur innumera populi multitudo'; 'cum electis sexcentis armatis Theutonicis suis militibus': Rogerius, 'Carmen miserabile', in *Scriptores rerum Hungaricarum tempore ducum regumque stirpis Arpadianae gestarum*, vol. 2, ed. Imre Szentpétery (Budapest: MTA, 1938), 583–5.

⁴⁷ Zsigmond Jakó, ed., *Erdélyi Okmánytár*, vol. 1 (Budapest: Akadémiai, 1997), 213–14 (no. 264); Franz Zimmermann and Carl Werner, eds., *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. 1 (Hermannstadt: Verein für Siebenbürgische Landeskunde, 1892), 99–100.

connected to civic life as well as mining operations, resembling the regulations of Jihlava, has survived copied into the town book of Žilina (Zsolna, Sillein) in German translation from c.1378.⁴⁸

Other early mining towns were situated in Upper Hungary: Banská Štiavnica, Krupina and Zvolen (Zólyom, Altsohl), in the catchment area of the River Hron (Garam). These towns were either sites of mines, or residences of the proprietors of shafts, or transit centres along the routes of metal export. Similar privileges were granted up to the 1260s to six more places, the most important of them being Banská Bystrica (Besztercebánya, Neusohl) with its rich copper deposits. Together with the episcopal seat of Nitra (Nyitra, Neutra) chartered in 1248, these settlements formed the backbone of the policy of Béla IV (1235–70) of developing the infrastructure of this valuable gold-, silver- and copper-mining area.⁴⁹ As far as it is possible to judge from the names of the elite families, these towns remained German-dominated throughout the Middle Ages, even if the population in the surrounding countryside and probably many of the workers in the mines and the smelting workshops were Slavic-speaking, and some of the royal officials were Italians.

The arrival of significant numbers of German settlers, both individually and in organised groups, between the twelfth and fourteenth centuries, coincided with fundamental changes in the landscape and the settlement network. In Silesia and Poland, the structure of agricultural production changed because of extensive forest clearance, leading to a strong emphasis on grain production. This was present, but less important in Hungary, where mining and viticulture and wine-production became the driving forces behind economic expansion. Mining as well as a sharp increase in craft production, particularly in textiles, characterised Bohemia and Silesia as well. To what extent these changes were caused or catalysed by the presence of the German settlers, and what other forces may have been at play, can be better understood after considering the legal and societal frameworks.

The legal framework

Legal standing, rights and customs of the German settlers

Legislation stands in a reciprocal relationship with processes on the ground, and the settlement movement ('colonisation') was no exception. The following considers the changes over time and space with regard to the initiators and beneficiaries of this process, with special attention to the terms *Theutonici*, *Saxones* and their derivatives, and their meaning in the given context. Was 'German' understood as a legal status, an ethnic affiliation, or something else?

The question needs to be considered in combination with an examination of the various terms employed for settlers. As explained above, in Hungary the main term was *hospes*, and thirteenth-century sources clearly indicate that it was a free status worth fighting for. A unique source, the *Regestrum Varadiense*, a formal record or protocol of judiciary ordeals at the Chapter of Oradea from the first decades of the thirteenth century, registered a series of cases where the legal status of various social groups was challenged by their

⁴⁸ Jakó, ed., *Erdélyi Okmánytár*, vol. 1: 228 (no. 307); Ilpo Tapani Piirainen, ed., *Das Stadtrechtsbuch von Sillein* (Berlin: De Gruyter, 1972), 155–60.

⁴⁹ Martin Štefánik, 'Die Anfänge der slowakischen Bergstädte: das Beispiel Neusohl', in *Stadt und Bergbau*, eds. Karl-Heinz Kaufhold and Wilfried Reininghaus (Cologne: Böhlau, 2004), 295–312.

neighbours or superiors.⁵⁰ The trials reflect the great social transformation of the thirteenth century in which the bonds of personal connection were replaced by new forms of liberties and duties. Several of the entries concern *hospites* whose liberties were attacked by less privileged groups. The cases offer a cross-section of *hospes*-groups of various origins. In 1213, for instance, a person living at *Zonuk* (Szolnok), one of the county centres and an important port for the trans-shipment of salt, claimed that ‘he was the son of a Latin *hospes* and free from all duties’ (‘se filium Latini hospitis esse et absolute liberum’).⁵¹

The *Latini* were the first settlers treated as a group, attested from the late eleventh century onwards, often settling in episcopal cities and in the two oldest royal centres, Esztergom and Székesfehérvár. Some bore French- or Walloon-sounding names (Gean, Rubynus, Iakmynus, Godynus and so on) and had contacts with Flanders or Burgundy until the late thirteenth century. The *Latini* were among the earliest promoters of urban self-governance and literacy, possessing seals with the inscription ‘sigillum Latinorum’.⁵²

Returning to the *Regestrum*, in 1221 a group of castle warriors of Borsod (north-east Hungary) accused some people living in a nearby village of neglecting their duties, upon which they defended themselves, stating that ‘they were free and the sons of Bohemian *hospites*’ (‘se esse liberos et filios hospitem Boemorum’). In yet another case the queen’s German guests, from Újvár County, namely Germans from the 10 villages (‘reginae hospites de provincia Noui Castri, scilicet Teutonici de decem villis’) lodged a complaint against their reeves (*villicos*).⁵³ These three examples refer to *hospites* of three different ethnic backgrounds (in two cases already in a second generation) trying to break loose from the administrative system of the royal counties. The special legal status which they fiercely defended served as one of the main sources of municipal liberties in Hungary.⁵⁴

After its early appearance for individual settlers in the late eleventh century, *hospes* gradually became a technical term for the privileged legal standing of settler communities, and then of any autonomous communities, irrespective of their origin; this included the right of free movement, and of electing their own judge, council and priest. It was a significant transformation when privileges given to German (and other) settlers started to be accorded to the territory that they inhabited rather than to single persons or groups. The first such document marking this path was the famous privilege of the Saxons of Transylvania, the *Andreanum*, issued by Géza II’s grandson, King Andrew II in 1224. It treated the entire territory inhabited by the settlers, from Orăștie (‘Waras’) in the west to Baraolt (‘Boralt’) in the east as uniform, irrespective of the urban or rural character of the settlements and defined rights and duties in terms of the entire community.⁵⁵

⁵⁰ Mária Lupescu Makó, ‘Between Sacred and Profane: the Trial by Hot Iron Ceremony Based on the *Regestrum Varadiense*’, *Medievalia Transilvanica* 3 (1999): 5–26.

⁵¹ János Karácsonyi and Sámuel Borovszky, eds., *Regestrum Varadinense ex aminum ferri candentis ordine chronologico digestum* (Budapest: Hornyánszky, 1903), no. 31 (253).

⁵² Petrovics, ‘Foreign Ethnic Groups’, 69–72; Székely, ‘Wallons et italiens’; Katalin Szende, *Trust, Authority, and the Written Word in the Royal Towns of Medieval Hungary* (Turnhout: Brepols, 2018), 88–95.

⁵³ Karácsonyi and Borovszky, eds., *Regestrum Varadinense*, nos. 259 (116), 316. (367); Kubinyi, ‘Zur Frage der deutschen Siedlungen’, 530.

⁵⁴ Szende, ‘Power and Identity’, 59–62.

⁵⁵ Zimmermann and Werner, eds., *Urkundenbuch zur Geschichte der Deutschen in Sibenbürgen*, vol. 1: 34–5; Moldt, *Deutsche Stadtrechte im mittelalterlichen Siebenbürgen*, 50–3.

In Bohemia and Poland no generic term comparable to that of the *hospites* in Hungary was coined, although prerogatives were bestowed on specific groups of settlers. The earliest such instance was probably when Vratislav II (1061–92), duke and later king of Bohemia took the Germans settled in the suburb of Prague under his protection. This may have been an oral agreement; the first written reference to it is in the charter of Duke Sobeslav II (1173–8). The text emphasised the spatial, legal and ethnic division between Germans and Bohemians:

I place in my grace and protection the Germans who remain in the suburb of Prague, and it is my wish that just as the same Germans are separate from the Bohemian nation, thus may they be distinguished from the Bohemians by their law and custom.

Sobeslav gave them the right to elect their own parish priest and judge, and limited their military duties to defending the homeland, particularly Prague. The document underlined the judicial autonomy of the Germans when it regulated the procedure in court cases between Germans and Bohemians, as well as ‘Romans’ (*Latini*) and Jews. We should note, however, that the word *hospes* is used here in the meaning of ‘stranger, alien’: ‘New-comers or aliens (*hospes*) whosever they may be coming from whatsoever land with the Germans who would wish to remain in the town, may have the law and custom of the Germans.’⁵⁶

Many of these prerogatives are similar to those given by charters of privilege to settler communities, including but not limited to Germans in Hungary.⁵⁷ Such were the ‘*hospites* dwelling near the castle of Vukovar, namely Germans, Saxons, Hungarians and Slavs’ (‘*hospites iuxta castrum Valkow commorantes, videlicet Teutonici, Saxones, Hungari et Sclavi*’)⁵⁸ or ‘our *hospites*, Hungarians as well as Germans, residing in the suburb of the castle of Stari Tekov’ (‘*hospites nostri tam Hungari quam Teutonici in suburbia castrum de Bors commorantes*’).⁵⁹ Even the compiler of a forged charter of the abbey of Hronsky Benadík (Garamszentbenedek) felt it appropriate to include ‘men of whatever nation, namely Saxons, Hungarians, Slavs or others’ (‘*cuiuscumque nationis homines, Saxones videlicet, Hungari, Sclavi seu alii*’).⁶⁰ Such phrases become less frequent from the second half of the thirteenth century when the prerogatives granted to the named groups became the basis of the privileges for all inhabitants of an entire settlement.

These rights accorded by the sovereigns fulfilled important practical functions. The free election of a parish priest by an ethnic community that spoke a different language from the surrounding population served the basic need of providing pastoral care (preaching and

⁵⁶ ‘In gratiam meam et defensionem suscipio Theutonicos qui manent in suburbio Pragensi, et placet mihi quod sicut iidem Theutonici sunt a Bohemis natione diversi, sic etiam a Boemis eorumque lege vel consuetudine sint divisi; ‘Quicunque advena vel hospes de quacumque terra veniens cum Theutonicis voluerit manere in civitate, legem et consuetudinem Theutunicorum habeat.’ Gustav Friedrich, ed., *Codex diplomaticus et epistolaris regni Bohemiae*, vol. 1 (Prague: Alois Wiesner, 1904–7), 255–7 (no. 290). On the authenticity and context of this document: Jiří Kejř, ‘Zwei Studien über die Anfänge der Städteverfassung in den böhmischen Ländern, Abhandlung II: Das Privileg des Herzogs Sobieslaw II. für die Prager Deutschen’, *Historica* 16 (1969): 116–18; Nora Berend, Przemysław Urbańczyk, and Przemysław Wiszewski, *Central Europe in the High Middle Ages: Bohemia, Hungary and Poland, c.900–1300* (Cambridge: Cambridge University Press, 2013), 259.

⁵⁷ Erik Fügedi, ‘Középkori magyar városprivilegiumok’, *Tanulmányok Budapest Múltjából* 14 (1961): 17–107, reprinted in his *Kolduló barátok, polgárok, nemesek* (Budapest: Gondolat, 1981), 238–311, 493–509; Szende, ‘Power and Identity’, 56–8.

⁵⁸ Tadija Smičklas and others, eds., *Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae*. 18 vols. (Zagreb: Ex officina Societatis Typographicae, 1904–90), 3: 346; Petrovics, ‘Foreign Ethnic Groups’, 68.

⁵⁹ Richard Marsina, ed., *Codex diplomaticus et epistolaris Slovaciae*, vol. 2 (Bratislava: Veda, 1987), 56.

⁶⁰ Kubinyi, ed., *Elenchus fontium historiae urbanae*, vol. 3, part 2: 25, forged probably between 1237 and 1240.

confession) in the vernacular. This liberty developed locally in East-Central Europe, without precedent in the regions from which the settlers came. There was a gradation of differences, for example, whether the chosen priest had to be presented to the bishop, as in most Hungarian towns, or was fully independent of him, as in Sobeslav's charter to the Germans in Prague. The terms referring to the basis of election were essentially the same as in case of the judge: by common consent (*communi consilio*); the greater and more reasonable part choose (*maior et sanior pars eligat*) – thus implying that the same members of the community elected both priest and judge.⁶¹ This right throughout the Middle Ages and beyond made an important contribution to the distinct identities of local communities.

The election of a judge was an even more important element of self-governance, particularly in the light of judicial autonomy received by the settler communities. Gradation was present in this respect, too: the main difference between *hospes*-rights and charters given to fully fledged urban communities was the right to judge major criminal offences. This was a fundamental distinction for any medieval European urban community.⁶² In the settlements of East-Central Europe, judges had another function as well: to represent the sovereign's interest vis-à-vis the local population. This obligation is clearly formulated in a charter of 1338 settling the discord over the election of a judge in the Slavonian Koprivnica (Kapronca), a small town with a mixed Croatian, German and Hungarian population. The *ban* (the 'viceroy') of Slavonia defined the judge as 'one who must maintain fidelity and justice first and foremost to the king, our natural lord and in turn to the ban of the whole Slavonia, and second, to the community of the aforesaid burghers and settlers' ('qui primo et pre[senti] domino regi, domino nostro naturali et per consequens bano tocius Sclavonie, deinde universitati predictorum civium et hospitem de Koprioncha fidem et iusticiam debeat conservare').⁶³

Some early charters of privilege in Hungary also included references to the 'German way'. The *villicus* (or reeve) of Némethi (now part of Satu Mare, the place-name literally meaning 'of the Germans') was obliged in 1230 to join the royal army with four archers 'after the manner of the Saxons' ('more Saxonum'),⁶⁴ and tithes of corn at Trnava were specified in 1238 as being rendered in the manner of the Germans, in sheaves left in the field ('more Teutonicorum in capeciis').⁶⁵ In this case the mode of payment, favourable to the settlers, was extended to anyone living at the settlement, irrespective of ethnicity. The issue of the tithe was of universal concern when founding new settlements.⁶⁶

There were very few instances among charters issued by the kings of Hungary that favoured one ethnic group over another. Such a distinction was applied in Krupina when Béla IV renewed its charter in 1244: 'the testimony of Hungarians alone must not be accepted against them, but together with the Saxons and Teutons it should gain

⁶¹ András Kubinyi, 'Stadt und Kirche in Ungarn im Mittelalter', in *Stadt und Kirche*, ed. Franz-Heinz Hye (Linz: Österreichischer Arbeitskreis für Stadtgeschichtsforschung, 1995), 179–97; Szende, 'Power and Identity', 48–9.

⁶² Trevor Dean, *Crime and Justice in Late Medieval Italy* (Cambridge: Cambridge University Press, 2007), 33–6.

⁶³ Smičiklas and others, eds., *Codex diplomaticus regni Croatiae*, 10: 338–9.

⁶⁴ Georgius Fejér, ed., *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, vol. 3, part 2 (Buda: Typis Typogr. Regiae Universitatis Ungaricae, 1829), 211–13.

⁶⁵ Marsina, ed., *Codex diplomaticus et epistolaris Slovaciae*, 2: 30–1. This custom is mentioned in the charters of several bigger or smaller towns of northern Hungary such as Pressburg and Prešov, in Transylvania and Slavonia; see Kubinyi, 'Zur Frage der deutschen Siedlungen', n. 43.

⁶⁶ Josef Joachim Menzel, 'Der Beitrag der Urkundenwissenschaft zur Erforschung der deutschen Ostsiedlung am Beispiel Schlesiens', in *Die deutsche Ostsiedlung*, ed. Schlesinger, 145–6.

force' ('testimonium Hungarorum tantum contra eos non admittatur, sed mixtorum cum Saxonibus vel Teutonicis vigorem obtineat').⁶⁷ In two small towns near Krupina, Dobrá Niva (Dobronya) and Babina (Bábaszék) the condition was modified in 1254: 'testimonies should be presented by Hungarians and Germans together' ('ex Hungaris et Teutonicis simul testimonia proferantur').⁶⁸

Communities of miners in Banská Bystrica enjoyed even greater liberties than other settlers, and were free to practise their own customs, even when these conflicted with local norms. King Béla IV, who was keen on eradicating judicial duels,⁶⁹ nonetheless not only allowed duels in his 1255 charter to Banská Bystrica, but also determined that if the plaintiff was 'one of them, or has the same liberties and origins' ('de ipsis vel libertatis ac nationis eorum'), the duel was to be fought with swords and rounded shields, 'following the custom of the Saxons' ('prouit Saxonum optinet consuetudo').⁷⁰ Apparently the king found it so important to secure the goodwill of these expert miners that he was ready to suspend a principle that he had enforced in every other town.

'German right' (*ius Teutonicum*)

The customs and liberties of German and other settlers discussed above were fundamentally different from the 'German right' (*ius Teutonicum*) that became a standard element of settlement charters issued in increasing numbers in Silesia, Moravia and Bohemia from the early thirteenth and in the Polish duchies from the mid thirteenth century. (There were also variants of the term such as *ius, mos, consuetudo, libertas, statutum Theutoniarum* or *Theutoniale*.) Charters bestowing this status were meant to regulate and encourage the settlement process. The early phase of this process is connected to settling colonists on monastic land, as reflected by the donation charter of the Cistercian abbey of Lubiąż (Leubus) issued in 1175. This contains a paradigmatic sentence that will recur, *mutatis mutandis*, in many dozens of settlement charters in the next two centuries: 'Every German who will cultivate the lands of the monastery or inhabit them being settled by the abbot shall be free from all Polish law forever without exception' ('Quicumque Teutonici possessiones monasterii coluerint vel super eas habitaverint per abbatem in eis collocate, ab omni jure Polonico sine exceptione sint in perpetuum liberi').⁷¹

Legal historians suggest that the origin of the settlement charters, the *Lokationsurkunden* – the name deriving from *locatio*, the technical term for transforming legal conditions by settlement – goes back to rights and financial conditions gained by settlers who reclaimed land in Holland and Flanders in the tenth and eleventh centuries. However, very little concrete textual evidence is available to test this theory. We find better evidence in the written agreements from the landowners, first and foremost the archbishop of Hamburg-Bremen, given to settlers who migrated eastwards in the twelfth century.⁷²

⁶⁷ Marsina, ed., *Codex diplomaticus et epistolaris Slovaciae*, 2: 113–14.

⁶⁸ Marsina, ed., *Codex diplomaticus et epistolaris Slovaciae*, 2: 313–14.

⁶⁹ Fügedi, 'Középkori magyar városprivilegiumok', 297–8.

⁷⁰ Marsina, ed., *Codex diplomaticus et epistolaris Slovaciae*, 2: 340–1; This way of fighting is depicted, for instance, in the Codex Manesse, Heidelberg, Universitätsbibliothek, Cod. Pal. Germ. 848.

⁷¹ Heinrich Appelt and Johann Joachim Menzel, eds., *Schlesisches Urkundenbuch*, vol. 1 (Cologne: Böhlau, 1963), no. 45; Menzel, 'Der Beitrag der Urkundenwissenschaft', 136–7.

⁷² Menzel, 'Der Beitrag der Urkundenwissenschaft', 138–9; Johanna Maria van Winter, 'Das Herkunftsland der Ostsiedler und die Urbarmachung Hollands', in *Historiographical Approaches*, ed. Piskorski, 281–302 (281–4).

From here the practice of issuing *Lokationsurkunden* ‘colonised’ the documentary practice gradually as far as Galicia, with significant transformations on its way. Remarkably, no such documents have come down to us from the central territories of Germany, only from the eastern border zone, from the diocese of Magdeburg and the area into which it expanded. It was also during the twelfth century that the appointment of an agent for settlement (*locator, advocatus*) developed and became institutionalised.

The earliest explicit reference in East-Central Europe to the establishment of urban settlements under these conditions relates to Złotoryja (Goldberg, 1211) in Silesia and Bruntál (Freudenthal, 1213) in Moravia. As the toponyms and the texts of the charters indicate, both were mining towns that needed to attract a skilled workforce. The novelty of the conditions (‘novum et honestum institutum’) provided by the sovereign is clearly spelled out in the Bruntál charter: ‘We confirm the settlement of your town according to the right of the Germans which has before been unusual and out of the ordinary in Bohemian and Moravian lands’ (‘Nos locationem vestre civitatis secundum ius Teutonicorum quod hactenus in terris Bohemie et Moravie inconsuetum et inusitatum extiterat ... confirmamus’).⁷³ The duke of Silesia, Henry the Bearded, simply requested a copy of the liberties of the citizens of Magdeburg accorded to them by Archbishop Wichmann in 1188, and added a corroborating clause for Złotoryja (Aurum): ‘Let it be known, moreover, that those customs which we have conferred on our *hospites* of Aurum, those written by Lord Wichman, archbishop of Magdeburg, are to be observed for ever’ (‘Sciendum autem, quod has instituciones a domino Vicmanno Magdeburgensi archiepiscopo rescriptas [ospitibus] nostris de Auro contulimus in perpetuum observandas’).⁷⁴ The next Silesian town to be chartered by Henry the Bearded *iure Theutonico*, Lwówek Śląski (Löwenberg, 1217) followed the ‘classical’ model: the duke commissioned two *advocati*, Thomas and Hartlieb, to establish a town in the border forest between Silesia and Moravia. He also determined the number of plots to be created and switched a neighbouring village, Ujazd Gorny (Ober Mois) to ‘German right’ and added it to the territory of the new town.⁷⁵

These pioneering charters were followed in quick succession by new foundations. In Silesia alone before the end of the thirteenth century almost 400 places received *Lokationsurkunden*, several of which (Wrocław, Środa Śląska/Neumarkt, Głubczyce/Leobschütz and Lwówek Śląski and Złotoryja mentioned above) later became eponymous points of reference for legal filiations of charters granting rights.⁷⁶ The issuing of settlement charters spread eastwards rapidly, and with this spread the formulations became more professional, even standardised. In 1257 Bolesław the Chaste chartered Kraków and Dukes Przemysław and Bolesław chartered Poznań, setting precedents for Greater and Lesser Poland, respectively.⁷⁷

Historians have debated the ‘German-ness’ of the *ius Theutonicum* conferred on the chartered sites, and the participation of German settlers in spreading it. It is difficult to estimate the proportion of Germans in each town or village – within broad margins

⁷³ Anton Boczek, ed., *Codex diplomaticus et epistolaris Moraviae*, vol. 2 (Olomouc: ex typographia Aloysii Skarnitzl, 1839), 68–9.

⁷⁴ Appelt and Menzel, eds., *Schlesisches Urkundenbuch*, vol. 1: no. 125.

⁷⁵ Appelt and Menzel, eds., *Schlesisches Urkundenbuch*, vol. 1: no. 166.

⁷⁶ Josef Joachim Menzel, *Die schlesischen Lokationsurkunden des 13. Jahrhunderts* (Würzburg: Holzner, 1977), 225.

⁷⁷ Sławomir Gawlas, ‘Die Lokationswende in der Geschichte mitteleuropäischer Städte’, in *Rechtsstadtgründungen*, ed. Mühle, 77–105.

one can assume that it decreased from west to east. The proportion of German inhabitants, however, was not connected with the spread of the use of *ius Theutonicum*, nor its validity. As František Graus has aptly remarked, ‘the term *ius Theutonicum* emerged by the thirteenth century in the western Slavic territories neighbouring the German lands’, not in the Holy Roman Empire itself.⁷⁸ Recently Sławomir Gawlas took up a similar issue:

Thus the question arises to what extent one can simply speak of the reception of models already in existence, and to what extent local conditions and local needs – especially the interests of the respective rulers and territorial overlords – influenced the outlook of the newly created towns.⁷⁹

Furthermore, it was just as important to state which former rights *ius Theutonicum* replaced as to specify the new conditions it introduced. Ruthenia, the easternmost region where charters of settlement *iure Theutonico* were regularly issued, is a case in point for the versatility of the concept, and the utilitarian approach of the sovereigns.⁸⁰ Here both the rights that were abolished and the range of people affected by this change were extremely diverse. The standard phrase for the transfer was: ‘from Polish, Ruthenian and whatever other right we transfer [them] to German right, removing there all Polish, Ruthenian and whatever other rights’ (‘... de iure Polonico, Ruthenico et quovis alio in ius Theutonicum transferimus, removens ibidem omnia iura Polonica, Ruthenica et quovis alia’). In the charter of Sanok (1339), those subjected to *ius Theutonicum* were *Theutonicus, Polonus, Ungarus et Ruthenus*; in the charter of Lviv (Lvov, Lemberg) in 1356, Kazimir the Great, after moving the city from Ruthenian law to *ius Magdeburgense*, extended this legal standing ‘to Armenians, Jews, Muslims, Ruthenians and other people’ (‘Ormenis, Iudeis, Saracenis, Ruthenis et aliis gentibus’).⁸¹ Lviv often served later as a model or court of appeal for other towns in Ruthenia. The expression ‘by the German right of Magdeburg which is used in our city of Leona otherwise Lviv’ (‘iure Teutonico Maydeburgensi, quo civitas nostra Leona alias Lwow utitur’) occurs for instance in the privileges for Horodok (Grodok Jagiellonski) and Peremyshl (Przemysł).⁸²

The other broad set of questions pertains to the rural or urban character of *ius Theutonicum*. In brief, *ius Theutonicum* could be given to colonising peasants and burghers alike, but it was not a coherent legal system that the settlers brought with them. It denoted a social standing that the locals as well as migrants could acquire. It may be easier to determine what it was *not*, as it was often defined in opposition to *ius Polonicum* or any other local, vernacular legal system with its burdensome set of obligations and duties. Rationalising and standardising obligations, originally fitted to the needs of the

⁷⁸ Graus, ‘Die Problematik der deutschen Ostsiedlung’, 62.

⁷⁹ ‘Es erhebt sich also die Frage, inwieweit es lediglich zu einer Rezeption bereits existierender Vorbilder kam, und inwieweit lokale Bedingungen und Bedürfnisse vor Ort – vor allem die Interessen der jeweiligen Herrscher und Territorialherren – die Gestalt der Lokationsstädte beeinflusst haben’: Gawlas, ‘Die Lokationswende’, 77.

⁸⁰ Olha Kozubska-Andrusiv, ‘Urban Development and German Law in Galician Rus’ During the Thirteenth–Fifteenth Centuries’ (Ph.D. diss., Central European University, Budapest, 2007); Olga Kozubska-Andrusiv, ‘Becoming a Citizen. The Formation of Communities and Urban Liberties in the Principalities of Kievan Rus’, in *Urban Liberties and Civic Participation*, eds. Pauly and Lee, 69–99; Andrzej Janeczek, ‘Wie oft wurde Przemysl gegründet? Zur Genese städtischer Gemeinden in der Halicer Rus’ im 13.–14. Jahrhundert’, in *Rechtsstadtgründungen*, ed. Mühle, 339–54.

⁸¹ Myron Kapral, ed., *Privilegia civitatis Leopoliensis XIV–XVIII saec.* (Lviv: Monumenta Leopoliensia, 1998), document no. 1; Kozubska-Andrusiv, ‘Urban Development’, n. 822.

⁸² Irena Sułkowska-Kuraś and Stanisław Kuraś, eds., *Zbiór dokumentów Małopolskich*. 8 vols. (Warsaw: PAN, 1962–75), 6: nos. 1561 and 1589.

German settlers, made moving attractive for them. Afterwards, it depended on local developments whether these settlements could establish themselves as towns.⁸³

One might assume that reference to the city of Magdeburg would imply a legal system of urban character, but this was not necessarily the case. While in Silesia and Moravia direct contact with Magdeburg could be maintained, in the eastern part of Poland and in Ruthenia *ius Theutonicum Magdeburgense* was not a specifically urban model. Rural privileges also transferred villages 'from Polish and Ruthenian right into German right, which is the right of Magdeburg' ('de iure Polonico, Ruthenico in ius Theutonicum, quod est ius Magdeburgense').⁸⁴ The mention of Magdeburg became 'immaterial', as 'a symbol of a new order, a model for re-organisation of settlements, and also of re-establishing lordship'.⁸⁵ In the case of Ruthenian towns *ius Theutonicum Magdeburgense* features only in documents from the fourteenth century onwards, and had no direct relevance to the actual law of Magdeburg, or even to a 'family' of this law. As Olha Kozubska aptly summarised, *ius Theutonicum* could be interpreted 'as a strategy for establishing communities, urban or rural. Membership [of] the community and a share in the settlement's commodities, land first of all, were closely interrelated'.⁸⁶

In contrast to the Slavic-speaking territories of East Central Europe, a specific trait of Hungarian urbanisation was that wherever references or comparisons to the privileges or liberties of other cities as legal models were made, these referred to places within the borders of the country. The royal charters given to towns did not follow any external pattern, but were created with respect to local conditions, and often absorbed elements of local customary law. Apart from the two main models, Fehérvár and Buda, charters of privilege often used towns in the close neighbourhood as points of reference, and not foreign cities.⁸⁷

Particularly conspicuous is the absence of references to the city of Magdeburg and Magdeburg law. Even an exception, that of Žilina, one of the northernmost towns of medieval Hungary inhabited mainly by Germans and Slavs, confirms this rule. The town was originally founded under German law, with Cieszyn (Teschen) as its mother-town. King Louis I (1342–82), however, considered this as an undesirable anomaly and in 1369 obliged the local authorities to choose a mother-town within the boundaries of the kingdom. On this demand, the choice of Žilina fell on Krupina.⁸⁸

An often-misinterpreted allusion to Magdeburg law can be found in the *Ofner Stadtrecht*, the law book of Buda (the German name of Buda was *Ofen*). According to the law book's first chapter, the legislation 'complies in some parts and pieces with Magdeburg law' ('mit helet in etlichen dingen oder stugken Maidpurgerischen rechten').⁸⁹ However, hardly any articles were copied directly or verbatim: Magdeburg was mentioned rather

⁸³ Körmeny, 'Mittelalterliche *aedificatio terrae*'; Zientara, 'Die deutschen Einwanderer'.

⁸⁴ Kozubska-Andrusiv, 'Urban Development', 190. Some examples: Drohobych (1422): Sułkowska-Kuraś and Kuraś, eds., *Zbiór dokumentów Małopolskich*, 7: no. 1865; Horodok / Grodek (1389): Sułkowska-Kuraś and Kuraś, eds., *Zbiór dokumentów Małopolskich*, 6: no. 1561; Nowoselice (1420): Kozubska-Andrusiv, 'Urban Development', 192, n. 775.

⁸⁵ Kozubska-Andrusiv, 'Urban Development', 220.

⁸⁶ Kozubska-Andrusiv, 'Urban Development', 222.

⁸⁷ Szende, 'Power and Identity', 56–9.

⁸⁸ Marsina, ed., *Codex diplomaticus et epistolaris Slovaciae*, 2: no. 168.

⁸⁹ Karl Mollay, ed., *Das Ofner Stadtrecht: eine deutschsprachige Rechtssammlung des 15. Jahrhunderts aus Ungarn* (Budapest: Akadémiai, 1959), 58 (Cap. 1); Katalin Gönczi, *Ungarisches Stadtrecht aus europäischer Sicht. Die Stadtentwicklung im spätmittelalterlichen Ungarn am Beispiel Ofens* (Frankfurt am Main: Peter Lang, 1997).

as a point of reference that imbued the articles of local customary law with widely recognised authority.⁹⁰

Patterns and perspectives

How did the settlement of Germans as a ‘minority’ have an impact on the society and economy of East-Central Europe? ‘Minority’ is naturally a question of scale: it certainly applies to the region as a whole, but with significant differences according to time frame, polity and settlement, where occasionally Germans formed the majority. The term ‘impact’ is all the more appropriate, since much of what has been discussed above was not directly or solely carried out by the German immigrants, but their presence enabled, triggered or was used as a pretext to carry out certain measures.

First, although there has been little room here to discuss details of topography and material culture, it may be stated that the landscape and the settlement network fundamentally changed between the mid twelfth and the mid fourteenth centuries. Old centres created for exercising military and administrative power gave way to new towns geared towards regional exchange and long-distance trade. Scattered farmsteads and settlements of serfs bound to county centres were replaced by nucleated villages, and the villages created by the new settlers followed this model, too.⁹¹ The social standing of the peasantry improved in the regions affected by immigration and internal colonisation. The landowners themselves, especially those of large ecclesiastical estates, discovered the advantages of the new system, and offered or sold to the local rural population the same status as the settlers had. The main advantage was establishing fixed and clearly defined duties or obligations between inhabitant and lord, as opposed to unlimited demands. At the outset, it was often undecided whether the settlements created or inhabited by the settlers should be urban or rural in character. The basic agenda was to attract new manpower, not to ‘import’ fully-fledged burghers. Settlements were gradually urbanised, particularly after the transformations of the thirteenth century, which necessitated a denser and more commercially oriented urban network.

Second, the need to arrange and channel the movement of external and internal migration established mechanisms that for centuries defined social structures in the region. In the initial period, the liberties the sovereigns or landlords offered to a substantial number of settlers served the purpose of increasing the population or importing special skills. Some of the liberties granted to the settlers may have originated in their homeland, but most of them developed in their new places of residence where new needs for expansion or protection arose. In the Western Slavic areas and Ruthenia, the main mechanism for creating this new legal setup was the *locatio* under the guidance of a *scultetus* (*Schultheiss*) in villages and *advocatus* (*Vogt*) in towns. Founding new towns or upgrading existing ones, even episcopal seats, to fully-fledged cities was achieved in this way.⁹²

⁹⁰ Kubinyi, ‘Zur Frage der deutschen Siedlungen’, 562; Szende, *Trust, Authority, and the Written Word*, 35.

⁹¹ Piekalski, *Von Cologne nach Krakau*, 239–54; József Laszlovszky, ‘Frühstädtische Siedlungsentwicklung in Ungarn’, in *Burg-Burgstadt-Stadt: zur Genese mittelalterlicher nichtagrarischer Zentren in Ostmitteleuropa*, ed. Hansjürgen Brachmann (Berlin: Akademie Verlag, 1995), 307–15; Edit Sárosi, *Deserting Villages, Emerging Market Towns: Settlement Dynamics and Land Management in the Great Hungarian Plain, 1300–1700* (Budapest: Archaeolingua, 2016); Szende, ‘Towns Along the Way’.

⁹² Piekalski, *Von Cologne nach Krakau*, 230–8; Sławomir Gawlas, ‘Fürstenherrschaft, Geldwirtschaft und Landesausbau. Zum mittelalterlichen Modernisierungsprozess im piastischen Polen’, in *Rechtsstadtgründungen*, ed. Mühle, 13–76.

Hungary followed another path: here the activity of *sculteti* was confined to small rural settlements in peripheral lands along the northern border of the kingdom. Otherwise, the main means of founding or privileging towns was the royal charter granted directly to the community, or later to the settlement. The free election of the *villicus* (reeve), a crucial element of Hungarian municipal liberties, was not compatible with the hereditary rights of an *advocatus*, and there was no question of a ‘Hungarian law’ from which the new settlers might be transferred to another legal status.⁹³ The reasons for this difference are manifold and should be sought in the nature of royal or ducal power, the level of centralisation, and the viability and attractiveness of the settling conditions. In J. Bardach’s opinion, for instance, Kazimir the Great, striving to increase royal power, supported the development and separate social standing of *advocati* and *sculteti*, while trying to subject them to royal jurisdiction.⁹⁴ ‘Thus, the process of urban foundation according to “German law” was an important component in a policy that aimed at further development of centralised seigniorial power.’⁹⁵ In Hungary royal power could be reinforced directly, without the employment of *advocati*. Further comparative research is needed in this respect, emphasising the agency of rulers and seigniorial power (royal, monastic and lay landlords) behind both main strategies.⁹⁶

Third, the arrival of the German settlers led to the coining of a special phrase and concept, the *ius Theutonicum*. This framework did not mean the adaptation of any ‘German’ legal code – none existed in this period – but one created by sovereigns to accommodate the immunities and obligations of the newcomers. *Ius Theutonicum* represented a model or a general set of principles, which was then filled with actual content and adopted to local circumstances. The ‘law’ and organisation of the settlement did not depend on the name of the *ius* written in its privilege, but on the concrete terms of agreements between the landlord and settlers. Over time, the concept became even more distanced from its initial ethnic point of departure, and gradually turned into a model for local rulers to establish communities *tabula rasa*, to abolish previous ties and bonds, and to strengthen control. This process may be regarded as an ultimate outcome of ‘minority impact’ that worked even in the absence of the minority group itself. This can best be seen in the policies of the kings of Poland after the incorporation of the Ruthenian territories. In Hungary, *ius Theutonicum* never became part of the sovereigns’ toolkit: the legal means of accommodating settlers remained the liberties of *hospites*, until this stratum of external and internal migrants became absorbed into the peasantry and the bourgeoisie, respectively. Charters of privilege were issued by royal will or on the community’s demand, but without the involvement of middlemen or agents.

It would require a separate, detailed study to follow developments from the end of the fourteenth century onwards, when issues of language and ethnicity became more accentuated than before. As the scholarship has frequently emphasised, the ethnic argument was often used to resolve (or aggravate) social tensions.⁹⁷ The nature of population movement in this period was different, involving smaller and more select groups of newcomers,

⁹³ Körmendy, *Melioratio terrae*, 19–129.

⁹⁴ Juliusz Bardach, *Historia państwa i prawa Polski*, vol. 1, *do połowy XV wieku* (Warszawa: PAN, 1965), 396.

⁹⁵ Kozubska-Andrusiv, ‘Urban Development’, 220.

⁹⁶ Annegret Simms and Howard B. Clarke, eds., *Lords and Towns in Medieval Europe. The European Historic Towns Atlas Project* (Farnham: Ashgate, 2015), sets an excellent example for this approach.

⁹⁷ Jan M. Piskorski, ‘After Occidentalism: the Third Europe Writes its Own History’, in *Historiographical Approaches*, ed. Piskorski, 7–23.

usually professional tradesmen. They went to places with an existing German population, where they regularly participated in local government and promoted German literacy in administration and cultural life. Seignorial impact was less decisive; the settlers were attracted by business opportunities rather than land or tax allowances granted by the rulers or landlords.

Finally, why has the question of settlers and settlement grown beyond the realm of scholarly historical research? Discussion of immigrants to East-Central Europe, especially in the context of the eastward movement of Germans, was over-politicised by the national historiographies of the nineteenth and twentieth centuries, both from the ‘settlers’ and the ‘receivers’ points of view. Generations of historians aimed, explicitly or implicitly, at constructing historical or natural right to the land ‘of their forefathers’.⁹⁸ However, as the discussion above has demonstrated, the movement of migrants – eastwards or otherwise – was not unified and planned. Instead, it often meant discontinuous, small-scale, diverse movements of individuals and small groups; but, at the same time, it was part of a pan-European process and needs to be appreciated in that context. The settlers, whichever language they spoke, were not representatives of ‘nations’ who carried out conscious actions in the interest of their respective ‘states’. A balanced view cannot give credit to one-sided interpretations, derived from the viewpoint of the ‘colonisers’ and the ‘colonised’, the ‘majority and the ‘minority’: the appearance of foreign settlers can neither be considered a heroic cultural expansion, nor a cunningly planned aggressive act.

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⁹⁸ Berend, Urbańczyk and Wiszewski, *Central Europe in the High Middle Ages*, 1–40.