

RUDOLPH SOHM AND HIS INFLUENCES ON THE DEFINITION  
OF THE LAW OF PROPERTY IN THE MIDDLE AGES.  
A REINTERPRETATION OF OWNERSHIP IN TRANSYLVANIA  
(1308-1342)

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*Abstract:* This article addresses firstly the terminological problems modern historians encounter when discussing the law of property in the Middle Ages, and how its decontextualization has led to numerous inaccurate studies in the field of legal history, and secondly it is dedicated to Rudolph Sohm and his interpretation of the law of property and how his idea of institutional law can be applied to the medieval institutions of Transylvania in the early 14<sup>th</sup> century. Rudolph Sohm considers in his work *Outlines of Church History* that in the Middle Ages, society was composed of only two classes, the nobility and the clergy. They alone possessed property and they alone ruled. He describes landed property as the only kind of property recognized in that period. It is interesting to investigate in light of recent studies how political authority went hand in hand with the possession of land, and how were the classes defined by Sohm identified with and within the nation or the realm. His classification is still used by many Hungarian and Romanian historians, and we argue against the use of the modern concept of property and offer a new definition for the numerous and various types of possession we encounter. Was the history of the nation their history? What defines the society in the Middle Ages? Is Sohm's definition of medieval property still functional correlated with the new developments in legal history? These are several questions that this research aims to answer by investigating the roman and medieval terminology used to define possession and nobility in 13<sup>th</sup> and 14<sup>th</sup> century Transylvania.

*Keywords:* law of property; Transylvania; possession; influences of canon and roman law; Rudolph Sohm.

*Riassunto:* Questo articolo riguarda, in primo luogo, i problemi terminologici per gli storici moderni quando si discute la legge della proprietà nel Medioevo, e come la decontestualizzazione ha creato numerosi studi erronei nel campo della storia del diritto, e in secondo luogo è dedicata a Rudolph Sohm e la sua interpretazione di la legge della proprietà e di come la sua idea di legge può essere applicata alle istituzioni

medievali della Transilvania nei primi anni del 14° secolo. Rudolph Sohm considera, nella sua opera *Outlines of Church History*, che nel Medioevo, la società era composta da solo due classi, la nobiltà e il clero. Solo loro possedevano proprietà e solo loro governati. Egli descrive la proprietà fondiaria come l'unico tipo di proprietà riconosciuto in quel periodo. È interessante indagare alla luce di recenti studi come l'autorità politica è andato di pari passo con il possesso della terra, e di come sono state le classi definite da Sohm identificato con e all'interno della nazione o il regno. La sua classificazione è ancora utilizzato da molti storici ungheresi e rumene, e ci sostengono contro l'uso del moderno concetto di proprietà e offrire una nuova definizione per i numerosi e vari tipi di possesso che incontriamo. Era la storia della nazione loro storia? Ciò che definisce la società nel Medioevo? È la definizione di Sohm di struttura medievale ancora funzionali correlati con i nuovi sviluppi nella storia del diritto? Queste sono alcune domande che questa ricerca si propone di rispondere indagando la terminologia romana e medievale utilizzato per definire il possesso e nobiltà nel 13° e 14° secolo la Transilvania.

*Parole chiave:* diritto di proprietà; Transylvania; il possesso; influenze di canonico e diritto romano; Rudolph Sohm.

## 1. INTRODUCTION

The 14<sup>th</sup> century was a difficult period for both the empire, as a political social and territorial entity, but also for the papacy, both suffering a severe downfall. This century is represented by the `Babylonian exile` in Avignon, for the papacy, and by the fall of the imperial house of Hohenstaufen for the empire. An aspiring kingdom of France was the mutual point of interest, emerging on the political scene of Christianity, a new sovereign state, a nation-state, while the empire was broken up into small territorial sovereignties. The swan song of the papacy was represented by pope Boniface VIII (1294-1303), more specifically, by his claims of Papal supremacy represented by his now famous Bull *Unam sanctam* (1302). His conflict with the rising power, represented by the king of France Philip the Fair, ended briefly with the removal of the Papacy from Rome to Avignon (1309). Although Avignon was the property of the Pope, it lay in the close vicinity of the French royal territory. As Rudolph Sohm observes: *“what the proud race of Hohenstaufen had not*

*succeeded in accomplishing was now attained in a few years by the French kings, a race newly risen, but one which anticipated the idea of modern statesmanship*"<sup>1</sup>.

Meanwhile, on the eastern borders of Christianity, following the Mongol invasion in the year 1241, the subsequent raids and the Black Death, the kingdom of Hungary was left in desolation and anarchy for almost 50 years. One example is a document from 1268, consisting of an invitation from king Bela IV, to all the good Christian people, either plough pushers or soldiers, to enter the kingdom, and repopulate it<sup>2</sup>. Many documents from 1250-1300 have called for people and brothers or priests to come to the kingdom and repopulate it. Documents from both the king and pope encourage Christians to come to the region, to receive lands and benefits in order to reform the stable entity at the borders of Christianity. In the wake of this chaos, we begin our study of the structural changes brought not by just the tumultuous period of the 13<sup>th</sup> century but also the foreign dynasty represented by Charles Robert of Anjou. In the early 14<sup>th</sup> century, in the year 1308 Charles Robert is crowned king of Hungary and begins his reign with a series of reforms which would later be considered closer to a `regalist` approach. The institutional influences implemented in the region of Transylvania have been the main focus of this article, institutions represented by the king`s men, the *familiaris regis*, men that have received land in service of faithful service (both as a precondition and as a reward). The legal transplant and the language of the documents from 1308-1342 (the regnal years of Charles Robert) have formed the concept of Anjou Colonization, and it is precisely this concept, intimately linked with possession, that needs to be discussed in regard with Sohm`s definition of landowning.

## 2. ABOUT PROPERTY, FROM DOCUMENTS TO DECONTEXTUALIZATION

The medieval documents from 1308 to 1342 have been created by the *loca credibilia*, the places of authentication, while others by the chancellery of the king.

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<sup>1</sup> SOHM, R., *Outlines of Church History*, Boston 1958, p. 135.

<sup>2</sup> *Documente privind Istoria României, veacul XIII. C. Transilvania, vol. II (1251-1300)*, 1952, Doc. nr. 91, p. 100.

The ecclesiastical structures of the 13<sup>th</sup> century in the kingdom of Hungary, with emphasis on the monastical phenomenon, numbered around 150 convents and monasteries around 1200, and around 1300 there are over 700 monasteries (220 in Hungary, 150 in Bohemia and Moravia, and 330 in Poland). The foremost orders present in the kingdom of Hungary and especially in Transylvania, were the Cistercians, the Franciscans and the Dominicans. The Cistercians were exempted since 1184, and by the year 1250 they had 13 abbeys and the Premonstratensians had 33 chapter houses. The Dominicans had by the end of the 14<sup>th</sup> century 38 “houses” each in a different city throughout the kingdom. The Franciscans, entered Hungary in 1228, their first convent established in Esztergom, the Franciscan province of Hungary was established in 1238 and the first provincial minster was French. By the year 1250 there were 10 Franciscan establishments, and by the year 1350, 36 more “houses” were added<sup>3</sup>. Most of these acted as places of authentication, creating and copying land deeds, wills, sales, etc.

During the period of the first foreign king, Charles Robert of Anjou, the Hungarian Kingdom issued hundreds of documents pertaining to the Transylvanian region, and during this research we have focused on the concept of property reflected in the period of 1308-1342, the regnal years of king Charles Robert.

Most of the document regarding Transylvania have been published since the second half of the last century, during the communist regime in Romania. Edited under the name *Documente privind istoria României* (Documents regarding the history of Romania), abbreviated DIR, these serve even today as the source for many historical studies. Being transcrips and translations of the original manuscripts some small errors might occur, but most documents have a bilingual, Romanian/Latin, version published. Consequently, these documents being the primary sources used today by scholars, we have therefore, also focused on a close analysis of the concept

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<sup>3</sup> For further details regarding the influences and the close relation between the Holly See and the Hungarian kingdom during the 13<sup>th</sup> century there is the detailed study of professor TURCUȘ, Ș., *Sfântul Scaun și României în Secolul al XIII-lea*, București 2001.

of property as it is revealed in, and by these sources. In regard with the 14<sup>th</sup> century, from 1308 to 1340 we have roughly about 1500 known documents, edited and published in the collection DIR<sup>4</sup>.

### 3. WHAT DEFINES THE SOCIETY IN THE MIDDLE AGES?

Terminology has suffered a transformation from the original sense in the documents of the 14<sup>th</sup> century, to speculations and nationalized history of the late 20<sup>th</sup> century<sup>5</sup>. Recent studies are making progress to reform and redefine different concepts of the Middle Ages, but some of the methods and tools utilized are still the same. For Romania, the history of the Romanian Law, has been a subject of great interest, in some years it was neglected. One of the first examples of a study of legal history, or history of the law, dates from 1921, only a few years after the creation of the state of Romania, following the end of the Great War. This new state had not only the obligation to live up to the other European states, but also the need to create a dependent and stable constitution, and also a powerful juridical identity, represented best by studies and monumental work on the history of Romanian Law. Consequently, the work of Victor Onișor, from 1921 was defining the history of law as an exposition of legal knowledge pertaining to the institutions of state and law, under the guidance of which the Romanian people have lived during their existence. The study of legal history, he defines as a closer look not only into the institutional development, state organizations and so forth, but also the manner of this

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<sup>4</sup> The series of documents regarding the medieval history of Transylvania used in this paper are the following: Documente privind Istoria României, veacul XIII. C. Transilvania, vol. II (1250-1300), Editura Academiei, 1952, Documente privind Istoria României, veacul XIV. C. Transilvania, vol. I (1301-1320), Editura Academiei, 1953, Documente privind Istoria României, veacul XIV. C. Transilvania, vol. II (1321-1330), Editura Academiei, 1953, Documente privind Istoria României, veacul XIV. C. Transilvania, vol. III (1331-1340), Editura Academiei, 1954.

<sup>5</sup> Some of the most important recent works regarding medieval society are MARENBNON, J., *Medieval Philosophy: A Very Short Introduction*, Oxford 2016. HARTMANN, W. & PENNINGTON, K., *The History of Byzantine and Eastern Canon Law to 1500*, Washington, D.C. 2012. BURNS, J. H., *The Cambridge History of Medieval Political Thought C.350 - C.1450*, Cambridge 1988. LEMARIGNIER, J.-F., *La France Médiévale: Institutions Et Société*, Paris 1970. LEVY, J.-P., *Histoire De La Propriété*, Paris 1972. BONGERT, Y., *Histoire du droit pénal*, cours de doctorat, réédition coordonnée par CARBONNIERES, L. DE, DESCAMPS O. ET LEFEBVRE J.L., Paris 2012. DINCA, A.C., «Studying Medieval Philosophy in Romania: A Codicological Perspective», in *Revue d'études anciennes et médiévales. Philosophie. Théologie. Sciences* (2005-2006) vol. 3/4, nr. 3/4, pp. 431-438.

development, the mutations and the journey to the modern form. He also encourages the comparative methodology, focusing not inward but outward, and searching other similar institutions<sup>6</sup>. A few years later, in 1926, professor Ioan Peretz, in one of his lectures considered that the history of law is part of the same group of sciences that study what it is and not what it should be, just as the real sciences, mathematics, physics, chemistry, etc<sup>7</sup>.

Recent works regarding the concept of property in Transylvania consider that (property) has had a very specific and stable place in the history of the medieval states following the assumption that the king had the *dominium eminens* encompassing all the realm, right manifested as a set or prerogatives. It is also considered that the concept of property in Transylvania, especially the noble donations, as *possession data seu donate*. In other words, all types of possession (*possession hereditarian, possession empta seu comparata, impignoraticia, permute, communis*, etc.) are considered misleadingly to be the same, and the transfer of property (in reality the transfer of possession rights) was made most often by way of reward for military or faithful services and with a perpetual character. The perpetual character is actually closer to the roman law definition, being a concession for 99 years.

The terminology of the Transylvanian medieval documents starting with 1308, reflect a very strong mark of Roman Law, and as we shall see, in the following examples, for the contract of *emptio-venditio* we have all the essential elements (the price, *in pecunia numerate*, fixed and real, *verum et certum*, and also just, *iustum*).

The first example is a document predating our study of the Anjou king with a few years, but it is essential to demonstrate that the language, despite the tumultuous situation and cultural challenge has not changed. The document is a sale of a servant girl, from one noble to another, for the price of six marks (*sex marcis*). As with most documents the witnesses are clergy men, as they are represented here

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<sup>6</sup> ONIȘOR, V., *Istoria dreptului român: pentru anul I al Facultății de Drept*, Libertatea 1921.

<sup>7</sup> PERETZ, I., *Curs de istoria dreptului român*, București 1926, pp. 14-15.

by Benedictus and the convent of Lesesz. The nobles, Hemereicus and Nycholaus, are the initial possessors of the ancillary called *Fata* (which means girl in Romanian, and was a common denomination for servant girls)<sup>8</sup>. Unfortunately, there are no studies regarding slavery in the 13<sup>th</sup> and 14<sup>th</sup> centuries in Transylvania, but it is an interesting direction to follow considering the canon law forbidding a Christian to have another Christian as a slave.

The second example, Toma, the son of Petru sells to Daniel, the estate of Cutu for the price of 20 marks. The document is created in the chapter of the church of Saint Michael of Transylvania (currently in Alba-Iulia), it agrees upon the territorial margins of the estate, its legal character, being a hereditary possession and it proceeds to the action of *irrevocabiliter vendidit*. After settling the legal nature of the transaction, *ac perceptis jure perpetuo possidendam et habendam*, the document, the charter is then corroborated with the seal of the place of authentication, *perpetuamque firmitatem*<sup>9</sup>.

The third example<sup>10</sup>, from 1295, the nobleman Nicolae, *vir magister*, sell his lands to the canon Clement, for the sum of thirty marks (*pro triginta marcis fini*

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<sup>8</sup> DENSUȘEANU N., EUDOXIU DE HURMUZAKI, *Documente Privitoare la Istoria Românilor (1199-1345)*, București 1887, p. 490. The original text is the following: *Nos Benedictus Praepositus, et Conuentus de Lesesz, significamus, quibus expedit, praesentium per tenorem, quod constituti coram Hemereicus et Nycholaus, filii Ioannis de Comitatu de Vng, qui etiam pro Petro fratre ipsorum respondentes, quamdam ancillam eorum Fata vocatam, quam in nostra praesentia personaliter statuentes, haereditariam, Vt dicebant, vendiderunt Iacobo de Pank, Comiti videlicet de Ungh, pro sex marcis perpetuo possidendam; quam pecuniam Iacobus supradictus eisdem persolui plenarie coram nobis. In cuius rei testimonium litteras concessimus, nostri sigili munimine roboratas. Datum anno Domini Millesimo, Ducentesimo, Nonagesimo.*

<sup>9</sup> *Capitulum ecclesie b. Michaelis archangeli Transilvane, [...], quod Thomas filius Petri quondam de Warda presentialiter coram nobis comparendo, quamdam terram suam hereditariam, ut eodem referente percepimus Kut nomunatam inter villam Riho, et villam Zeke existentem et adjacentem cum omnibus utilitatibus suis et adjacentiis, sub eisdem antiquis metis signis seu terminis, quibus eam a progenitoribus suis habuit et possedit, dedit tradidit, et irrevocabiliter vendidit comiti Danieli filio Chel de Kelnuk et per eum suis heredibus, heredumque suorum successoribus pro viginti marci, ab eodem comite Daniele, ut idem Thomas dixit, per eundem plene habitis, ac perceptis jure perpetuo possidendam, et habendam. In cuius rei testimonium, perpetuamque firmitatem, ad petitionem et instantiam predictorum presentes concessimus litteras munimine nostri sigillii roboratas[...]. Ibidem, p. 516.*

<sup>10</sup> *Capitulum ecclesie beati Mychaelis arhangeli Transsiluane, [...], Nobilis vir magister Nicolaus, [...], vendidit magistro Clementi concanonico nostro, et per eum suis cognatis, quibus idem ordinabit pro triginta marcis fini argenti, plenary similiter coram nobis habitis, persolutis et receptis, per*

*argenti*). The juridical language is the same as the above documents, *possidendam et habendam* being the key words of the *emptio-venditio*.

The fourth example<sup>11</sup>, from 1297, represents a sale sanctioned by the nobles Nicolae, Demetru and Petru for the price of twenty-nine marks. It is interesting to observe here the *ex bona voluntate*, invoked in order to process the transaction.

The next example is from 1325, two nobles make peace about the estate of Nicu, but the term *emptio*, in this case, is misspelled as follows: *titulo adquisicionis et emcionis possedisset ut dicebant*<sup>12</sup>. The error is interesting and could be misleading to different speculations, but misspellings were common among the chapter houses and it variety based on the quality of education the person writing the charter had.

A document from 1343, represents a typical *emptio-venditio*, and a strong argument that the legal knowledge of Transylvania was in accordance to the Western European chancelleries. Created by the *Capitulul Ecclesie Transsilvane*, the contract (charter) has the following defining elements consent (...*eadem domin mondiales proposuerunt et viva voce sunt confesse*...) and the object of sale (...*terram seu possessionem Petelaka vocatam, in comitatu de Clus existentem*...) )<sup>13</sup>.

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*magistrum Nicolau prenotatum, iure perpetuo et irrevocabiliter possidendam, et habendam. Obligans se idem magist Nicolaus, vt dictum magistrum Clementem et suos cognatos in pacifica possessione dicte terre perpetualiter conseruaret, contra patrem suum atque fratres, vicinos extraneos sev cognatos, in propriis expensis et laboribus quam terram ad porcionem suam a patre suo et a fratribus suis dixit sibi deuenisse. Ivi.*

<sup>11</sup> . [...], *ex bona voluntate et permissione magistri Njcolai, Demetri et Petri, filiorum nostrorum vendimus Petro Marco, et Stephano, filio David, ac Sud filio petri, [...], pro triginta marcis minus vna, perpetuabiliter et pacifice possidendam, partim in argento decime combustionis, partem vero in estimation condign, quam pecuniam ijdem viri plenary nobis persoluerunt obligantes nos eisdem ab omnibus impedicionibus racione terre propriis laboribus et expensis liberate et eosdem in ipsa possession conseruare, quare requirimus discrecionem, [...]. Ibidem, p. 528.*

<sup>12</sup> Ibidem, p. 298.

<sup>13</sup> *Capitulum ecclesie Transsiluane, omnibus Christi fidelibus, tam presentibus, quam futuris, presencium noticiam habituris, salutem in omnium salvatore. Ad universorum noticiam harum serie volumus pervenire quod domina Elyzabeth, priorissa et sorores in ecclesia Sancti Spiritus de Alba commorantes ab una et Johannes, filius Jwanka de Ws, parte ex altera, personaliter coram nobis comparentes, eedem domine moniales proposuerunt et viva voce sunt confesse quod ipse quandam terram seu possessionem Petelaka vocatam, in comitatu de Clus existentem, per predecessores eiusdem Johannis, filii Jwanka, ipsi ecclesie Sancti Spiritus et dominabus in eadem residentibus modo*



The last example is a document from the late 14<sup>th</sup> century, more specifically from the 27 of September 1375, when the juridical education and political situation were stable and prosperous. The charter is created by the convent of the monastery of Saint Mary of Cluj-Mănăştur (*conventus monasterii beate Marie virginis de Clusmonustra*), representing a consensual contract, based on mutual agreement, an exchange of good will, and obligations to help and protect each other. Lastly the document is corroborated by the *locus credibilis*, the place of authentication.

For the case of Transylvania, the abundance of Roman Law concepts used in the medieval documents represent the silent witnesses of the evolution of the medieval jurisprudence, however their apparent form and meaning can lead to anachronistic conclusions. The expressions used: *ex bona voluntate, titulo adquisicionis et empcionis possedisset, quem contractus empcionis ipsius possessionis, perpetuo possidendam*, etc. prove the importance of the Roman Law in the North-Danubian space of the medieval society of the 13<sup>th</sup> and 14<sup>th</sup>. Possession has been a complex juridical term, and the translation to a modern abstract term like property, guaranteed by an abstract entity like the state has created numerous problems for medievalists. Simplifying discourse has had its ups and downs, but a discourse about the concept of property in medieval Transylvania has to give way to the multitude of layers that define possession, and to avoid using property without properly defining it.

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*testamentario donatam, cum omnibus suis utilitatibus et pertinenciis ad ipsam possessionem spectantibus, eidem Johanni, filio Jwanka, quem contractus empcionis ipsius possessionis premissa de causa magis contingere deberet, pro triginta sex florenis, pro labore et fabrica claustris eiusdem ecclesie convertendis, plene ipsis coram nobis persolutis, ex consensu et permissione venerabilis in Christo patris domini Demetrii, dei et apostolica gracia episcopi Transsilvani, domini et prelati nostri, vendidissent et vendiderunt coram nobis, perpetuo possidendam, tenendam et habendam, totum ius et dominium, quod in eadem possessione Petelaka hactenus habuissent, in ipsum iohannem, filium Jwanka, et suos heredes per omnia transferentes et in signum ipsius possessionarie vendicionis eadem domine universa litteralia seu instrumenta seu eadem possessione, seu terra confecta ipsi Johanni, filio Jwanka, restituerunt a assignarunt coram nobis. In cuius rei testimonium perpetuamque firmitatem presentes ad instanciam et petitionem eiusdem Johannis ipsi concessimus litteras nostras privilegiales, peodentis et autentici sigillii nostri munimine roboratas. Ivi, p. 298.*

#### 4. IS SOHM'S DEFINITION OF MEDIEVAL PROPERTY STILL FUNCTIONAL CORRELATED WITH THE NEW DEVELOPMENTS IN LEGAL HISTORY?

Possession in Transylvania has been defined in the period of 1308-1342 by the creation of new nobles, new men of the king, following the instauration of Charles Robert on the throne of the kingdom of Hungary. During the first half of the 14<sup>th</sup> century, some Hungarian historians consider that the landowners of a smaller nobility, called generically *homines possessionati* have managed to retain their possessions during the fundamental changes of the 13<sup>th</sup> century. However, no study, as of today, has clarified the defining period for this group, but it can be said that it belongs to the upper layer of the social structure<sup>14</sup>.

Charles Robert needed 10 years to secure his lands, taking castle by castle and by the year 1321, when the civil war ended, he finally became king and had *plenitudo potestatis*. However, during this internal turmoil, he had defeated nobles, confiscated their lands, and redistributed them among his faithful followers, bestowed upon some as rewards or donations upon others. Charles d'Eszlary believed that the nobles in the kingdom were now divided in *nobiles bene possessionati*, *nobiles unius possessionis and familiares*, in other words, nobles with one or more estates, nobles with one estate, and the familiars or the men of the king, his own men brought up to the noble class from the dirt<sup>15</sup>. This social uprising, of the faithful men of the kings, the *fideles* and the *familiars* sometimes the designating the same social category, was by the end of the first half of the 14<sup>th</sup> century, reaching its highest point. They were now among the most important men in the realm, from castellans, barons and other nobles, and the royal decree of King Louis I (the son of

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<sup>14</sup> HUNYADI, Z., «Maiores, optimates, nobiles. Semantic questions in the early history of the Hungarian nobility», in *Annual of Medieval Studies at the CEU, 1996-1997*, Edit. by MIKOLAJCZYK, R. & SEBŐK, M., Central European University, Budapest 1998, pp. 204-211.

<sup>15</sup> D'ESZLARY, C., *Histoire des institutions publiques hongroises*, Paris 1959, pp. 313-320.

Charles Robert) from the year 1351 represented an effort to separate the nobles of noble blood, born nobles, and the new social compromise and new men<sup>16</sup>.

One of the most vehiculated ideas about the concept of property is the one belonging to Pal Engel. He divides the society of the 14<sup>th</sup> century by property, simply put, he considers those who have property to be nobles (*homo possessionatus*), and those who don't have property without nobility (*homo impossessionatus homo ignobilis*). This idea is currently still in use in modern historiography when addressing problems of the 14<sup>th</sup> century, and in a way, resembles the vision of Sohm.

Sohm mentioned that *the glossators were aiming to re-establish the authority of Roman law as a living law. The rugged bit of mediaeval feudalism added to the classical structure of pure Roman law*<sup>17</sup>. This idea is obviously made clear during the 14<sup>th</sup> century in the kingdom of Hungary with the implementation of the *familiaris regis*, the knightly order of St. George and the redistribution of land mentioned above. However, the institutional developments augmented by the Anjou Colonization have set the foundation for the work of István Werbőczy (1458-1542), *Tripartitum opus iuris consuetudinarii inclityi regni Hungariae*, commonly known as the Tripartitum, a massive opus on customary law in Hungary that was to remain the country's basic legal text for more than 400 years<sup>18</sup>.

## 5. CONCLUSIONS

One major unanswered question regarding the 14<sup>th</sup> century Anjou dynasty in the kingdom of Hungary was the fact that it was uncertain if the new king reformed or continued the customs and maintained the legal institutions of the previous century

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<sup>16</sup> HUNYADI, Z., «*Maiores, optimates, nobiles. Semantic questions in the early history of the Hungarian nobility*», in *Annual of Medieval Studies at the CEU, 1996-1997*, Edit. by MIKOLAJCZYK R. SEBŐK, M., Central European University, Budapest 1998, p. 209.

<sup>17</sup> SOHM, R., *The Institutes a textbook of the History and system of Roman Private Law*, Oxford 1907, p. 142.

<sup>18</sup> The complete collection of documents regarding medieval laws in the Kingdom of Hungary is the *Decreta Regni Mediævalis Hungariæ*, edited by Péter Banyó and Martyn Rady, with the assistance of János M. Bak. Also, a very good database of all the laws and decretals is found here: <http://mek.oszk.hu/01300/01396/html/index.htm>

and the previous dynasty. The interesting fact about the answer to this question is that although from a social and political point of view the realm was heavily disordered and an oligarchy was installed during the years 1260-1320, the crown and the king, with support from the Holy See, managed to maintain the integrity of the realm. The support provided by the monks, brothers and clergy men in Transylvania, either by the spoken word, professing the catholic faith or by the written word, represented by the places of authentication that have raised the levels of literacy in the region, have brought and maintained the region in concordance with the Western Christianity, despite the heavy non-Christian influences. From the juridical and historical point of view, the terminology and concepts used and applied in the medieval charters prove, beyond a doubt, that there was a continuity in both the production (albeit in smaller numbers) and the need for the written document.

In conclusion, the reign of Charles Robert was one of continuity, and with a strong emphasis on the written word, resembling and sometimes mirroring the reign and institutional adaptations of Henry II of England. Regarding the concept of property, as the modern historian is used to name this abstract notion, we can observe that possession and possession rights were transferred, borrowed, soled, donated, confiscated, but ultimately, they were and remained during the 14<sup>th</sup> century, both *de iure* and *de facto* part of the domain of the crown, despite fallacious tendencies to extrapolate this concept.

## BIBLIOGRAPHY

BONGERT, Y., *Histoire du droit pénal*, cours de doctorat, réédition coordonnée par CARBONNIERES, L. DE, DESCAMPS O. ET LEFEBVRE J.L., Paris 2012.

BURNS, J. H., *The Cambridge History of Medieval Political Thought C.350 - C.1450*, Cambridge 1988. LEMARIGNIER, J.-F., *La France Médiévale: Institutions Et Société*, Paris 1970.

D'ESZLARY, C., *Histoire des institutions publiques hongroises*, Paris 1959.

DENSUȘEANU N., EUDOXIU DE HURMUZAKI, *Documente Privitoare la Istoria Românilor (1199-1345)*, București 1887.

DINCA, A.C., «Studying Medieval Philosophy in Romania: A Codicological Perspective», in *Revue d'études anciennes et médiévales. Philosophie. Théologie. Sciences* (2005-2006) vol. 3/4, nr. 3/4, pp. 431-438.

HARTMANN, W. & PENNINGTON, K., *The History of Byzantine and Eastern Canon Law to 1500*, Washington, D.C. 2012.

HUNYADI, Z., «Maires, optimates, nobiles. Semantic questions in the early history of the Hungarian nobility», in *Annual of Medieval Studies at the CEU, 1996-1997*, Edit. by MIKOLAJCZYK, R. & SEBŐK, M., Central European University, Budapest 1998, pp. 204-211.

HUNYADI, Z., «Maires, optimates, nobiles. Semantic questions in the early history of the Hungarian nobility», in *Annual of Medieval Studies at the CEU, 1996-1997*, Edit. by MIKOLAJCZYK R. SEBŐK, M., Central European University, Budapest 1998.

LEVY, J.-P., *Histoire De La Propriété*, Paris 1972.

MARENBNON, J., *Medieval Philosophy: A Very Short Introduction*, Oxford 2016.

ONIȘOR, V., *Istoria dreptului român: pentru anul I al Facultății de Drept*, Libertatea 1921.

PERETZ, I., *Curs de istoria dreptului român*, București 1926.

SOHM, R., *Outlines of Church History*, Boston 1958, p. 135.

SOHM, R., *The Institutes a textbook of the History and system of Roman Private Law*, Oxford 1907.

TURCUȘ, Ș., *Sfântul Scaun și Români în Secolul al XIII-lea*, București 2001.