

# Aristocratic Enclaves as a Foreign Legal Element in Urban Space\*

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vol. 11, 2022, 2, pp. 27–55

DOI: <https://doi.org/10.33542/CAH2022-2-02>



Disciplination of the population in the medieval and early modern city may have been complicated by the presence of an alien element, which in the bourgeois environment was the nobility. In many cases, the nobility was able to acquire town houses and sometimes even managed to have them exempted from the jurisdiction of the municipal authorities and registered in the land tables. Be that as it may, these houses constituted legal enclaves of their kind. The study examines the legal conditions of these enclaves against the background of the legal developments in the Kingdom of Bohemia and Margraviate of Moravia in the fourteenth–seventeenth centuries and tries both to summarize the existing knowledge and to draw attention to some better though lesser-known sources that document this issue.

Keywords: History; City; Urban history; Central Europe; Middle Ages; Early modern period; Jurisdiction; Kingdom of Bohemia; Land tables; Legal enclave; Legal history; Margraviate of Moravia; Medieval and early modern city; Nobility.

## Introduction and the aim of the research

The personality on which the medieval and later also early modern legal system in the Bohemian lands was based was a time-dependent concept, relatively difficult to reconcile with today's value stratification (at least in its officially presented form). The person of ancient times, however, perceived a social order based on inequality – but also the division of social tasks – as quite natural, fully functional and, in principle, unchanging in its basic essence. By adopting these starting points, they inevitably accepted the fragmentation of the legal order, which subdivided into sets of specific norms, valid only for certain groups of the population.

The basic subsystem was the land law, which was primarily intended for the exclusive and not very numerous group of nobles, but also included regulation of topics which can be seen from today's point of view as the constitutional or administrative law, i.e., the regulation of the very basic mechanisms of the functioning of public power in the state.<sup>1</sup> Next to it was town law, which functioned in a number of mutations until the beginning of the seventeenth century,<sup>2</sup> special norms for villeins and canon law (binding

\* This study was produced as part of GA ČR project GA ČR 20-112475 "Representation and Practice of Social Control in Late Medieval Urban Communities". For the impulse to write this study and the considerable, collegial and selfless stimuli and feedback, I am indebted to doc. Mgr. Martin Čapský, Ph.D.

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1 In the Lands of the Bohemian Crown, the land laws were codified in so-called Land Constitutions, most commonly approved by the land diets, where the nobility and later other estates participated in the governance of the land.

2 Town law in the Bohemian lands had its roots in German law (especially Swabian and Magdeburg law), but there was no common source of law until the publication of the book *Town Laws of the Kingdom of Bohemia* in

ecclesiastics), not to mention the very specific position of some specific groups of the population, but marginal in number and importance.

At the same time, it must be borne in mind that, no matter how stratified or caste-stricken a society is, it is never possible to prevent legal relationships involving persons of different status, subject to different normative subsystems. At that point, a problem often arises, all the more so if each party has a rational reason to believe that it is "its" rules that should be considered decisive in a given situation and followed. To deal with this competition, conflict rules have traditionally been created, determining the criteria according to which the choice between two (or even more) standards affecting the same case should be made.

In the period of the late Middle Ages in the Bohemian lands, need for conflict rules arose probably to the greatest extent for the relationship between the nobility and the bourgeoisie of royal cities. Both of these classes<sup>3</sup> were in a significant way privileged and, unlike the serf population, participated in the exercise of public power and, to a certain extent, in the management of the destinies of the entire state. At the same time, however, these classes were quite different in their value systems and lifestyles – although this generalization somewhat suppresses the signs of convergence that can be observed with fluctuating intensity in certain areas and over time, but in principle it can be considered at least in rough outline to be valid. The need for conflict rules then was *inter alia* caused by the fact that long-term symbiosis and regular interactions took place between "noble" lords, "brave" knights and "honest and careful" burghers in urban areas. The diversity of these interactions corresponds to the general variability of interpersonal relationships.

One of the very important factors contributing to the urgent need to clarify the mutual relations and their legal regime was the possession of burgher houses by nobles. Although it is certainly not possible to underestimate other opportunities for the emergence of legal relations, which give rise to a great many controversial instances,<sup>4</sup> the possession of real estate within the town by a person who was not primarily covered by town law directly precipitated the emergence of various friction areas and conflict situations. From the point of view of disciplination, the deeper knowledge of which is an extremely attractive space for further research, aristocratic houses and their inhabitants represented a remarkable and at the same time sensitive and complicated object.<sup>5</sup>

On the other hand, it is, however, necessary to note that the settlement of the nobility in towns (whatever the motivation) inevitably created a potential for conflict, but this potential did not always have to be fulfilled. In fact, it can even be judged that the relations between noble and common people within the town walls remained

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the year 1579. The book became binding for all Czech and Moravian towns only during the seventeenth century.

3 The nobility can be considered as one social class, although it had been stratified from time immemorial into the higher and lower, which in the fifteenth century was tightened to the legal anchorage by the completion of the lord and knight estates.

4 At random, it is possible to highlight the non-payment of orders by noble customers collecting goods from merchants and craftsmen from the ranks of the burghers, or various torts, which caused the municipal courts to try to exercise their jurisdiction over the perpetrators despite their noble origin.

5 As aptly stated by MILLER, *Uzavřená společnost*, 150, the nobility in the urban milieu always remains a partially foreign element, while it, however, moved "v rozmezí mezi částečnou separací a částečnou, městem zpravidla vynucenou, integrací" [in the range of partial separation and partial integration, usually forced by the town].

correct in most cases, and conflicts were the exception rather than the rule. However, given that the conflict finds a response in written sources, Czech historiography has traditionally focused precisely on this aspect of aristocratic-bourgeois coexistence. Only relatively recently have inspiring studies appeared that have pointed out the traditional overestimation of the role of conflict in a diverse network of the relevant social relationships and interactions.<sup>6</sup> Nevertheless, this does not change the fact that conflicts have occurred and been resolved, and their wide range is evidenced by numerous sources, proving the social and legal reality.<sup>7</sup>

The aim of this article is to analyse the problem of aristocratic possession of houses in towns from two basic points of view. First, attention will be paid to a detailed explanation of how this possession came into being and on the basis of which criteria it can be assessed in more detail. The nature of the disputes that arose between the nobles and the towns in connection with this tenure will then be outlined in more detail. This will be done both with reference to normative sources of the fifteenth and sixteenth centuries and with reference to various model cases.

### **Aristocratic possession of burgher houses and possibilities of its classification**

With regard to the aristocratic possession of burgher houses,<sup>8</sup> it should of course be noted that this simple phrase veils a relatively varied typology behind its façade. There are several aspects according to which it can be evaluated, while each of them has its relevance and undeniable informative value.

In the first place, certain differences resulted mainly from the town in which the nobility settled. The conditions were specific in the Prague towns, where the nobles moved to the greatest extent, since there was the strong gravitational field of the royal court and a wide range of livelihoods in foreign services, both official and military. On the other hand, the self-confidence of the Prague patriciate class and the bourgeoisie in general and their political ambitions were incomparably higher than in other cities. The situation in other land centres, i.e., Brno, perhaps also Olomouc, and Wrocław, can be perceived as similarly atypical, albeit to a lesser extent. Another variant of coexistence was the settlement of the nobility in other royal (and dowry) cities, but here it is necessary to take into account relatively large fluctuations in the volume of such settlement.<sup>9</sup> Finally, knights in particular appeared frequently in the manorial towns,

6 Cf. especially BŮŽEK, *Nižší šlechta*, 185–199. ŠIMŮNEK, *Šlechta a města v pozdním středověku*, 197–247. ŠIMŮNEK, *Šlechta a města pozdního středověku*, 225–237. ŠIMŮNEK: *Šlechta a města v pozdním středověku a raném novověku*, 72–149.

7 See, e.g., MILLER (ed.), *Konfliktní soužití*.

8 Earlier Czech historiography, if it dealt with this issue, focused mainly on the making available of casuistic studies of materials documenting the holdings of the nobility in individual towns. Their list would not be relevant at this point. Successful, though not systematically, relations between the nobility and towns and the problems associated with the settlement of nobles in towns was outlined by WINTER, *Kulturní obraz*, 95–128. A broader comparative framework of the study of the urban elites including the relation to the nobility (also settled in the towns) is offered by the monograph MILLER, *Uzavřená společnost*, esp. 147–167. What can be considered to be a very interesting attempt to methodically evaluate the issue, especially in relation to the typology and information potential of the period sources, is the study by CHMELÍŘ, *Raně novověká šlechta*, 93–101. Similarly to noble houses, properties owned by ecclesiastical institutions would also deserve the attention of legal history in the future.

9 For some towns, the aristocratic residents are proved by compiled lists of the settled aristocratic or armorial families: see randomly RYBIČKA, *O šlechtických a erbovních rodinách*, 353–360. RYBIČKA, *Královéhradecké rodiny*. RYBIČKA, *Rodiny šlechtické*, 27–42, 825–828. SMOLÍK, *Šlechtické rodiny usedlé v Pardubicích*, 21–34, 113–122. SMOLÍK, *Šlechtické rodiny usedlé ve Vysokém Mýtě*, 381–398, 509–524. STRNAD, *Rodiny šlechtické*, 397–408,

where, in addition to their relationship to the town government, their relationship to the manorial lord, the town's superiors, was largely decisive, because there was a relatively interesting symbiotic intertwining of urban structures with the manorial lord's administrative apparatus and the aristocratic court.<sup>10</sup>

It is also possible to examine in what way at all aristocratic real estate was generated in the town. This does not mean a more sophisticated legal evaluation of the legal titles on which the origin of the holding was based (purchase, pledge, inheritance, etc.), but simply an evaluation of "what was before", because it is necessary to realise that in addition to the self-evident way in which a person who acquired a house in the city had aristocratic status, there may have been a situation where the burgher-owner of the house managed to overcome the estate barrier and take a place in the (lower) nobility. The situation here was all the more piquant because the new "aristocratic" house actually belonged, at least initially, to a person who emerged from the urban milieu and was identified with the bourgeoisie community for a long time.

It is hardly surprising that these burgher-nobles did not break all previous ties with a single parliamentary resolution and that they were often still closer to their neighbours than to traditional knights, who generally looked at persons freshly raised to the nobility with ill-concealed or completely undisguised contempt. In the Jagiellonian period, the situation was all the more complicated because at least a tense atmosphere prevailed between the aristocratic estates and the royal towns, at times escalating into open hostility, and new rules for commoners being elevated to the lower nobility were still being finalized.

In the pre-Hussite period, it was enough for a burgher family to buy country estates and gradually assimilate among the nobility through their lifestyle, as evidenced by some Prague families who settled in the vicinity of the "mater urbium".<sup>11</sup> After the end of the religious storms, this factual situation was formalized, and those interested in penetrating the nobility had to obtain a deed of a coat of arms in the royal chancellery, which gave them a predicate and coat of arms, thus the attributes that traditionally characterized the nobility. However, royal majesty was the only and quite sufficient goal to be worked on. This is evidenced by a legal book from the end of the fifteenth century, whose author, scholar and at the same time a practitioner from the office of the land tables, stated without a doubt that "everyone whom the king gives a coat-of-arms, without all resistance is to be stated in the tables as a lord or other eldest yeoman".<sup>12</sup>

However, just at the time when Master Viktorin Kornel of Všeřdy wrote his linguistically refined opus, the estate boundaries began to close and their permeability was visibly limited. The starting point was the parliamentary resolution of 1497, according to which the recipients of coats of arms who wanted to take advantage of their elevation of estate had to apply in the land court to be registered in the land tables, stating that the acquisition of free property should be allowed only to their heirs

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447–452. BAREŠ, *Šlechtické a erbovní rodiny*. However, it should be emphasized that the majority of these lists of the mentioned families were not aristocratic in terms of legal status, but were armorial burghers. On the other hand, for instance, for the towns of Kouřim, České Budějovice, Most and Louny, the remarkable probe was by KAVKA, *Majetková, sociální a třídní struktura*, 258, revealing only an absolute minimum or complete absence of aristocratic real estate.

10 VOREL, *Poddanská rezidenční města*, 40. An excellent study of the milieu of two manorial towns in South Bohemia is the already cited study by ŠIMŮNEK, *Šlechta a města v pozdním středověku*, 197–247.

11 In more detail, particularly MEZNÍK, *Venkovské statky*.

12 JIREČEK, *Codex*, Tomi III. pars 3., 174 (book IV, chapter 5, paragraph 4).

“who came to the year and were born in the coat-of-arms”.<sup>13</sup> Registration in the tables appeared here as a new constitutive element and the real impact of the majesty was significantly postponed, because it was only to concern the descendants, born after its issuance. In addition, the resolution required new members of lower aristocratic estate to abandon the urban way of life, including the performance of any craft, and adopt a chivalrous way of life after the acquisition of real estate registered (“intabulated”) in land tables.<sup>14</sup> Whether or not the application of the newly set standards was consistent in practice, the permeability of the border between the burghers and the nobility was obviously reduced as a result.<sup>15</sup> Last but not least, the resolution resulted in the creation of a new legal category of armorial burghers, who, on the basis of royal majesty, could have the traditional attributes of nobility (a coat-of-arms and a predicate attached to the name), but were not considered to be nobles.<sup>16</sup>

The above-mentioned conflicts between the nobility and the towns, which at the turn of the sixteenth century visibly threatened the internal political stability of the Bohemian Kingdom, found their reflection in another fundamental parliamentary resolution of 1502, bringing another, relatively revolutionary novelty, the possibility of losing the status of nobility. This affected, namely, those newly elevated knights who in the mentioned conflict took the side of the towns. Such were to lose their eligibility for intabulated possessions, even *ipso facto*, and their intabulated possessions were to be turned to the common good. The same threat reappeared during the parliamentary debates in 1513 and 1516.<sup>17</sup> That it did not remain at the level of threats is documented by the case of Václav of Řepnice, who was actually expelled from the knighthood in the last year mentioned.<sup>18</sup>

With the accession of the Habsburgs to the Bohemian throne, there was probably another, entirely fundamental turning point in legislative arrangement and administrative practice, when the knights (following the example of the lord estate) demanded that they begin to accept the new members authoritatively. Due to the devastating fire that engulfed Prague Castle in 1541, land diets’ materials and other pragmatic documents have largely not been preserved. However, it seems that the first formal acceptance of the burghers among the knights took place in 1528.<sup>19</sup> The

13 PALACKÝ, *Archiv*, vol. V., 465–477, no. 51 (here p. 468). EMLER, *Reliquiae tabularum terrae*, Tomus II., 487.

14 Land Tables were established in Bohemia as early as in the thirteenth century, in Moravia and some Silesian principalities a little later. They represented a varied complex of official books used, among other things, to record the possession and transfers of noble estates. As will be shown later, town houses may have been entered here as well in some cases.

15 Although the resolution entered the so-called Prešpurské zůstání (contract between the estates and the king) and then the Vladislav Land Constitution, issued a year later, in a severely reduced form, without restrictive conditions, this fact was *de jure* not more significant, as older resolutions remained in force even after the codex of the Land Code was issued and in effect.

16 From the literature devoted to armorial burgher, see more in KLECANDA, *Tři kapitoly*, 69–96; most recently synoptically by STARÝ, *Erbovník*, 341–344.

17 Four years later, the same sanction was imposed on persons who would not pay the tax approved by the diet. Here, the thorn was against the towns with whom the so-called St Wenceslas Treaty had been concluded in the meantime, which had already clearly been broken. More closely, see KLECANDA, *Přijímání*, 8–9.

18 The details of his case were provided by LIPPERT, *Geschichte*, 227–260.

19 KLECANDA, *Přijímání*, 13, 88 (here nos. 1 and 2).

Bohemian model was then adopted only a few years later by the lower Moravian nobility, whose admission to the estate has been documented since 1535.<sup>20</sup>

It is interesting that in the texts of a normative nature, acceptance to the knight estate in Bohemia only appears in the fourth and last land constitution, issued in the period before White Mountain, in 1564, though not as a substantive problem, but only as a marginal mention. In particular, an amendment was made to Article A 23 of the Land Constitution of 1549, which provided that the consignee of the coat of arms and his descendants to the third generation should not be considered equivalent to members of traditional knights, which should have an external reflection in the fact that they should be titled not "noble vladyks" but "famous squires".<sup>21</sup> Whereas the original text could probably be interpreted as meaning that the latter address belonged to the holder of a coat-of-arms from the time of receiving the royal majesty, it was explicitly added to the text of the newer constitution (systematically moved to Article A 15) that entitlement to it arises only "from admission to the estate".<sup>22</sup>

The obstacles that law and political practice gradually posed to the members of the bourgeois families on their ambitious path upwards through the social strata led to a sharp increase in the number of armorial families that did not seek to cross the boundary into aristocratic society.<sup>23</sup> Some others, despite the acceptance of the parliament, could remain firmly entrenched in the urban milieu, in which they could continue to seek political, economic and social engagement. It could thus happen that a bourgeois family by origin "split", and one part of it actually identified with the lower nobility over time, while the other did not follow this "transformational" path. An example is the family Bořanovský of Bytýška, which appeared in the ranks of Bohemian knights in the sixteenth century.<sup>24</sup> Individual family members can be found in the preserved tax lists among the knightly feepayers.<sup>25</sup> However, at the same time in the Memoirs of Mikuláš Dačický of Heslov, a mention appears in 1598 of the death of Řehoř Bořanovský of Bytýška, who was fully assimilated in the urban milieu of Kutná Hora, made his living from a craft, held a post on the town council and was even in his surroundings better known under civil last names, derived from his craft or from one of his wives.<sup>26</sup> Similarly, the family of the Francs of Libice remained firmly established

20 On the Moravian situation, see more especially in KAMENÍČEK, *Zemské sněmy*, vol. 3, 42–55; KLECANDA, *Přijímání*, 43–45; and ŠVÁBENSKÝ, *Knihy*, 250–267.

21 JIREČEK – JIREČEK, *Codex*, Tomi IV. pars 1. sectio I., ZZ 1549, p. 145, Art. A 23.

22 JIREČEK – JIREČEK, *Codex*, Tomi IV. pars 1. sectio I., ZZ 1564, p. 505, Art. A 15.

23 Here, however, it must be emphasized that a number of persons to whom the coat of arms certificate was issued from the royal chancellery considered the gain of an inherited heraldic emblem and predicate a sufficient contribution in the field of social capital and did not actively seek admission to knighthood.

24 Unfortunately, the circumstances of their entry into the lower nobility are not sufficiently clarified. An overview of family history was compiled by VYŠÍN, *O erbu*, 9–15. According to him (p. 9) the Bořanovský family "především představují typický rod pražského patriciátu, který patrně využil situace okolo smlouvy svatováclavské z roku 1507 [sic!] a pronikl mezi rytířskou českou šlechtu" [mainly represent a typical family of the Prague patricians, who probably took advantage of the situation around the St Wenceslas Treaty of 1507 [sic!] and penetrated the knighthood of the Bohemian nobility].

25 So, in 1557, the brothers Tomáš and Smil, in 1615 Anna at Drahozub and in 1620 Smil at Pakoměřice. PLACHT, *Odhad*, 66, no. 119; SEDLÁČEK, *Rozvržení*, 66, no. 5; and PEŠÁK, *Berní rejstříky*, p. 98.

26 REZEK, *Paměti*, vol. II., 66–67 ("Umřel Řehoř Bořanovský z Bytešky, konvář, člověk sprostný, upřímný, jenž také nemálo na hory nakládal a pavoval, s oužitkem se nepotkavše; a jsa po rodu stavu rytířského, za své poctivé řemeslo konvářské se nestyděl (...)) Byl vuobec jmenován po řemesle Kříčko, jinak po jedné manželce své Studnička; nebo čtyry manželky pořád jměl. Bejval také jedním konšelem městským mezi pány šepmistry tu na

in the milieu of the royal town of Chrudim, although the brothers Jiří and Václav Franc were accepted in the knight estate at the land diet in 1545 and subsequently also confessed to the estate duly.<sup>27</sup> There is no doubt that future studies will reveal quite a number of further similar stories.

From the point of view of the conflict potential, however, it is obvious that the cases where burgher houses were bought – or obtained for their possession by other legal means – by traditional families of landed nobility, whether lower or even higher, were thornier problems. Given their “social incompatibility” with the rest of the urban population, it was obvious that compliance with the coexistence rules of the urban community would not always be easy to enforce on them. It is no wonder that there were thoughts and efforts to completely displace the nobility from urban life. In this respect, Margrave John Henry of Luxembourg, who in the spring of 1353 forbade nobles to buy or otherwise acquire other houses in Brno, went the furthest during the High Middle Ages, on the grounds that they contributed minimally to the taxes. At the same time, the burghers were also forbidden to transfer houses to them, and for houses that were already in the hands of the nobility and clergy, the king’s younger brother enacted a pre-emption right for burghers.<sup>28</sup> However, the practical impact of these restrictions was probably not very significant, as shown by the extensive holdings of the nobility during the reign of following Margrave Jobst.<sup>29</sup>

At first sight, it might seem odd that a similar limitation did not appear in relation to the Prague towns, but it is necessary to realise two things here. First, the aristocratic possession of real estate in the wider suburbs of Prague Castle had deep historical roots, dating back to the time when standard town law was imported here, and a relatively strong tradition. This probably also applied to Brno, but to a much lesser extent. Second (and above all), it was precisely the members of the Prague patriciate who, as indicated above, liked to buy in the wider Prague area and became the owners of intabulated goods. Thus, by 1360, their entire holdings can be summarized in two townships, 55–75 entire villages or large courtyards, and 30 patronage rights to parishes.<sup>30</sup> Under these circumstances, it was difficult to conceive of the reverse property expansion of the nobility into the Prague milieu. The latest attempt to summarize aristocratic holdings in Prague in the pre-Hussite period shows that the extent of aristocratic holdings was very considerable and at the same time there were perhaps unexpectedly dynamic changes here.<sup>31</sup>

Another crucial classification of aristocratic real estate in towns depends on the extent to which they have been subject to the regime of town law. Already in the previous paragraph, it was indicated that some aristocratic courtyards on the territory of Prague’s Old Town had a “suburban” origin and enjoyed exemptions that could not be unilaterally abolished or reduced. The privileges from the Luxembourg era are regularly

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H[orách] K[utných]” [Řehoř Bořanovský of Byteška, jug maker, common person, sincere, who also conveyed and quarried a lot in the mountains, did not meet with usefulness, has died; and is from a family of the knight estate, he was not ashamed of his honest craft (...) He was named after his craft Kříčko, otherwise by one of his wives, her Studnička; as he had four wives. He used to be also one councillor of the town among lords-high masters here at K[utná] H[ora]].

27 KLECANDA, *Přijímání*, 91, no. 27. On the further fates of the family, see RICHTER, *Francové*, 35–78.

28 BRANDL, *Codex*, Band VIII., 158, no. 200.

29 More on it is in BALETKA, *Šlechtická nemovitost*, 235–256.

30 MEZNÍK, *Venkovské statky*, 13.

31 MUSÍLEK, *Šlechtické domy*, 212–231.

mentioned, primarily in connection with the removal of the town tax. Thus, in 1330 (27 May), John of Luxembourg set that all secular and spiritual inhabitants who had houses, courtyards, goods and rents inside the town walls had to contribute to the tax, unless they had been exempted long ago (“preterquam de curiis ab antiquo libertate gaudentibus”).<sup>32</sup> The same monarch again in 1341 (4 June) confirmed that all of the burghers and inhabitants of the town had to contribute to the general needs from all of their moveable and real estate property, except for lords, clergy and other persons who had been exempted long ago (“exceptis baronibus, religiosis et aliis personis ab antiquo tempore exceptis”).<sup>33</sup> A third time the manorial and other houses, exempted from long ago (“ausgenommen der heren heuser und aller ander leute heuser, die von alter frey gewesen sein”), appear in a privilege of Wenceslas IV, dated to 1375 (1 May).<sup>34</sup>

The number of these exempted buildings is not clear. In the pre-Hussite period, there were clearly not many. Rostislav Nový identified only six of them in Old Town (the courtyards of the lords of Kunštát, Lipá and Rožmberk, or the houses of the lords of Hradec, Landštejn and Říčany),<sup>35</sup> in New Town; it is not possible to draw strong conclusions about them for obvious reasons. The tempting hypothesis that similar suburban aristocratic residences were also located in the immediate vicinity of the seat of the Bohemian kings, i.e., in Hradčany and Lesser Town, cannot yet be confirmed.<sup>36</sup>

A similar situation, although probably to an even lesser extent, can be expected in Brno as well. This is confirmed by a deed of Wenceslas II which was created as early as 1292 (13 March). It stated that the town tax should also be removed from aristocratic houses, but with the explicit exclusion of houses that their owners held as free from their ancestors (“deductis solummodo illis nobilium domibus, quas a progenitoribus suis liberatas habuerunt”).<sup>37</sup>

Given that the existence of exempted houses in Prague and Brno reaches not only to the time before the establishment of town law but also before the creation of the land tables and the beginning of their use for registration of property acts related to aristocratic real estate, it seems quite obvious that they were outside of this register for a certain time. In terms of Brno, 36 aristocratic houses are listed in the “books of numbers” (i.e., accounting books) in the fourteenth century, but not one of them appears in the land tables.<sup>38</sup> According to everything, it is thus possible to speak of “intabulated houses” in the Moravian metropolis only from the middle of the fifteenth century. At least the previous research on exemptions shows that their earliest time layer falls into the second half of the fifteenth century (Veronika of Boskovice, Kunhuta of Kravaře and the lords of Lichtenštejn).<sup>39</sup>

32 ČELAKOVSKÝ, *Codex*, Tomus I., 32–35, no. 17.

33 ČELAKOVSKÝ, *Codex*, Tomus I., 63–64, no. 40.

34 ČELAKOVSKÝ, *Codex*, Tomus I., 155–157, no. 95.

35 NOVÝ, *Šlechtická rezidence*, 8.

36 In the case of the Lesser Town, the overall inability to reconstruct property holding is an obstacle due to the absence of town books from the fourteenth century. NOVÝ, *Městské knihy*, 160–161. These are available for Hradčany, but it is not possible to determine from them whether some of the captured objects were outside the scope of town law. The overview of aristocratic house owners was compiled by MUSÍLEK, *Šlechtické domy*, 227–230.

37 BOČEK, *Codex*, Tomus IV., 385–387, no. 303.

38 JORDÁNKOVÁ – SULITKOVÁ, *Domy*, 117. A somewhat lower number is presented in his table for 1365–1432 by BALETKA, *Šlechtická nemovitost*, 255.

39 JORDÁNKOVÁ – SULITKOVÁ, *Domy*, 118–119.



How long the period indicated above lasted in the Bohemian milieu can only be estimated, because the fire of Prague Castle in 1541 destroyed the source base, without which it will probably never be possible to determine when the habit of intabulating ownership of these houses among other aristocratic properties was established. It is, however, quite possible that it could have happened in that way still before the outbreak of the Hussite storms, because, when the squire Heřman Sirotek of Zhoř appeared before the council of Prague's Old Town in 1453, he showed with several deeds that his house called Lostský was registered in the town books, but that "from ancient times it is exempt from all town demands and that it has always been proved as exempt by the land tables". The town council resolved that one of the previous owners had the house registered in the town books, because he could not use the land tables "at that time for various wars and storms swept the land", and confirmed to Heřman that he could hold the house as exempt, free of "all taxes, works, payments, aids, demands and other municipal burdens, which could be named by anyone".<sup>40</sup> Although it is not absolutely clear from the text when the given house was first registered in the land tables,<sup>41</sup> the formulation chosen emphasizes the ancient nature of the table registration, indirectly indicating the pre-Hussite period.

To a somewhat greater extent, documents relating to exempt Prague houses began to appear only in the middle of the fifteenth century. In the first place, it is certainly worth mentioning the majesty of King Ladislaus from 20 August 1454, relating to the house then called U Pelikána (At the Pelican, today's Husova street 234/8).<sup>42</sup> In it, the monarch stated that at the request of the owner then, Zbyněk Zajíc of Házmburk, this house "we have made exempt and made free from all courts, town taxes, military demands and from all other fees and aids of the municipality (...) so the burghers of the already written town nor anyone else could be able to make a claim and hinder in this house, or try to make it a custom". The house was to be generally exempt "from the above-written town of Ours and from the burgrave, council and all of the municipality of this town and thus from all of its officials, reeves, and servants, with all things as a manorial free house" and municipal officials "were not allowed to enter or do anything in it" (in the house) without the consent of the owner, current as well as future. According to the deed, the violation of these exemptions was to be punished by a fine of the significant amount of 30 hryvnias of silver,<sup>43</sup> of which half was to fall to the owner of the house and the other half to the royal chamber.<sup>44</sup> A few months later, 4 October, Ladislaus then gifted another Old Town house to Procek of Kunštát: "this

40 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 993/1, p. 154.

41 According to the cited record, the holders were father and son, both Jan, of Michalovice, who – probably shortly before the outbreak of the Hussite storms – transferred it to Jindřich of Elstrberk. The house was also owned by Mikuláš Zajíc of Házmburk and his wife Žofia, then by a certain Čečovec and the Nemluv family after him. It is said about Čečovec that his house was written in the land tables, but the Nemluv family included it in the town books, but at the same time it is stated that it has been "confirmed by the tables" for a long time. This wording, which emphasizes the antiquity of this legal situation, most likely dates back to pre-Hussite times, although none of the earlier holders explicitly mentions the intabulation of their holding.

42 On that in detail, see RYKL – BERÁNEK, *Výstavný středověký dům*, 3–34.

43 The hryvnia ("hřivna" in Czech) is an old unit of weight equivalent to about a quarter of a kilogram.

44 One of Zbyněk's descendants had the text of the paper, the original of which has not been preserved, placed in the tables only in 1606 (7 June). Národní archiv Praha, Desky zemské, sign. DZV 6, fol. K 14r – K 15v; the edition is in TEIGE, *Základy*, vols. I–II., 668, no. 3.

house is exempt forever and released from all excises, taxes, annual taxes, declarations, forced taxes and all fees that could be named by any name".<sup>45</sup>

The mentioned documents are valuable, because to a certain extent they reveal the extent of the exemptions which were granted to the new group of free aristocratic residences in the post-Hussite period. However, besides that, they indirectly prove that at that time placing these houses in the land tables did not yet have to be an obvious procedure, because in the first of the mentioned deeds, the young monarch announced that the mentioned privileges could be used by both the addressee of the majesty and anyone else "who will have this deed with the good will of Zbyněk often written and or his heirs and those in the future",<sup>46</sup> and similarly in the second case all of these exemptions could be used also by "whoever will have this deed with the good will of often-written Procek, his heirs and those in the future".<sup>47</sup> The majesty itself was thus apparently to be mainly the proof of ownership or other legitimate holding. If intabulation was conducted, then it did not at all have to have been written in the land tables at all but surprisingly (despite all the exemptions) in the town books. At least such testimony is given by another deed, also coming from 1454 – that of Markéta, the widow of the apothecary Kuneš, and her sons, who sold to the land administrator George of Poděbrady their Míšeňský dům (Meissen House) on the corner opposite the cloister of St James "exempt from ancient times of all municipal works, fees, burdens and demands", which house "was duly entered in the books of the town of His Grace".<sup>48</sup> Using the above-cited example of Lostský dům, it can be demonstrated that entries relating to houses previously registered in the land tables could also have appeared in the town books.

Other mentions of intabulations come from the advanced second half of the fifteenth century. It is possible to demonstratively indicate the list of Old Town councillors from 1480 (the daily date is not mentioned in the Book of Commemoration, where its text was written). The representatives of the town administration in it took it into consideration that the king "the freedom from ancient times belonging to the house of the lords of Hradec, which in our town lies next to the house of the priests of the cloister of Zbraslav at the corner across from the small church of the Holy Cross nearby the river, transferred to the house of the noble lord, lord Jindřich of Hradec of Jindřich lying in our same town in Caletná Street, between the houses of Matyáš, the scribe and official of the land tables, and Kubík from the Zlatý Jelen (...) and with this freedom (...) this house of the already named lord Jindřich of Hradec (...) has made free", and expressed agreement with it – "we give our unanimous permission and we free this house (...) by the power of this deed of all rights and courts municipal and all kinds of annual tax and fees, which would belong to our town". In this case, the town did not lose anything, because the original house of the lords of Hradec by this act lost its immunity to town law *de jure*; moreover, lord Jindřich "handed it over by the land tables (...) to the burgrave and council and all of the municipality".<sup>49</sup>

45 Národní archiv Praha, Archiv České koruny, no. 1596a – 1596c (original and two copies).

46 Národní archiv Praha, Desky zemské, sign. DZV 6, fol. K 14r – K 15v. TEIGE, *Základy*, vol. I–II., 668, no. 3.

47 Národní archiv Praha, Archiv České koruny, i.č. 1596a – 1596c.

48 Národní archiv Praha, České gubernium – guberniální listiny, no. 278, sign. L II 195. It is interesting that when the house was transferred to Markéta Kunšová two years earlier, no exemptions were mentioned. *Ibidem*, no. 265, sign. L II 189.

49 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 993/1, p. 156.

Similar documents, in which the town itself agreed to reduce its jurisdiction, have been preserved in a greater number from the Jagiellonian era. So, for instance, even the key bodies of the Old Town, that is the burgrave and town council, explicitly agreed with the exemption of the above-mentioned house U Pelikána. This is evidenced by a deed (again preserved in a copy) of 28 April 1455, in which they stated that the incriminated house “from itself and from our town and our futures forever we free and make free, as a manorial house and is exempted from all rights and courts of the town and any kind of annual tax, membership and fees which could pertain to our above-written town or by any name could belong or could be named, but that in the same freedom as other lordly houses from ancient times was in our town and remained”. At the same time, the representatives of the municipal self-government showed a very specific reason for their helpfulness – Lord Zajíc, like Novoměstský, forgave them customs duties in good faith when driving wine over the bridge from their vineyards behind the Lesser Town gates.<sup>50</sup>

The people of Old Town exempted another, neighbouring house of the lords of Házmburk (“Cotrovský”) from its laws on 18 November 1494, where they did so with a reference to the facts that Zajíc had sold them the customs in the gates of Lesser Town and that “the house of him, lord Zajíc, free and hereditary, but abandoned in the Lesser Town of Prague (...) to that he also added the market and released what has also placed in the land tables”. In this case, the councillors postponed the matter to the decision of the municipality, but the affair dragged on and the deed was only issued at the moment that Lord Zajíc addressed the council with a request that the matter be taken to its end or they return his abandoned intabulated house in Lesser Town.<sup>51</sup> Another preserved act is related to the house of the lords Švihovský of Rýzmbek, which the councillors exempted on 23 February 1492, being asked for “many and frequent reprimands” from the land judge, Lord Půta. However, in this case the councillors could not give any other reason than they did not want “to besiege in any way these freedoms, which the king His Grace had listed for His Grace in the deed on the already written house”.<sup>52</sup>

After all, even the earliest document of the exemption of the house of Jindřich Lefl of Lažany “ab om[ni]bus collect[is], steuris, losiungis, exoubiis et aliis contribut[io]nibus seu gruani[m]ibus” has been preserved in the form of a confirmation of the town council, dated 11 June 1418, although even here the basis was a royal privilege.<sup>53</sup> The question is how much the consent of the town itself was truly of necessary, constitutive moment. In 1539 the representatives of Kouřim with self-awareness state before the chamber court that “not even royal grace can make exempt from the best taxes of the town, not even in Prague can H[is] Grace free anything without the will of the municipality”,<sup>54</sup> but it is only possible to estimate how much this statement corresponded to reality.

Although the number of examples mentioned above is not overwhelming, it seems to be a clear testimony that the intabulation of Prague houses into the land tables became

50 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 993/1, p. 154; edition TEIGE, *Základy*, vol. I–II., 668, no. 4.

51 AHMP Praha, Sběrka rukopisů, sign. 993/1, p. 160.

52 AHMP Praha, Sběrka rukopisů, sign. 993/1, p. 159; edition TEIGE, *Základy*, vol. I–II., 399, no. 4. The house was rewritten in the town books in 1576, when the then noble owners sold it to the furrier Jan Pilát Rakovnický. *Ibidem*, 400, Nos. 5–6.

53 AHMP Praha, Sběrka rukopisů, sign. 993/1, p. 123.

54 Národní archiv Praha, Komorní soud, no. 70, fol. D 18, E 1. MACEK, *Jagellonský věk*, vols. 3–4, 122.

more and more common in the course of the second half of the fifteenth century. In the very first quatern of the renewed land tables from 1541–1542, there is an entire series of already relevant intabulations. These include transfers of ownership rights,<sup>55</sup> confirmations of earlier privileges,<sup>56</sup> an entry of a widow's dowry,<sup>57</sup> acceptance for lifetime use<sup>58</sup> or the assumption of holdings within the seizure phase of proceedings.<sup>59</sup> There is no reason to doubt that thorough and comprehensive research in the land tables could bring many pieces of important information concerning the intabulated houses on the soil of the towns of Prague, their histories and legal regimen,<sup>60</sup> but unfortunately precisely only from the time of the sixteenth century.

It must be added that exempted, intabulated houses were a phenomenon that was largely limited to the main land centres. Apart from the towns of Prague and Brno, they can be found in Opava to a small extent – the Opava duchy under the rule of the Přemyslids split from Moravia, the local law was very similar and land tables were kept here from the fifteenth century following the Moravian model. Already in the fourteenth century, aristocratic palaces were established on the grounds of the capital of a small duchy, serving the aristocracy as a background for court activities or for participating in the discussions of the land court hearings, while even here some of them completely emerged from the town's jurisdiction and were subsequently transferred precisely through land tables.<sup>61</sup> Houses not subject to municipal law can be assumed also in the

55 Národní archiv Praha, Desky zemské, sign. DZV 1, fol. A 9v a A 19v (sale of the house called Vápenice in Malá Strana first by Berka of Dubá to Jeroným Šlik, then by Jeroným Mořic Šlik), A 13v – A 14r (sale of the house called Petřín in Újezd by Jan Hořešovec Studeněveský of Libošín to Vice-Chancellor Burian Medek of Valdek by a contract of 1533), B 29v (sale of a house under the steps in Lesser Town by Zdeněk Lev of Rožmital to Vice-Chancellor Jiřík Žabka of Limberk by a contract of 1532), C 27v – C 28v (donation of a house against the Na Slovanech monastery in New Town to Píram Kapoun of Svojkov by the monarch, which fell to him by the finding of the land court after Píram's deceased brother Jaroslav).

56 Národní archiv Praha, Desky zemské, sign. DZV 1, fol. C 18r – C 18v (confirmation of the deed of Wenceslas IV and confirmations of kings George and Vladislaus on "krám přední postřihacký při kotcích soukenných a při něm sklep" [a leading cutting shop at the woollen cloth markets and a cellar next to it], issued by Ferdinand I to Martin Dačický of Vlkanov. Vladislaus' confirmation of 1498 was also inserted in Národní archiv Praha, Desky zemské, sign. DZV 3, fol. B 18r – B 18v).

57 Národní archiv Praha, Desky zemské, sign. DZV 1, fol. F 24r – F 24v (dowry by Jaroslav Vranovský of Valdek to his wife Juliana at the house next to the Holy Cross Hospital and the place in Prague's Old Town).

58 Národní archiv Praha, Desky zemské, sign. DZV 1, fol. F 10r – F 10v (Kateřina Kropáčová of Dráčov accepted her uncle Jan Kropáč of Dráčov for the duration of his life to jointly use the Hradešín manor and the free house in Prague's Old Town near the Church of Our Lady in Louže).

59 Národní archiv Praha, Desky zemské, sign. DZV 1, fol. E 14v – E 15r (binding in the house of Jeroným of Božie in Celetná Street in the Old Town of Prague).

60 It is also worth noting that property that was not subject to them could enter the land tables – so it was in the last will of Beatrix Bezdrůžická of Kolovrat, written on 8 March 1540 and only intabulated on 30 April 1541, and after the burning of the land tables again on 29 August 1541, which speaks of a house in Lesser Town, which, however, as arises from the context, was definitely not free. Národní archiv Praha, Desky zemské, sign. DZV 1, fol. A 4v – A 7v. At other times, the nobles were able to distinguish more consistently between table and municipal property – Cf. Mikuláš (the Younger) Trčka of Lípa and his last testament and contemporary entry in the town books. TEIGE, *Základy*, vols. I–II., pp. 431–432, nos. 14–15.

61 MÜLLER et al., *Opava*, 99–100, 147–148. As an example of the Opava situation, we can present the deed of King Vladislaus II from 6 April 1511, confirming some of the privileges of Václav Olšanský of Olšany, which this nobleman acquired a few years earlier from Vladislaus' brother Sigismund, then Duke of Opava and now King of Poland. The first of them concerned his home near the castle of Opava, which the younger Jagellonian "ode všech a všelijakých kšosuov [sic!], renthuov, berní, poplatkuov, mincgelduov a mírek i jiných všech dodatkuov osvobodil" [exempted from all and sundry municipal monetary fees, rents, tax, fees, minting fees and assessments and any and all additions]. According to the diction of the deed, however, the home had been held as free already by Olšanský's predecessor, Albrecht Kavan of Dědibaby. The original confirmation of Vladislaus

residential towns of the individual Silesian principalities, but their registration was not on a corresponding level due to the absence of the institute of land tables and thus so far have escaped the field of view of historiography to a significant degree.<sup>62</sup>

On the other hand, houses governed by the land tables or at least exempted from town law could appear also in other royal towns. Proof of this is a contract by which Kateřina Lokšanová of Adlar in 1551 sold to the township Kašperské Hory, "a free house with all of its affiliations and exemptions, nothing missing", along with another house "under annual tax", the courtyard Homolov, two mills and half of a third and undertook that "whatever was first in the tables, placed in the land tables, that was then not in the tables, it all the lady with the relevant entries would ensure and have cleaned".<sup>63</sup> Houses in chamber and manorial towns could enjoy similar real exemption, but they understandably were not subject to land law but the sovereign or some other manorial lord.<sup>64</sup>

However, houses that were granted immunity and that completely deviated from municipal law were also an obvious minority in the land metropolises. The question is how much their number increased over time – the surviving sources have not been subjected to a thorough analysis in this regard, but partial outputs allow the trend of aristocratic property expansion and growth in the number of exemptions to be assumed. The situation was similar in Poland, where in some localities the mass exemption of aristocratic real estate led to the emergence of so-called *jurydyka*, Latin *irudicus*, thus legally autonomous areas, which were sometimes in the suburbs, but other times directly in the central areas of the town organisms.<sup>65</sup> An extreme case is the royal deed which in 1492 exempted all of the aristocratic real estate in Hungarian Pest from joint taxation in a blanket fashion.<sup>66</sup>

In 1562, 208 aristocratic houses (houses exempt or subject to annual tax are not distinguished between here) of a total of 2,918, of which 84 in Old Town, were

is deposited in the Zemský archiv Opava, Jezuité Opava, sign. K 2, no. 3. The later, post-White Mountain period was focused on in the studies by MAŠITOVÁ, *Opava*, 233–242. MAŠITOVÁ, *Raně novověká Opava*, 393–401.

62 In Wrocław in the 1410s, the aristocracy comprised roughly 2.5 % of the population, which is certainly a very high proportion. MALECZYŃSKI, *Dzieje*, 86f. The aristocratic holding of homes was also relatively widespread in Świdnica in the Middle Ages, as shown by the study by GOLIŃSKI, *Rycerstwo*, 165–172. However, the author did not pay particular attention to its legal context and especially to the question of whether and to what extent exemptions from town law may have appeared within the collected material.

63 The original of the contract is in the Státní oblastní archiv Plzeň, Archiv města Kašperské Hory, sign. L 23. A copy is also in the Národní archiv Praha, České gubernium – guberniální listiny, no. 1851, sign. L II 1415.

64 An example is the case from Šternberk in Moravia, where Jan Berka of Dubá and his wife Ludmila of Kravaře donated a house with a garden to their servant to be "mocně držal a svobodně požíval až do své smrti beze všech podávek, činží, robot i hlásek všelijakých" ["able to hold and freely use until his death without all taxes, rent, corvee labour and declarations of all sorts"]. The free holding was to continue even for Jakub's heirs, but Berka and his spouse reserved the possibility to purchase the house from those heirs for a price of 30 hryvnias (unit in Silesia numbering 48) of groschen. GROSS, *Listina*, 52–53. Stated also for the Rožmberk dominion by ŠÍMŮNEK, *Správní systém*, 424, that the research conducted "v zásadě potvrdil tradiční tezi o osvobození šlechtických nemovitostí od lozunky" [in essence confirmed the traditional theses on the exemption of aristocratic real estate from "lozunek" – annual tax paid to a town].

65 For more detail, see BOGUČKA – SAMSONOWICZ, *Dzieje*, 494–500.

66 For the first time in 1563 the Hungarian diet connected the right of the aristocrats to acquire homes in royal towns with the obligation to share the same burden with the non-noble owners. Cf. MILLER, *Uzavřená společnost*, 153.

registered for tax purposes in Prague.<sup>67</sup> The preserved manuscript list of aristocratic houses from 1644 counts for the first time 86 houses subject to annual tax, the number of intabulated houses in Old Town was then closed at the number 14 (of which 7 were in the quarter Týnská, 5 in Linhartská and 2 in Havelská).<sup>68</sup> The comprehensive census of 1653 then presents in summary for all of the Prague towns 110 intabulated and 285 "manorial" (i.e., aristocratic subject to the annual tax) houses, while the relatively high share of exempt houses is due to the situation in Malá Strana and Hradčany, where these buildings predominated within the aristocratic real estate. In Old Town, there were then 20 intabulated houses and 88 subject to annual tax.<sup>69</sup> In general, it can be considered that despite a small rise of the relevant numbers for the entire period before White Mountain, there was a total number of aristocratic houses in Prague in the order of a few hundreds and of them at most about one hundred were exempted. In Brno, it was possible to count roughly 60 aristocratic houses at the same time, while in Olomouc there were up to 50.<sup>70</sup> Of those in Brno, only nine were registered in the land tables,<sup>71</sup> and it is not possible to prove this type of holding at all in Olomouc. At the same time, it should be mentioned that there were great differences even among the intabulated houses, at least in terms of size and grandeur, and not all of them can be included in the elite category of aristocratic palaces.<sup>72</sup>

#### The nature of disputes related to aristocratic possession of burgher houses

At the same time, there is further consideration of how immense the divide between intabulated houses and those subject to annual tax was in fact. From the above examples it is clear that the privileges granted to the owners of individual buildings went completely or at least decisively to the economic area and relieved them and their legal successors of the obligation to pay cash benefits to the town (especially participation in the town tax), or to participate in actions for the benefit of the whole community. However, from the point of view of the urban economy, these immunities certainly did not represent anything fatal. If in the contract between the Moravian nobility and the towns in 1486 there was a demand that no aristocratic owner of town houses "ask the king H[is] G[race] or the Margrave or the lord of the land for any exemptions for these

67 Specifically in 1562, it was 208 of a total of 2,918. Other detailed data coming from 1605 are unfortunately entirely unreliable. For more, see DVORSKÝ, *O počtu*, 484–487.

68 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 327, fol. 415r – 417r ("Poznamenání domův šosovních knihami městskými Starého Města pražského se řídících, jichž osoby stavu vyššího na ten čas v držení jsou Léta Páně 1644. 1. Augusti" ["Marking of houses by the tax town books in the governance of the Old Town of Prague, which are in the holding of persons of higher status for the time in the Year of Our Lord 1644. 1 August"]) and 417v – 418r ("Domové dskami se řídící v Starém Městě pražském ležící, jichž osoby z stavu vyššího na ten čas v držení jsou" ["Houses with tables in governance lying in the Old Town of Prague, whose person are from the higher estate at this time"]).

69 DVORSKÝ, *O počtu*, 487–494. The situation in the individual districts of Prague was as follows: Old Town 20 table houses and 88 manorial, Nové Město 18 and 152, Malá Strana 45 and 23, Hradčany 27 and 22.

70 JORDÁNKOVÁ – SULITKOVÁ, *Šlechta*, 171, or EIDEM, *Domy*, 121, presenting 50–70 aristocratic houses for Brno in the early modern period. See also MILLER, *Uzavřená společnost*, 164, where the same data related to Olomouc can be found.

71 JORDÁNKOVÁ – SULITKOVÁ, *Domy*, 118–119.

72 On them in general, see, e.g., LEDVINKA, *Rezidenční města*, 119–124. Here (p. 122) there is also a note on the curious case of the palace of the Smiřický family, created by joining two houses, one of which was in tables and the other subject to town law.

houses outside of town law”,<sup>73</sup> it was probably much more than a fear of non-fulfilment of the town’s coffers that caused dislike for these exemptions, which undesirably and quite obviously disturbed the homogeneity of the urban milieu.

In this context, it is possible to cite also a request which the representative of the people of Hradčany addressed to Rudolph II in 1605, who were instructed on behalf of the monarch to have their town “as the closest to the court of Y[our] I[mperial] G[race], where Y[our] I[mperial] G[race] has his residence, in these dangerous times, and with a lot of the setting of fires and breaking into houses and causing considerable damage to the people, provide a night watch”. The people of Hradčany fulfilled the order and assured a night watch through a watchman and the reeve. At the same time, however, they pointed out that there were not enough burghers, among them also “needy”, and on the contrary they had numerous houses there and “larger estates” belonging to the higher estates and clergy, who “consider” them “to be exempt”. They therefore saw the solution in that “to help maintain the night watch” also the holders of exempt houses would contribute two Rhinish guilders each year, “in order to maintain equality”.<sup>74</sup> It is this reference to the principle of equality that should probably be considered the main motive for the whole initiative, which, however, most likely did not lead to a positive result.

To this it can be added that the enforcement of obligations connected with the houses subject to annual tax that belonged to the nobles was clearly one of those areas where the practical enforcement of the law to a large extent failed. The normative situation was clear: according to the privilege of King John of 1330, all secular and spiritual inhabitants, who have houses, courtyards, goods and prebends (except for the owners of exempt houses) inside of the town walls, were to contribute to the tax in Old Town,<sup>75</sup> and Wenceslas II had similarly enacted absolute equality between the burghers and nobles as holders of houses subject to annual tax in town tax issues for Brno already in 1292.<sup>76</sup> The next decades and centuries did not change anything in this quite natural concept. King Vladislaus’ statement of 1502 was also based on the prediction that nobles should fulfil the same obligations towards the town as its other, common residents,<sup>77</sup> and very similar are the relevant rules formulated in the St Wenceslas Treaty, a compromise agreed between the nobility and the towns from 1517.<sup>78</sup>

However, numerous sources show that many nobles did not fulfil their obligations (in some cases, it would probably be possible to speak of non-compliance) without the town authorities being able to take action effectively. Of course, the fact that in many cases the fulfilment of all duties related to the holding of the house was the

73 PALACKÝ, *Archiv*, vol. V., 428–431, no. 33; the incorrect date is amended in KALOUSEK, *Archiv*, vol. X., 295, no. 57. The contract was subsequently confirmed in 1493 by King Vladislaus and later also adopted into the Moravian Land Constitution. PALACKÝ, *Archiv*, vol. V., 450–452, no. 44. ČÁDA, *Zemské zřízení*, 161–168, Art. 135. JANIŠOVÁ, *Zřízení*, 421–425, Art. 183. Cf. also JANIŠOVÁ – JANIŠ, *Komentář*, volume II, 595–609.

74 Národní archiv Praha, Stará manipulace, sign. P 124/87, kart. 1861.

75 ČELAKOVSKÝ, *Codex*, Tomus I., 32–35, no. 17.

76 BOČEK, *Codex*, Tomus IV., 385–387, no. 303.

77 The testament, the text of which was preserved also in Národní archiv Praha, Desky zemské, sign. DZV 3, fol. A 12r – A 22r, was published in PALACKÝ, *Archiv*, vol. VI., 249–264, no. 18.

78 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 270, Art. 3.

subject of an individual promise in the towns of the nobles who newly purchased did not change anything.<sup>79</sup>

The aristocrats swore these oaths in their “acceptance” into the town, with which among others already the privilege of Wenceslas IV counted for Prague’s Old Town from 24 June 1410.<sup>80</sup> In connection with a two-year exemption from the town tax, the monarch granted the city government the right to receive into the city lords, yeomen and squires who need their protection, and to collect a tenth of their incomes for the exempted landed goods for this protection.<sup>81</sup> It is a question whether this privilege ever reached its practical application, or rather was an attempt to transfer to Bohemia the privilege that some imperial cities had gained.<sup>82</sup> However, the admission of aristocratic people to the towns demonstrably proved to be a good thing, and no doubt there was a rather obvious trace in the archival material. It is possible to point to randomly, for instance, the Book of Burgher Rights, Wedding Contracts and Testament Confirmations of the Old Town of Prague for 1518–1552, on the pages of which many noble names appear in the long list of accepted persons among the merchants and craftsmen, namely even from the manorial estate. So, Smil of Landštejn “accepted town law” in 1519, followed in 1520 by Václav of Vartenberk, in 1523 by Arnošt Černčický of Kácov, then a year later even by one of the highest land officials – Under-Chamberlain (Latin *subcamerarius*) Jakub Kyšperský of Vřesovice.<sup>83</sup> There were also many noblewomen among those admitted.<sup>84</sup>

Naturally, it is the case that the “acceptance of town law” cannot be understood in any case as the person in question lowering their own status or voluntarily relinquishing privileges provided to them by land law.<sup>85</sup> Unlike the opposite processes, i.e., admission to the knighthood or lordship,<sup>86</sup> this was by no means a standard transition ritual. The actors of this “acceptance” only expressed their subordination to town law of the house they had purchased in its district. There was no talk of “acceptance” in other towns, but the content of the commitments did not differ significantly – at random it is possible to point to the promises of members of the family Anděl of Ronovec, who in the second half of the sixteenth century became involved in the royal town of Chrudim through property.<sup>87</sup>

79 The text of the acknowledgment deed, submitted by the aristocratic inhabitants of the New Town of Prague, was already printed by WINTR, *Kulturní obraz*, vol. I., 122.

80 However, reception can be found in the Old Town as early as the fourteenth century, although it was probably still limited to nobles who were willing to assimilate completely into the urban milieu. See more in MUSÍLEK, *Šlechtické domy*, 223.

81 ČELAKOVSKÝ, *Codex*, Tomus I., 204–206, no. 128.

82 NOVÝ, *Šlechtická rezidence*, 17.

83 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 534, fol. A 3r, A 5r, A 13v, B 2v.

84 1520 – Anna of Kopydlno, 1521 – Johana Berková of Dubá, 1522 – Eliška Veletická of Vartenberk, etc. Archiv hlavního města Prahy, Sběrka rukopisů, sign. 534, fol. A6v, A 8r, A 12v.

85 It does not seem that it was the case in Bohemia that “přijetí městského práva šlechticem mohlo být vnímáno jako znak společenské degradace” [adoption of town law by an aristocrat could be perceived as a sign of social degradation], as stated by MILLER, *Uzavřená společnost*, 157.

86 For more, see especially KLECANDA, *Přijímání*, 1–125. STARÝ, *Rytíři*, 240–278.

87 RICHTER, *Majetková držba*, 159, no. 7 (“z to[h]o do[m]u všecy povin[n]osti a platy z to[h]o do[m]u platiti i berně a daně, buďto královské anebo obecní, podle svolení vší obce podstupovati” [From this house all duties and payments from this house are subject to the payment of taxes and fees, whether royal or municipal, subject to the consent of the whole municipality]), 162, no. 12 (“všecy platy a povin[n]osti z toho domu platiti, berně, šosy, sumy, ponucky i všecy daně, buďto jeho [mil]o[s]tí císařského, neb obecní, podle svolení vší obce



However, this willingness often subsided once the entry was made into the town book (or another legally relevant event of similar importance) and the nobleman assumed the property without resistance.<sup>88</sup> So, the town council in Brno already in the fourteenth century “tried to register aristocratic holding and charge for their houses, which, however, as the same entries show, the nobles mostly ignored”.<sup>89</sup> The towns complained about the non-payment of fees to the municipality and *bona fabricae* (a fund for repairs and the public good) at the diet in 1502.<sup>90</sup> In the same year, a relatively laconic entry was made in the commemorative book of the New Town of Prague, eloquently drawing attention to the same problem and the possibility of its solution (“Item they do not want to pay from the manorial houses to the municipalities that, to be held in the right way, or pay, or sell. And market masters, do not allow others who do not want to pay”).<sup>91</sup> Thirty years later and the same book states that the aristocratic holders of houses “do not make order as to the town tax, help with the town”.<sup>92</sup> Entries which indicate the unfulfillment of obligations on the part of aristocratic residents, if they are contributions for students and hospitals, are still a common phenomenon at the end of the sixteenth century in the Old Town.<sup>93</sup>

Under the reign of Rudolph II in Moravia, the highest land officials and justices of the land court tried to achieve complete exemption for their Brno and Olomouc houses from the town fees. They argued that they had bought the houses expensively because of the facilities for the time of the land diets and courts and that, apart from their stay due to official matters, which they perform free of charge, they were of no use to them.<sup>94</sup>

However, it was far from just the main land towns; complaints about non-payment are also heard from many other localities. At random, it is possible to point out the unhappy conditions in the manorial and later chamber town of Pardubice, where town officials noted in one of the books for the commemoration and justification of the follow-up measure that many knights do not pay taxes, skimp with invectives and threats of the town tax collectors and otherwise act like very unadaptable people.<sup>95</sup>

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vykonávati jako jiní sousedé bez odporu všelikého” [All the payments and duties from this house shall be paid, the tax, the annual tax to the town, the sums, forced taxes, and all the taxes, whether of his imperial grace or the municipality, according to the consent of all of the community done as the other neighbours without any resistance]).

88 It was fittingly stated by WINTR, *Kulturní obraz*, vol. I., 122, that the oath of the aristocrat to the town comprised of roughly ten obligations and that “bývalo skoro zvykem z toho desatera neplnit ani jediného kusu” [it was almost a custom not to fulfil a single one of these ten items].

89 JORDÁNKOVÁ – SULITKOVÁ, *Domy*, 115–132.

90 PALACKÝ, *Archiv*, vol. VI., 238–243, no. 17/1 (“Také že z nich nechťi podle jiných ni k obci, ni k záduší co činiti” [Also, they don’t want to do anything like the others neither to the municipality, nor to bona fabricae]).

91 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 989, fol. 342r.

92 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 989, fol. 350v.

93 WINTR, *Kulturní obraz*, vol. I., 123.

94 The request, which was printed by KAMENÍČEK, *Zemské sněmy*, vol. III, 673–674, no. 58, was formally signed by all the estates convoked at the diet, but it arises from the context that the exemption was to concern especially, (and rather precisely only) the land officials and judges.

95 SMOLÍK, *Šlechtické rodiny usedlé v Pardubicích*, 22 (“povinnosti městských nezastávají, ani také domů a dvorů svých pod šos náležejících nad to výše poplatků JMC i obecních časné neplatí a neodvozují, tak že z nich někteří dvoje i troje gruntovní peníze, ano i úroků a berní JMC po několik dávno vyšších termínů jsou zaseděli, a když sousedé naši, kteréž za výběrčí těch daní mezi sebou volíme, k nim do domu, aby za grunt k obci aneb k ruce městským sirotkům peníze i jiný od JMC na město uložený poplatek odvedli, přijdouce ve vsi náležité uctivosti žádají, dosti posměšně je z domů svých odbývají, a chlapův, troubův i jinak vymyšlené k potupě úřadu konšelskému JMC i všem obyvatelům města Pardubic nadávajíc nectně haní, křičí a místo záplaty s kordy se

Indirectly but eloquently, the limited possibilities of the town administration to force aristocratic residents to fulfil their legal obligations are also indicated by the undated list of Old Town houses, which was created sometime in the early seventeenth century. According to the title by which it is presented, it is a list of houses from which the people of Prague are not able to collect town tax, contributions, defence or other taxes and with which it must therefore be officially verified whether for it the lords, knights or clergy pay the relevant financial obligations otherwise than through the town bodies.<sup>96</sup> Given that the list includes a total of 90 houses, it is certain that it had to have been a large part of the properties subject to town tax.

There were several means by which towns could defend themselves against difficult and maladapted neighbours of noble descent, but their effectiveness was – as indicated above – at least problematic. The most extreme, which the town would use especially in the politically explosive times of the Jagiellonian era, was the complete rejection of aristocratic purchasing in towns. Administratively, this was not a problem, as all transfers of ownership of real estate were registered by the municipal authorities by default and had no legal relevance without entry in the town books.<sup>97</sup>

Its proof is mainly the complaint of the knight estate on the towns, formulated in 1479 – in which in one of the first places there appears the reproach that “they do not want to register the houses to yeomen in the towns”.<sup>98</sup> The same complaint appeared in 1502 as well.<sup>99</sup> That Moravia was not spared similar tendencies, where relations between the estates were less tense, is evident from the above-cited treaty of 1486. This ban on the purchase of burgher houses and the reluctance of burghers to defend their rights in the land court contrasted with obstruction by the aristocracy, which,

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na ně potrhují“ [Municipal duties do not stop nor are their houses and courtyards subject to annual town fees over the amount of the fees of His Imperial Majesty and municipal fees do not pay and recover in time, so that some two or three plot monies, yes, interest and tax HIM for several missed terms are settled, and when our neighbours, whom we elect among ourselves as collectors of those taxes, come to ask in all due respect at their house, to pay the plot tax to the town or money to the hands of the town orphans and other fees set for the town by HIM, they quite ridicule them as they lead them from their houses, and calls of boys, nitwits and others devised to the disgrace of the office of the councillor of HIM and all the inhabitants of the city of Pardubice swear dishonestly, shout and sometimes with mending by swords they tear at them]).

96 Národní archiv Praha, Stará manipulace, sign. P 124/5, kart. 1852, fol. 263 (“Domové stavův panského, rytířského, též i duchovního v Starém Městě pražském. Pražané jak berní, contribucí domovní, defensí z kominův, též i jiných všelijakých zbírek dostávají a odvozovati nemohou, a protož je tuto předně v jedné každé čtvrti poznamenané podávají, aby se při úřadě berničném vyhledati mohlo, jak se týž stavové z nadepsaných domův přiznávají“) [The houses of the estates of lords, knights or clericals in Prague’s Old Town, both tax, home contribution, defences from chimneys, also other various collections received and paid cannot (pay) and that is why it is presented in the first place in each of the districts, so that it can be ascertained at the customs office, as the same estate is admitted from the registered homes]).

97 Cf., e.g., a clear regulation from 1497 in New Town’s commemorative book, deposited in the Archiv hlavního města Prahy, Sběrka rukopisů, sign. 989, fol. 341r (“kdo by koli duom kúpil a trhu do třetího dne před panem purkmistrem neoznámil, ten trh aby zdvižen byl“ [whoever bought a house and did not announce the trade by the third day before the mayor, the trade is to be lifted]).

98 PALACKÝ, *Archiv*, vol. V., 393–395, no. 17. František Palacký, who issued the document, labelled it as “Stížnosti stavu panského a rytířského proti městům“ [Complaint of the lord and knight estates against the towns]. However, it is certainly necessary to agree with the interpretation to which the author tended in MACEK, *Jagellonský věk*, vols. 3–4, 327, because these articles of complaint were formulated only by members of the lower nobility.

99 PALACKÝ, *Archiv*, vol. VI., 245–247, no. 17/3. In their response, the towns objected that their reluctance was not directed towards anyone who was ready to take over a town’s real estate and the obligations associated with it, and the arbitration statement of King Vladislaus was also in this spirit. *Ibidem*, 247–248, no. 17/4; 249–264, no. 18.

on the contrary, was to prevent the intabulation of real estates for towns in the land tables.<sup>100</sup>

The resistance to the acceptance of aristocrats into the town, however, could have arisen at a later time in specific cases. So, in 1581, the Pardubice town administration banned the sale or exchange of houses to noble persons, referring to long-term bad experiences ("for many reasons, long experienced and unbearable"), written out in detail in the relevant entry. The ban was even connected with a specific fine of 20 threescores of Meissen groschen.<sup>101</sup> To a certain extent, a somewhat similar position was taken at the beginning of the seventeenth century by the town council in Jindřichův Hradec, already belonging to the Slavata family at that time, when it was protected by tradition – knightly applicants had allegedly not been satisfied in these matters even in the past (but they were not prevented from assuming an inheritance in the town).<sup>102</sup> At other times, the reluctance could be directed only towards a specific person, such as in 1550 on the part of Hradec Králové towards Václav Sadovský of Sloupno, or Friedrich of Vlkánov.<sup>103</sup>

A remarkable means by which aristocratic residents, on the other hand, expressed their dislike for the urban milieu was a kind of "lack of care" for their houses, which, thanks to their rapid decay, could become an unmissable stain on the face of the city in question. If in 1500 Petr Pašiněveský of Trojanovice threatened that he would destroy his house ("kill around and leave abandoned"),<sup>104</sup> it was not an exceptional excess by any means. This is evidenced by another of the town's complaints in the diet in 1502, which shows that it was a relatively widespread scandal.<sup>105</sup> Although overall Vladislaus II was very reserved about the demands of the towns, in this case he showed a kinder face when his testimony showed that cities could order maintenance in the case of houses subject to town tax, and even in the case of exempt houses he did not rule out towns trying to seek redress by law.<sup>106</sup> However, this kindness was probably just a response to the fact that a similar solution had crystallized long before in Moravia. Here it was contained in the estates' agreement of 1486, which gave the towns the right to demand redress, or to apply for the aristocratic property in the town by means of seizure.<sup>107</sup> From a legal point of view, it can be noted that this is a manifestation of the conflict between private law (freedom of ownership, including the right not to

100 PALACKÝ, *Archiv*, vol. V., 428–431, no. 33.

101 SMOLÍK, *Šlechtické rodiny usedlé v Pardubicích*, 22.

102 WINTR, *Kulturní obraz*, vol. I., 127 ("sou toho při předcích našich mnozí starožitní stavu rytířského vyhledávali, ale toho nikdá užítí nemohli, než ti, kteří sou domy zdědili" [Many of the antique knights sought it out from our ancestors, but they could never enjoy it, except those who inherited their houses]).

103 WINTR, *Kulturní obraz*, vol. I., 127. ŠVENDA, *Druhý železný obraz*, vol. IV., 112.

104 VÁVRA, *Dějiny*, vol. I, 78–79.

105 PALACKÝ, *Archiv*, vol. VI., 238–243, no. 17/1 ("kterak někteří z pánuov a z rytířstva, kteří domy své budto v městech pražských, budto v jiných městech mají, že těch domuov neopravují, ale jim se bořiti dopouštějí" [Some of the lords and knights who have their houses either in the towns of Prague or in other towns do not repair those houses, but commit to their demolition]). In this context, the cities asked the monarch to order the nobles in question either to repair the houses or to sell them.

106 PALACKÝ, *Archiv*, vol. VI., 249–264, no. 18.

107 PALACKÝ, *Archiv*, vol. V., 428–432, no. 33 ("Také jestližebý pán neb rytířstvo, který duom držé, toho domu netbal a opuštěl, má napomenut býti, aby stavil; a jestližebý nestavěl a duom opuštěl (...) muož jemu k tomu domu saženo býti podle práva města" [Also, if the lord or knight who holds the house does not take care of this house or abandoned it, has to be reminded to build; and if he did not build and abandoned the house (...) his property might be touched]).

care about the property) and public (the interest of the urban community in the visual quality of the environment and, potentially, public safety, which could be endangered by statically unreliable structures).

The mutual legal relations between the noble and town estates, as well as political disputes between the nobility and the towns in general, were to be resolved by the so-called St Wenceslas Treaty, agreed at the land diet in 1517.<sup>108</sup> A legal-historical analysis of this source of law has been carried out in the past,<sup>109</sup> but it does not seem unnecessary to draw attention to those provisions which most affected the life of the nobility in towns and which to some extent confirm through testimony where conflicts were most common. At the same time, it is unfortunately necessary to state that the laboriously agreed rules certainly did not stand out with absolute clarity and left more than one controversial moment for future application.

The very first article of the St Wenceslas Treaty concerned the recognition of the partial jurisdiction of municipal courts over aristocratic persons who owned a house subject to town tax in the town. Specifically, all disputes concerning such a non-exempt house were to be resolved here, as well as concerning all movable property that was subject to this house and the town law that applied to it ("still belonging under town tax"). Finally, the nobles were also to be held liable (implicitly, but only if the creditor was a burgher), but with two exceptions: first, debts secured by encampment or hostages, and second, sealed promissory notes with a power of a main deed.<sup>110</sup> Special provisions were adopted considering aristocratic debts with craftsmen and merchants. These were to be resolved before the regional governors (*hejtmans*), and if the nobleman acknowledged them or was sentenced by the governors to pay, the creditors could seize his belongings, but only up to the value of five threescore of Bohemian groschen.<sup>111</sup>

As stated above, the St Wenceslas Treaty also reaffirmed, in line with legal developments to date, the obligation of lordly and knightly owners to perform all the usual duties of their houses subject to town tax, i.e., to "suffer with the town". The only exception to this general rule applied in relation to the municipal offices, which only those nobles who operated a business or trade in the town were obliged to accept, i.e., those who more or less completely assimilated into the urban milieu. On the contrary, nobles holding an estate at an adequate distance had the right to freely decide whether to assume the office or reject it.<sup>112</sup>

108 Already in 1517, this contract was published in the press, twice. The first print is preserved in a single copy, stored in the National Library of Prague, sign. 65 E 8155. The exemplar of the second print, found in the Lobkowicz Library in the nineteenth century, has been lost. See KREUZ, *Edice*, 269. The text of the contract is accessible along with the land constitutions from the sixteenth century in JIREČEK – JIREČEK, *Codex*, Tomi IV. pars 1. sectio I., 91–104, and a high-quality modern edition was compiled by KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 267–284.

109 MALÝ, *Svatováclavská smlouva*, 195–222. A popularization work that focuses more on the political battles that led to the creation of the contract is that by FRANČEK, *24. 10. 1517*, where the text of the contract is also accessible on pp. 91–114. However, its commentary was not overlooked even by basic synthetic works, see, e.g., MACEK, *Jagellonský věk*, vols. 3–4, 359–372.

110 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 269–270, Art. 1.

111 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 272–273, Art. 9. For the sake of interest, it can be added that in Koldin's Rights, sequestration is already envisaged only for a recognized debt. MALÝ et al., *Práva*, 551, Art. L XXXII. See in more detail also KLABOUCH, *K dějinám*, 217.

112 It should be noted here that a certain number of politically active knights certainly did not oppose the possibility of engagement in the town administration. This is evidenced by the already cited complaints from

In the same article, it was emphasized once again that all of the legal actions concerning a house or other property subject to town tax were to be heard before the municipal court.<sup>113</sup> It was somewhat superfluous in the following article to demonstratively repeat that this jurisdiction applies to all plots of land, meadows, vineyards, orchards, gardens, hop gardens, sedge-peat meadows, rivers, streams, mountains, forests, islands, ponds and meadows, as long as they are subject to town law.<sup>114</sup> With regard to movables, the personal property of aristocratic persons was excluded from the scope of town law, while disputes about others were to be brought before the municipal courts.<sup>115</sup> In fact, only the latter example was really of normative significance, all other provisions on the jurisdiction of municipal courts being fully duplicative of the principles incorporated in the introductory article.

In the area of property law, the subordination of the nobles to the municipal court was *de jure* relatively extensive (much less, of course, in cases where the property in question was registered in the tables or enjoyed an exemption for another reason). In other disputes, however, the obligation of the nobles to submit to the town's jurisdiction was much more limited. This was typically the case in honour disputes. The nobleman, as the perpetrator of the insult before the municipal court, did not belong there. On the contrary, if he was offended by a burgher, he was to turn to the burgomaster and councillors, but if the defendant did not confess and did not submit without further proceedings, the case was transferred to the land or chamber court. Only the execution of the decision found elsewhere was reserved for the municipal authorities.<sup>116</sup> In capital cases, aristocrats were to be held accountable only before the land court<sup>117</sup> and the most general conflict rule, applied in the alternative where there was no special regulation, provided that if the nobleman was to be the defendant it was necessary to turn with the petition to the land court or the chamber court.<sup>118</sup>

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1479, in which there was a warning that the knights had previously been called to the position of (royal) reeves – this statement implicitly contains a complaint that this practice had passed out of use. PALACKÝ, *Archiv*, vol. V. 393–395, no. 17 (“Item, že prve lidé rytieřští v městech na svobodných královských rychtách bývali” [Item, that first, knights used to be free royal reeves in towns]). This accusation was again elaborated in the materials to the land diet from 1502. PALACKÝ, *Archiv*, vol. VI., 245–247, no. 17/3 (“Item, prve na rychtách v městech bývali rytieřští lidé, kteříž ku potřebě V[áši] K[rálovské] M[ilosti] i tudiež zemské na čtyry sta koní mohli mieti; a již oni ty rychty sami všecky drží” [Item, first knights used to be reeves in towns, who for the need of Your Royal Grace and the land could have four hundred horses; and they already hold all those magistrates themselves]). As an interesting marginality on this topic, we can draw attention to the letter of Jan of Pernštejn from 1538, already mentioned by KAMENÍČEK, *Zemské sněmy*, vol. III, 109–110, according to whom the knights who resided in Velké Meziříčí and did not want to take municipal offices on themselves were not to take use of the municipal property. Similarly, at the request of the representatives of the town of Nosislav, Pernštejn issued a charter in 1546, in which he emphasized that knights established in the town must fulfil all the usual duties, but are not obliged to accept the town offices on their shoulders. KALOUSEK, *Archiv*, vol. XX., 497, no. 498. That non-wealthy nobles at the turn of the sixteenth century became councillors and members of the council of elders is proved, in addition to the example of the above-mentioned Řehoř Boňanovský of Bitýška, e.g., the gloss in VÁVRA, *Dějiny*, vol. I., p. 78.

113 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 270, Art. 3.

114 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 270–271, Art. 4.

115 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 271, Art. 5.

116 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 271–272, Art. 8. Cf., what is presented on the disputes over honour in PORÁK – KAŠPAR, *Ze Starých letopisů*, 277.

117 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 271, Art. 6. Here is referred to the “finding of Emperor Charles”, which was also adopted in the Land Constitution from 1500. *Ibidem*, 232, Art. 455.

118 KREUZ – MARTINOVSKÝ, *Vladislavské zřízení*, 274, Art. 16.

It is, however, necessary to warn that from the point of view of disciplinatio, the setting of jurisdiction was an important, but certainly not all-inclusive aspect, because litigation is an extreme means of signalling that the common forms of the regulation of social relations have failed. From the point of view of everyday life in the town, police powers were much more important, and it was here that the possibilities of the town authorities in relation to aristocratic houses were considerably limited. And this was true for real estate whether exempt or subject to town tax.

After the conflicts of the turn of the sixteenth century subsided, in which the towns did not hesitate to send detained aristocratic perpetrators to execution, even for torture,<sup>119</sup> the right of towns to restrict the personal freedom of noble persons was consistently rejected in the advanced sixteenth century.<sup>120</sup> In Moravia, the inviolability of the nobles by the town authorities was confirmed by a statement of Ferdinand I of 1539: the towns could only accept the commitment of the honour and faith of the guilty nobleman to stand before the land court.<sup>121</sup> Only a practical problem connected with the fact that some delinquents did not have to take the appropriate oath led to the Land Diet of 1565 allowing such persons to be detained and imprisoned at the town hall. Nevertheless, the land governor should always have been informed immediately and he should then have decided on the next step.<sup>122</sup> From the Bohemian milieu, it is possible to recall the example of Jindřich Štampach of Štampach, who was imprisoned in 1532 by the people of Kadaň when he refused to make an obligation to do so after a bloody brawl. In the finale, however, he was relieved of all responsibility, because by his imprisonment the burghers had exceeded the possibilities that the valid law gave them.<sup>123</sup>

The personal freedom of the nobles was very close to the inviolability of their homes.<sup>124</sup> The entry of tax collectors or other persons embodying the town's authority into the aristocratic house was inevitably a moment of conflict, which could be associated with a very probable threat of violating the noble's bodily integrity. In the

119 A notorious example is the beheading of Jan Kopidlanský of Kopidlno, whose brother Jiří then powerfully terrorized (not only) the Prague towns for several years. Before his execution in 1507, an impoverished member of the lord estate, Jan Bavůrek of Švamberk, underwent a painful interrogation, which led the Bohemian nobility to an entry, promising immediate revenge on the towns ("without any declaration of a vendetta"), if they acted in a similar way against other noble persons without these having been heard by the land court. On the case of Bavůrek, see more in JÁNSKÝ, *Páni*, 199–207, the entry from 1507 is in PALACKÝ, *Archiv*, vol. VI., 346–347, no. 67. MACEK, *Jagellonský věk*, vol. 3–4, 328, stated that at the time of the wars between the nobility and the towns, 16 aristocrats were executed in the towns according to incomplete reports. The aristocratic complaints from 1479 and 1502 also concern the illegal (at least from their point of view) restriction of the personal exemption of the nobles. PALACKÝ, *Archiv*, vol. V., 393–395, no. 17 ("Item, když některá puotka v městě, tehdy dobrého člověka vsadie, ježto to býti nemá" [Item, when some dispute in the town, then a good person is imprisoned, which should not be]); PALACKÝ, *Archiv*, vol. VI., 245–247, no. 17/3 ("Item, která puotka v městě trefí se tak, že z našich stavuov sami se oč v městě pohodnú, tehdy oni ty osoby vsázejí, a nebo je treskati chtí, ježto jest ta věc V[áš]í K[rálovské] M[ilosti] a neb pánuov súdčí v zemi" [Item, which a dispute in the town hits so that our estate itself is not comfortable in the town, these people are imprisoned or are punished which is a thing of Your Royal Grace or the lord judges in the land]).

120 It was enshrined in the testimony of King Vladislaus II of 1502. PALACKÝ, *Archiv*, vol. VI., 249–264, no. 18. See also WINTR, *Kulturní obraz*, vol. I., 98.

121 KAMENÍČEK, *Zemské sněmy*, vol. III, 579–580, no. 10.

122 KAMENÍČEK, *Zemské sněmy*, vol. III, 153.

123 WINTR, *Kulturní obraz*, vol. I., 118.

124 On the "manorial right", excluding the violent entry of a reeve into a house has already been written about by Pavel Židek – see TOBOLKA, *M. Pavla Židka Spravovna*, 56.

eyes of the town representatives, the appointment of “caretakers”, i.e., administrators of aristocratic real estate, was apparently at least a partial solution. In Moravia, a lengthy article in a contract from 1486 was devoted to that: these caretakers were to be persons subject to town law, with whom the municipal authorities could discuss all necessary matters without the aristocratic owner having to come into play. The towns were even given the right through the Under-Chamberlain to veto the caretakers’ appointment, and it was the duty of homeowners to follow the under-chamberlain’s order. If they did not, the land governor would have intervened and forced them to do so.<sup>125</sup>

In terms of the Bohemian situation, it is certainly worth noting the norms valid in Prague’s New Town, recorded in 1532. In connection with the various prohibitions governing public order, the right of the reeve, who learned of some “disorder”, such as gambling or offering prostitution, to enter individual dwellings day and night was explicitly emphasized. In the next article, it was explained that if it is not possible for the reeve to intervene, it is possible to turn to a ward-man or other neighbours who may also intervene. Although the right to enter another’s house is not directly discussed here, it logically follows from the context. However, the obligation to admit reeves or other persons was explicitly limited to burghers and tenants of burgher and manorial (i.e., aristocratic) houses.<sup>126</sup> In the case of aristocratic houses, it was emphasized a little further that, as in Moravia, caretakers were to be appointed here, who were to be introduced to the burgomaster and preserve what all the burghers had to do.<sup>127</sup>

It is necessary to realize in this context, and it follows from the above-mentioned initiative of Moravian land officials and judges from the end of the fifteenth century, that many aristocratic houses did not fulfil the function of their owner’s primary residential building, but were used only occasionally or even not at all. Some houses were rented by noble owners to commoners. Even so, the town authorities had to approach them with due care. But first and foremost, they needed to get enough information, even through relatively straightforward observation and interrogation, if not outright spying. The order for quarter’s captains and other officials, adopted in 1523 again in the New Town of Prague, testifies to this. The ward-men were instructed, among other things, to find out from the landlords or publicans in the manorial houses who was accommodated in terms of people and for what time, and then submit a written report to the city council.<sup>128</sup>

125 PALACKÝ, *Archiv*, vol. V., 428–432, no. 33.

126 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 989, fol. 347r.

127 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 989, fol. 350v (“[t]e[m] jakož z panského i rytířské[h] o stavu domy v to[m]to městě mají a v nich hospodáře, a pořádkuov těch jakožto berní, pomoci s městem nečiní a v týchž domích i neřádově bývají. Protož každý pán neb rytířský člověk hospodáře chce-li v domu ustanoviti, aby s týmž domovníkem ku panu purgmistru aneb do rady došel a jeho oznámil, a ten jsa domovníkem aby věděl, jak se zachovati jmá. Poněvadž kdož sousem býti má, napomíná se, jak a pokud zachovati se v domě povine[n] jest a s týmž dome[m] k městu. Též aby domovník místo hospodáře to tak opatroval v domu, jakž náleží, i ty poví[n]nosti činil z toho domu, jako jiný sousem” [Item. As for the lords and the knights, who have houses in this town and manage them, and the order of them as tax and helps with the town do not act, and there are also disorderly things in the same houses. Therefore every lord or knight if he wants to install a householder in the house, he should come to the burgomaster or the council with this caretaker and announce him to them, so that this caretaker will to know how to act. For whosoever shall be a neighbour shall be warned of how, and if he is obliged to keep himself in the house, and with the house to the town. So that the caretaker, instead of the householder, would take care of it in the house as it should be, and he would conduct the duties of the house like any other neighbour.]

128 Archiv hlavního města Prahy, Sběrka rukopisů, sign. 332, 4 (“Item. Každý desátník aby popsal v svém desátku panské domy a na šenkýřích anebo hospodářích těch domuov aby se vyptal, kolik má ležákuov a jací se hosti

From the point of view of the homogeneity of the urban milieu, aristocratic houses also presented a problem at the economic level. The mention of publicans clearly documents that lords and knights lent their properties to the for-profit hospitality business without embarrassment. This is despite the fact that, for example, when buying in the city, they explicitly undertook not to do so.<sup>129</sup> At other times, they had their own beer tapped here or, completely outside the guild order, had their serf craftsman do business here.<sup>130</sup> In Moravia in particular, controversy was aroused over the advantageous possibility of the nobles to store wine freely for their own use and to sell it on a large scale “under the keg” outside the scope of the mile ban.<sup>131</sup> All of this, however, was only a logical consequence of the immunity that contemporary law guaranteed to aristocratic real estate (even the non-exempt).<sup>132</sup>

### Conclusion

What to add in conclusion? The probes into the source material and earlier literature show quite clearly that although the amount of information on the coexistence of aristocratic and urban elements in the royal and manorial towns in the Middle Ages and Early Modern Period is very considerable, especially for the period of the fifteenth and sixteenth centuries, their utilization so far has been only minimal and rather random. And although it cannot be said that this is a completely neglected topic in recent Czech historiography, it is certain that its detailed knowledge is a race on a (very) long track.

In any case, it is certain that aristocratic real estate in towns, primarily houses, were islands of a different legal regime, disrupting the uniformity of the urban legal milieu. In this respect, the distinction between exempt houses and those subject to town tax was probably not as important as is usually expected. Of course, the houses placed in the land tables, which can only be found to a relatively greater extent in Prague and Brno, were fully and completely out of line with town law. But even most of the houses that were not exempted in this way were not as accessible by the reeve and other city authorities as ordinary burgher houses. The fact that the house's transactions were subject to registration in the town books represented a formal rather than a truly dramatic factual difference. In this way, it was much more subordinate to the owners' tax and other obligations, which fell on the urban population as standard. However, the fulfilment of these obligations by the noble owners was often only reluctant, while the town administration was offered only limited means to overcome such reluctance by seizure. The basic aristocratic freedoms, i.e., personal freedom and the inviolability of the home, were preserved to a more or less undiminished extent, even in the case of

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u něho na stravě drží a jaké jsou lidé povahy a od kterého času sú u něho; to zvěda, spíše, panu purgmistru a pánóm to oznámil a páni to dále opatřiti rozkáží, jak se ti držeti a zachovati mají” [Item. Every ward-man to describe in his book as the ward-man the manorial homes and to ask of the publicans or owners of these houses how many lodgers and what kind of guests he has on his diet and what these people are like in character and how long they have been there; it is rather of interest to announce it to the burgomaster or lords and the lords will regulate it with orders further how to maintain and conduct themselves.]

129 Specifically for New Town, as stated by WINTR, *Kulturní obraz*, vol. I., 122.

130 Here the nobility could rely on the not clearly formulated statement of King Vladislaus II, in which they were granted the right to have craftsmen “in their castles and strongholds for their needs”. PALACKÝ, *Archiv*, vol. VI., 249–264, no. 18.

131 KAMENÍČEK, *Zemské sněmy*, vol. III, 159–160. JORDÁNKOVÁ – SULITKOVÁ, *Domy*, 121.

132 Other privileges that were not tied to the possession of real estate are intentionally left aside, for example, exemption of the nobility from customs duties and fees related to fairs, unless the goods were repurchased for resale. See PALACKÝ, *Archiv*, vol. VI., 249–264, no. 18.



the houses subject to annual tax. And an inventive solution, consisting in the obligatory appointment of aristocratic administrators (caretakers), who would themselves be subject to town law themselves, could never effectively overcome the foreignness of the aristocratic enclaves.

In any case, these preliminary conclusions need to be verified, supplemented or corrected on the basis of further source research. The only way to achieve the desired synthesis is a detailed examination of archival sources documenting legal life in individual towns. And in this direction, Czech historiography still has a long way to go.

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# THE CITY and HISTORY

MESTO A DEJINY

ISSN 1339-0163

Katedra histórie  
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Košice, 28. 3. 2023

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