

# How to Safeguard a Town Constitution in Early Modern Poland: A Case Study on the Legal Status of Christians and Jews\*

Legal history is one of the most active fields in research on towns as well as on the Jewish population in early modern Poland.<sup>1</sup> However, urban history and Jewish history are only rarely integrated into a single picture.<sup>2</sup> This is at least partly grounded in separate research communities and traditions of publication. For example, one of the foci in Jewish history is on editions and interpretations of so-called Jewish privileges. But what exactly is a Jewish privilege? And were there other privileges that give insight into the legal status of the Jewish population and its broader social entanglements? Thirty years ago, Jakub Goldberg pub-

\* This text is a reworked and extended version of my article »Meshilut ve-hetrogenyut datit: Rzeszow ke-mikre mivhan be-shugiyat ma'amdam ha-mishpati shel notsrin ve-yehudim,« in *Historiah mitnageshet ve-kium meshutaf: perspektivit chadasbot shel ha-mifgash ha-yehudi-polani*, ed. Dani'el Blatman (Jerusalem: Magnes, 2014), 25–45.

1 To name only some more recent studies: e. g. Stanisław Grodziski et al., eds., *Z dziejów staropolskiej kultury prawnej* (Kraków: Towarzystwo Autorów i Wydawców Prac Naukowych Universitas, 2004); Ernst Eichler and Heiner Lück, eds., *Rechts- und Sprachtransfer in Mittel- und Osteuropa. Sachsenspiegel und Magdeburger Recht* (Berlin: De Gruyter, 2008); Marian Mikołajczyk, *Proces kryminalny w miastach Małopolski XVI–XVIII wieku* (Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2013) – and on Jewish legal history: e. g. Anna Michałowska-Mycielska, *The Jewish Community. Authority and Social Control in Poznań and Swarzędz, 1650–1793* (Wrocław, Wydawnictwo Uniwersytetu Wrocławskiego, 2008) – esp. 124–136, 157–196 and (a small chapter on legal interaction with non-Jewish authorities) 236–249; Judith Kalik, *Scepter of Judah: The Jewish Autonomy in the Eighteenth Century Crown Poland* (Leiden–Boston: Brill 2009).

2 Integrative exceptions are Dorota Mazek, *Ku ozdobie i profitowi. Prawodawstwo miast prywatnych Wielkopolski 1660–1764* (Warszawa: Neriton, 2003), esp. 78–96; Stefan Rohdewald, »Vom Polocker Venedig«. *Kollektives Handeln sozialer Gruppen einer Stadt zwischen Ost- und Mitteleuropa (Mittelalter, frühe Neuzeit, 19. Jh. bis 1914)* (Stuttgart: Steiner, 2005); Renata Król-Mazur, *Miasta trzech nacji. Studia z dziejów Kamiennica Podolskiego XVIII wieku* (Kraków: Avalon, 2008).

lished the first volume of his lavish *Jewish Privileges in the Polish Commonwealth*.<sup>3</sup> This source collection and its abundant introduction up to today represent an indispensable basis for any further research into the legal history of the Jews in Poland-Lithuania – and not only of the Jews. Goldberg distinguishes four categories of privileges granted to Jews by royal, noble, and church authorities in the early modern period: general privileges, regional privileges, community privileges and – often part of the latter – privileges for individual Jews.<sup>4</sup>

In 2007, Adam Teller reaffirmed these categories;<sup>5</sup> furthermore, he began a contextualization of the privileges granted to Jews: At the local level, he compares the privileges of Jewish communities with the privileges of Christian settlers.<sup>6</sup> In the administrative sphere, he draws analogies between the development of an extended Jewish organisational structure and the political institutions of the Polish-Lithuanian state. Finally, in the field of legal codification he compares Moses Isserles' annotated edition of the *Shulḥan arukh*<sup>7</sup> structurally to the Polish translation and commentary of Saxon law for Christian burgher communities,<sup>8</sup> while traditionally Isserles' comment with regards to content is referred to as an Ashkenazi adaptation of Joseph Caro's Sephardic model. Based on these examples, Teller considers the Jews to be one of the constituent estates of the *Rzeczpospolita*.<sup>9</sup>

3 Jacob Goldberg, ed., *Jewish Privileges in the Polish Commonwealth: Charters of Rights Granted to Jewish Communities in Poland-Lithuania in the Sixteenth to Eighteenth Centuries. Critical Edition of Latin and Polish Documents with English Introduction and Notes*, vol. I (Jerusalem: Israel Academy of Sciences and Humanities, 1985). Two more volumes followed in 2001.

4 Ibid., 1–20.

5 Adam Teller, »Der Blick nach Osten. Rechtlicher Status und Rechtssystem der polnischen Judenheit vom 16. bis zum 18. Jahrhundert,« in *Juden im Recht. Neue Zugänge zur Rechtsgeschichte der Juden im Alten Reich*, eds. Andreas Gotzmann and Stephan Wendehorst (Berlin: Duncker & Humblot, 2007), 395–413, esp. 396, 400–401; idem, »Telling the Difference: Some Comparative Perspectives on the Jews' Legal Status in the Polish-Lithuanian Commonwealth and the Holy Roman Empire,« *Polin* 22 (2010): 109–141, here 120.

6 This perspective is confirmed by Jürgen Heyde in a broader perspective in his most recent study on Jewish economic elites in Poland in the 15<sup>th</sup> and 16<sup>th</sup> centuries. Jürgen Heyde, *Transkulturelle Kommunikation und Verflechtung. Die jüdischen Wirtschaftseliten in Polen vom 14. bis zum 16. Jahrhundert* (Wiesbaden: Harrassowitz, 2014).

7 Moses Isserles' comment (*HaMappah*) was first printed in the Kraków edition of the *Shulḥan arukh* in 1571.

8 The most prominent was Bartłomiej Groicki, *Artykuły prawa majdeburgskiego* (Kraków: Oficyna Łazarza Andrysowica, 1558; reprint: Warszawa: Wydawnictwo Prawnicze, 1954), and idem, *Porządek sądów i spraw miejskich prawa majdeburgskiego w Koronie Polskiej*, Kraków: Oficyna Łazarza Andrysowica, 1559; reprint: Warszawa: Wydawnictwo Prawnicze, 1954).

9 Teller, »Der Blick nach Osten,« 402, 405–408.

The present study will pursue this call for contextualisation at a micro level. It focuses on the analysis of privileges from Rzeszów,<sup>10</sup> the administrative centre of a large noble estate halfway between Krakow and Lwow, which was ruled by several noble dynasties from the middle of the 14<sup>th</sup> century through the partitions of the Polish-Lithuanian Commonwealth in the late 18<sup>th</sup> century.<sup>11</sup> Intriguingly, no privilege from Rzeszów is documented in Goldberg's collection, and there is good reason for this. In general, the town lords of Rzeszów formulated the rights and duties of the Jewish community as well as those of individual Jews as part and parcel of the privileges granted to their town as a whole or to individual guilds accessible to both Christians and Jews.<sup>12</sup>

At a typological level, this means that a fifth – though at first glance less visible – entry has to be added to Goldberg's and Teller's categories of privileges concerning the Jewish population: that of general privileges for towns and guilds. In terms of analysis, the question has to be raised whether it made a substantial difference to define the legal status of the Jewish population within general privileges and not in separate ones. This question is related to the ongoing scholarly discussion on the place of Polish Jewry in the culture of the early modern Commonwealth, most prominently led by Gershon Hundert and Moshe Rosman. While Hundert claims a separate »Jewish cosmos«,<sup>13</sup> even though his own empirical works give evidence of the embeddedness of Polish Jews in the politics, economics, and culture of the multi-religious *Rzeczpospolita*,<sup>14</sup> Moshe Rosman argues in a postmodernist vein in favour of Jewish, Polish,

- 10 At least the privileges for the town are edited: Wioletta Zawitkowska and Grzegorz Zamojski, eds., *Przywileje miasta Rzeszowa XIV–XIX wieku* (Rzeszów: Mitel, 2014) which eased my work in cases when archival manuscripts were hardly decipherable. The privileges for the guilds still wait for editing.
- 11 Franciszek Leśniak, »Życie gospodarcze, społeczne i kulturalne,« in *Dzieje Rzeszowa*, vol. 1: Rzeszów od najdawniejszych czasów do I rozboru, ed. Feliks Kiryk (Rzeszów: Krajowa Agencja Wydawnicza, 1994), 193–216, here 194–198; Maria Borowiejska-Birkenmajerowa, »Rozwój przestrzenny miasta za Mikołaja Spytka Ligęzy,« in *Ibid.*, 259–269; eadem, »Miasto rezydencjonalne Lubomirskich,« in *Ibid.*, 303–316.
- 12 For examples see *Archiwum Państwowe w Rzeszowie (APRz)*, 1: Akta miasta Rzeszowa (AmRz), sygnatura (sygn.) 1 (parchment); *ibid.*, sygn. 6 (parchment); *ibid.*, sygn. 8 (parchment); *ibid.*, sygn. 9; *ibid.*, sygn. 11 (parchment); *ibid.*, sygn. 12 (parchment); *ibid.*, sygn. 27, 27–28 (copy); *ibid.*, 46–51 (copy); *ibid.*, 51–59 (copy); *ibid.*, 73–81; *ibid.*, 625–627 (copy).
- 13 Gershon D. Hundert, *Jews in Poland-Lithuania in the Eighteenth Century. A Genealogy of Modernity* (Berkeley–Los Angeles: University of California Press, 2004), 236.
- 14 See esp. the chapter »Jews and Other Poles« in Gershon D. Hundert: *The Jews in a Polish Private Town. The Case of Opatów in the Eighteenth Century* (Baltimore–London: Johns Hopkins University Press, 1992).

as well as other cultures as »polysystems; open, dynamic, heterogeneous cultural systems«<sup>15</sup> and explicitly avoids cultural essentialism by identifying a shared band of culture common to Poles, Jews, and other Europeans.<sup>16</sup> The examination of the Rzeszów privileges is a case study on this question.

It has not yet been systematically examined whether the integration of Jewish communities and craftsmen into the general legal order of their town was a common phenomenon in Red Ruthenia, or even beyond.<sup>17</sup> The present article concentrates on the question of how this integration was conceptualized in the Rzeszów case and what it meant for the relations of Christians and Jews and the functioning of the town itself. A brief introduction into the political and ethno-religious setting of the Rzeszów estate will offer a framework for a closer analysis of a few selected privileges for the town and its guilds.

### *Rzeszów – the space of reference*

The latifundium of Rzeszów was, from the late Middle Ages onward, part of the sparsely populated transitional zone of Polish- and Ruthenian-speaking areas in the east of Lesser Poland and western Ruthenia. Rzeszów and its surroundings fulfilled an important function in the colonisation and frontier defence of the Commonwealth. In order to attract settlers, King Kazimierz III granted Magdeburg Law to the town of Rzeszów in 1354 and bestowed the estate on a successful warrior in his service. The endowment with Magdeburg law exempted urban dwellers from the royal *vojevod*'s and castellan courts. The latter were replaced by the burghers' town magistrate, council, and courts of lay assessors. Nevertheless, the status of the burghers' institutions was vulnerable, as supreme power in the Rzeszów estate now belonged hereditarily to the noble town lord. During the following centuries, the burghers' self-administration succumbed increasingly to the magnates' will.<sup>18</sup>

15 Moshe Rosman, *How Jewish Is Jewish History?* (Oxford–Portland, Oregon: Littman Library of Jewish Civilization, 2007), 93.

16 Ibid., see esp. chapters 3 and 5.

17 Forerunners are Adam Kaźmierczyk, *Żydzi w dobrach prywatnych w świetle sądowniczej i administracyjnej praktyki dóbr magnackich w wiekach XVI–XVIII* (Kraków: Uniwersytet Jagielloński, Katedra Judaistyki, 2002); Krzysztof Stopka, »Die Stadt, in der die Polen Deutsche genannt wurden: Zwischenethnische Interaktion in Kam"janec'– Podil's'kyj in der Darstellung armenischer Quellen aus der Zeit um 1600,« in *Lithuania and Ruthenia: Studies of a Transcultural Communication Zone (15<sup>th</sup>–18<sup>th</sup> Centuries)*, eds. Stefan Rohdewald, David Frick, and Stefan Wiederkehr (Wiesbaden: Harrassowitz, 2007), 67–110.

18 On administrative and court institutions in Rzeszów see Jan Pęcowski, *Dzieje miasta Rzeszowa do końca XVIII. wieku* (Rzeszów: Nakładem Gminy Miasta Rzeszowa z Drukarni Ed. Arvaya, 1913), 5, 57–60, 122, 127–140, 157–177;

From the late 16<sup>th</sup> century through the end of the 18<sup>th</sup> century, the guarantee of free religious practice and a broad range of economic options attracted many settlers:<sup>19</sup> craftsmen from the region and other places in the Commonwealth, German settlers from Prussia and Saxony, and, from the late 16<sup>th</sup> century on, an increasing number of Jews.<sup>20</sup> The religious microstructure on the Rzeszów estate was complex: The noble town lords – as well as many urban dwellers and peasants – belonged to the Roman Catholic Church. Only a few Ruthenian villages dating back to the Kievan era remained Orthodox<sup>21</sup> and subsequently joined the Greek-Catholic (Uniate) Church when the Orthodox bishops of the Przemyśl diocese officially accepted papal authority after a century of resistance. In religious practice, the Uniates kept Greek-Orthodox rites which, through the steady contact with Roman Catholics, took syncretistic shape.<sup>22</sup> The Roman Catholic Church had a high profile in Rzeszów, where it controlled several churches, monasteries, a Piarist collegium, lay brotherhoods, and several craft guilds.<sup>23</sup> A considerable share of the craftsmen and peddlers in town, as well as

Adam Kamiński, »Pierwsze dwa wieki dziejów miasta Rzeszowa,« in *Pięć wieków miasta Rzeszowa, XIV–XVIII w.*, ed. Franciszek Błoński (Warszawa: PWN, 1958), 10–14, 20–23.

- 19 Pęcowski, *Dzieje miasta Rzeszowa*, 321–325, 360–361; Maurycy Horn, *Żydzi na Rusi Czerwonej w XVI i pierwszej połowie XVII wieku* (Warszawa: PWN, 1975).
- 20 A (incomplete) register of the newly inscribed burghers who settled down in Rzeszów from the mid-17<sup>th</sup> through the late 18<sup>th</sup> century offers basic information on their individual geographic descent and partly on their religious affiliation. APRz, 1: AmRz, sygn. 28: Regestrz Mieczczanów Przysięgłych miasta Rzeszowa, 1665–1798.
- 21 Zdisław Budzyński, »Stosunki społeczne i życie kulturalne,« in *Dzieje Rzeszowa*, ed. Kiryk, vol. 1, 273–295, here 273.
- 22 Jacek Krochmal, »Catholic-Orthodox Relations in the Diocese of Przemyśl in the Fourteenth – Eighteenth Centuries,« in *Lithuania and Ruthenia*, eds. Rohdewald, Frick, and Wiederkehr, 210–231, here 225–227. – On the gradual Latinization of the Orthodox rite during the 17<sup>th</sup> century see Rafał Czupryk, »Relacje unicko-łacińskie w świetle kanonicznych wizytacji dekanalnych (na przykładzie diecezji przemyskich obrządku unickiego i łacińskiego w XVIII w.),« *Prace Historyczno-Archivalne* 20 (2008): 39–52, here 39–41.
- 23 Zdisław Budzyński, »Życie społeczno-religijne i kulturalne,« in *Dzieje Rzeszowa*, ed. Kiryk, vol. 1, 365–380, here 365, 375–380; Józef Świeboda, »Środki materialne OO. Pijarów w Rzeszowie w XVII–XVIII w.,« in *Wkład pijarów do nauki i kultury w Polsce XVII–XIX wieku*, ed. Irena Stasiewicz-Jasiukowa (Warszawa–Kraków: ZPPP, 1993), 204–217; Innocenty Rusecki, »Z dziejów kultu bernardyńskiego sanktuarium maryjnego w Rzeszowie,« *W nurcie franciszkańskim* 17 (2008). [http://www.zakonfranciszkanow.pl/index.php?option=com\\_content&view=article&id=381:n17h1&catid=135:nurt17hist&Itemid=553](http://www.zakonfranciszkanow.pl/index.php?option=com_content&view=article&id=381:n17h1&catid=135:nurt17hist&Itemid=553) (accessed 14 November 2015). For details on the individual buildings and institutions see Zdisław Budzyński, »Stosunki społeczne i życie kulturalne,« in *Dzieje Rzeszowa*, ed. Kiryk, vol. 1, 276–277, 283–284, 285–288.

of the leaseholders, was Jewish.<sup>24</sup> Protestants occur in the sources only in rare cases.<sup>25</sup>

The latifundium was no clearly delineable territory. Crucial for political rule and economic exploitation were the urban and rural settlements that exercised agriculture, trade, and crafts, and paid goods and taxes to the town lord. The distribution of the estate among heirs, however – as well as fires, wars, and epidemics – were able to seriously harm the holdings. From the middle of the 17<sup>th</sup> through the middle of the 18<sup>th</sup> century, Rzeszów suffered several invasions by Moscovite and Swedish troops, as well as Tatar attacks. Four serious fires devastated the town between the mid-17<sup>th</sup> and the early 18<sup>th</sup> centuries.<sup>26</sup> During this period, the population of Rzeszów declined to a few hundred inhabitants, and only around 1720 returned to the level of population in 1648 (some 2,500 inhabitants), again numbering among the medium-sized towns in the Commonwealth.<sup>27</sup>

Up until the first years of the 18<sup>th</sup> century, the noble town lords, under pressure from the Christian burghers, tried to legislatively limit the settlement of Jews in order to exclude them from trading in certain goods and to control the number and location of their houses.<sup>28</sup> Jewish settlers had already successfully entered the town's economy around 1600 and established their own administrative and religious infrastructure according to tradition and specific local conditions. In practice analogous to the Christian purlieus, the Jewish community was granted autonomy in internal administrative, religious, and legal matters, as long as it did not contradict the interests of the town lord. The Jewish and Christian communities were mutually responsible for certain services, such as the fortification and defence of the town.<sup>29</sup> Still, in contrast to many other private towns, where Jews were directly subordinate to the town lord, Jews in

24 Pęcowski, *Dzieje miasta Rzeszowa*, 263–265, 275–279, 298–302.

25 One example is the privilege for the so-called German guild from 1714, see the copy of the perished privilege in: APRz, 1: AmRz, sygn. 27, 51–59.

26 Jerzy Motylewicz, *Miasta ziemi przemyskiej i sanockiej w drugiej połowie XVII i w XVIII wieku* (Przemyśl–Rzeszów: Południowo-Wschodni Instytut Naukowy w Przemyślu, 1993), 239; Maria Borowiejska-Birkenmajerowa, »Miasto rezydencjonalne Lubomirskich,« in *Dzieje Rzeszowa*, ed. Feliks Kiryk, vol. 1, 303–339, here 303–304; Jerzy Motylewicz, »Stosunki gospodarcze,« in *Ibid.*, 343–364, here 343–344.

27 Motylewicz, *Miasta ziemi przemyskiej i sanockiej*, 244.

28 Crucial in this regard was Hieronim Augustyn Lubomirski's privilege for the town from 1667. APRz, 1: AmRz, sygn. 8 (parchment) which will be analysed later in this article.

29 Franciszek Kotula, »Obwarowanie Rzeszowa i rozwój przestrzenny miasta w XVII i XVIII wieku,« in *Pięć wieków miasta Rzeszowa*, ed. Błóński, 159–240, here 185–186.

Rzeszów were not exempt from Magdeburg law, beyond internal community affairs.<sup>30</sup>

In light of repeated devastations and the consequent depopulation, the legal restrictions imposed on the Jewish population starting in the early 18<sup>th</sup> century were put less and less into practice. The town lords simply could no longer afford to choose their subjects according to religious affiliation. Approximately half of the population increase of the late 17<sup>th</sup> and early 18<sup>th</sup> centuries was due to the immigration of Jews who,<sup>31</sup> as in other towns,<sup>32</sup> acted as a »demographic reserve«. <sup>33</sup> Jerzy Ignacy Lubomirski, the town lord between 1706 and 1753, continuously reduced legal restrictions on his Jewish subjects. Especially in the important matter of settlement rights, he no longer differentiated between Christians and Jews: each group took the oath of loyalty in accordance with its respective religion,<sup>34</sup> paid taxes, contributed to the upkeep of the town, and rendered the other required services.<sup>35</sup>

The complex relationships between the individual religious communities and denominations and the ruling authorities on the Rzeszów estate can be mirrored in a panorama of options in order to integrate the latter into the various administrative systems of the *Rzeczpospolita*: From the perspective of the magnates Lubomirski, Rzeszów was their autonomously ruled latifundium that, in the context of the Commonwealth, made its contribution to military defence.<sup>36</sup> In terms of church administration, it belonged to the diocese of

30 Barbara Wizimirska, »Żydzi przed sądami Rzeszowskimi w XVII i XVIII wieku,« *Pracy Historyczno-Archivalne* 3 (1995): 91–103, here 92.

31 See Motylewicz, *Miasta ziemi przemyskiej i sanockiej*, 249.

32 For comparison see Murray J. Rosman, *The Lords' Jews. Magnate-Jewish Relations in the Polish-Lithuanian Commonwealth during the Eighteenth Century* (Cambridge, MA: Center for Jewish Studies, Harvard University, 1990); Kaźmierczyk, *Żydzi w dobrach prywatnych*.

33 For the concept of »demographic reserve« see the introduction by Jacob Goldberg in *Jewish Privileges in the Polish Commonwealth*, ed. Goldberg, 17.

34 For the exact formulation of a Jewish oath in Rzeszów see Barbara Wizimirska, »Żydzi przed sądami Rzeszowskimi w XVII i XVIII wieku,« *Pracy Historyczno-Archivalne* 3 (1995): 91–103, here 99. Humiliating forms of the Jewish oath, as prescribed in Magdeburg law, are documented for Rzeszów only in rare exceptions. See *ibid.*, 100–101. For a description of such ceremony see Kaźmierczyk, *Żydzi w dobrach prywatnych*, 122–126.

35 Barbara Wizimirska, »Sytuacja prawna Żydów w Rzeszowie XVII i XVIII w.,« *Prace Historyczno-Archivalne* 8 (1999): 3–18, here 3–9, 13; eadem, »Chrześcijańskie i Żydzi w Rzeszowie w XVII i XVIII wieku,« *Pracy Historyczno-Archivalne* 1 (1993): 75–90, here 75–76, 83–84.

36 The magnate's contribution to the royal army's mobilisation of the nobility is well documented in APRZ, 519: Archiwum Lubomirskich (AL), sygn. 664–672 (Wojsko koronne).

Przemyśl, which until the late 17<sup>th</sup> century had a Greek Orthodox – as well as a competing Roman Catholic hierarchy. After that period, it had Uniate and Roman Catholic hierarchies whose spheres of authority overlapped, but were not identical.<sup>37</sup> According to its late medieval privilege of Magdeburg Law, the town was ruled by the Christian burgher community. In the context of Jewish administration, represented by the Council of the Four Lands (*Va'ad arba aratsot*), the community of Rzeszów constituted part of the land Rusiah (Ruthenia) until the late 17<sup>th</sup> century, then shortly belonged to the province of Przemyśl, and from 1715 was considered a »free city,« sending its own delegates to the *Va'ad*.<sup>38</sup> In brief – the legal authority over the population of the latifundium was in line with the principle of the personality of law that was rooted in the medieval tradition. Essentially this meant that in any legal procedure a person would be treated according to the law of the corporation – a social estate, religious community, or profession – he or she belonged to.<sup>39</sup> Only in cases when different groups were involved in legal interactions did specific institutions have to intervene.<sup>40</sup> All of the above-mentioned authorities legitimised secular claims of power on the basis of religion – in other words: religion, law, and rule were inseparable.

On this basis I consider the privileges issued by the town lords as one type of legal act regulating the coexistence of several Christian denominations as well as Jews. The focus is on the question of how the privileges expressed negotiations and conflicts between Catholics and Jews in the town, and how these negotiations had influenced the formulation of the privileges. In the particular setting of the privileges, as well as in a broader context, I will enquire to what extent the condition of religious heterogeneity found its expression in the legal system of the latifundium.

37 Krochmal, »Catholic-Orthodox Relations,« 210–231.

38 *Encyclopaedia Judaica* (Jerusalem: Encyclopaedia Judaica, 1971), s.v. »Rzeszów«; Kalik, *Scepter of Judah*, 359–360. For the case of Jonas Przemyński, a delegate to the *Va'ad* in 1739, see APRz, 519 (AL), sygn. 699, 30–30v., 33–33v.

39 Gillian R. Evans, *Law and Theology in the Middle Ages* (London et al.: Routledge, 2002), 87–90.

40 I delved into this problem in »Rechtsinstrumente in einer ethnisch-religiös gemischten Stadtgesellschaft des frühneuzeitlichen Polen. Der Fall Rzeszów,« in *Konkurrierende Ordnungen. Verschränkungen von Religion, Staat und Nation in Ostmitteleuropa vom 16. bis zum 20. Jahrhundert*, eds. Johannes Gleixner, Laura Hölzlwimmer, Christian Preusse, and Damien Tricoire (München et al.: BiblionMedia, 2015), 159–199.

### *Genesis and significance of privileges in the Rzeczpospolita*

In the nobility-ruled towns of early modern Poland-Lithuania, privileges were issued essentially on four occasions: First, this happened when a town was handed over by the king to a commendable noble. Usually the king signed a donation privilege for the recipient that specified the territory and some basic legal conditions. Later this privilege could be extended to fair rights.<sup>41</sup> Second, this was done as a consequence of a change in political rule. In this case the new town lord, as a signal of continuity, confirmed existing privileges but sometimes modified them.<sup>42</sup> Thirdly, privileges were granted in times of crisis or fundamental change, such as war and economic decline. In this situation, the granting of privileges was aimed at stabilizing the social and political system.<sup>43</sup> This frequently applied to Rzeszów and many other towns in the Rzeczpospolita after 1648.<sup>44</sup> Finally, on special occasions the town lords issued privileges for certain groups and persons in order to manage relations with and between their subjects in detail. Within this type, privileges for craft guilds<sup>45</sup> and privileges for the Jewish population were very prominent.<sup>46</sup>

As mentioned above, the town lords of Rzeszów during the 17<sup>th</sup> and 18<sup>th</sup> centuries usually issued privileges for the whole town, and defined the status of

- 41 Mazek, *Ku ozdobie i profitowi*, 74–76. Two examples from Rzeszów are the privilege by King Kazimierz III for Jan Pakosławic, January 19, 1354. AGAD, Metryka Koronna, sygn. 17, 247v.–248 (copy) as well as the privilege by Jan Kazimierz for Jerzy Sebastian Lubomirski, July 22, 1661. APRz, 1: AmRz, sygn. 7 (parchment).
- 42 Juliusz Bardach, Bogusław Leśnodorski, and Michał Pietrzak, *Historia ustroju i prawa polskiego* (Warszawa: LexisNexis, 2005), 191–192, 200, 243–244 – For example in the case of the privilege granted by King Aleksandr Jagiellończyk to the Rzeszów estate in 1502, APRz, 1: AmRz, sygn. 4; by Stefan Batory in 1578, APRz, 1: AmRz, sygn. 3; and Jan Kazimierz in 1661, APRz, 1: AmRz, sygn. 7.
- 43 Henryk Grajewski, *Granice czasowe mocy obowiązującej norm dawnego prawa polskiego* (Łódź–Wrocław: Zakład Narodowy im. Ossolińskich, 1970), 19–20; Tomasz Opas, »Miasta prywatne a Rzeczypospolita,« *Kwartalnik Historyczny* 28 (1971): 28–47, here 32.
- 44 E. g., in the case of Mikołaj Spytek Ligęza's privilege for the town of Rzeszów from June 12, 1599. APRz, 1: AmRz, sygn. 27, 625–627.
- 45 Examples from Rzeszów are the privilege for the cobblers' guild from June 16, 1654. APRz, 1: AmRz, sygn. 6; the privilege for the tailors' guild from July 10, 1670, APRz, 1: AmRz, sygn. 27, 51–55 (copy); the privilege for the bakers' guild from February 28, 1728, APRz, 1: AmRz, sygn. 27, 75–81 (copy), and the privilege for the butchers' guild of the same date. APRz, 1: AmRz, sygn. 11, as well as the above-mentioned privileges for the German guild in 1714.
- 46 See the numerous examples in *Jewish Privileges in the Polish Commonwealth*, ed. Goldberg, vol. 1–3. – For more privileges see Adam Kaźmierczyk, ed., *Żydzi polscy 1648–1772. Źródła* (Kraków: Uniwersytet Jagielloński, Katedra Judaistyki, 2001).

their Jewish subjects within them. From the late 17<sup>th</sup> century, privileges as well as other regulations were even addressed to »the magistrate and the synagogue«, the »whole community« – i. e., the Christian burgher community and the Jewish community (*sinagoga*),<sup>47</sup> and even to »the two nations« (*obywatele obojga narodów*).<sup>48</sup> This habit is intriguing, as on the level of the Commonwealth it paralleled the common notion of the »two nations« (*Rzeczpospolita obojga narodów*) in official language, which since the Union of Lublin referred to the – at least theoretically – equal legal status of Poles and Lithuanians.<sup>49</sup> In Rzeszów the specific local situation requires a new reading. It has to be examined to what extent the linguistic transfer from the state level to the local was synonymous with an equal – or at least similar – legal status of Christians and Jews in Rzeszów.

At first glance, the analysis of local privileges might seem extreme in its petty details. This impression fades away when one considers the evolution of the political system in Poland-Lithuania from the late 16<sup>th</sup> century onwards. The evanescence of royal power in favour of the nobility, especially of the magnates, who ruled on their large estates without royal intervention, led to a fragmentation of political rule into many regional and local orders.<sup>50</sup> This decentralisation of political power led to a general perception of growing legal insecurity. Therefore, various segments of the population tried to ensure the continuation of their existing rights. The inhabitants of towns, especially nobility-ruled ones like Rzeszów, aimed at the confirmation and extension of their privileges.<sup>51</sup> This procedure enhanced the status of local regulations, particular legal systems and legal autonomies.<sup>52</sup> Seen from this perspective, the stability of the *Rzeczpospolita* as a state depended on the effectiveness of local and regional rule and their respective interconnections with the crown. For these reasons it is worthwhile to delve into a microcosm like the Rzeszów estate and to scrutinise the legal culture of its heterogeneous population. A case study of the town- and guild privileges will enable us to illuminate how a single unit of the *Rzeczpospolita* functioned

47 For example APRz, 519: AL, sygn. 113, 15v.–16v. (1728); *ibid.* 25–30 (1730). For a general evaluation see Wizimirska, »Sytuacja prawna Żydów w Rzeszowie«, 9.

48 See Johanna Lubomirska's evaluation of a commission for the re-establishment of order in the Jewish community in Rzeszów, 1750–1756. APRz, 519: AL, sygn. 458, 2–6v., here 6v.

49 Bardach, Leśnodorski, and Pietrzak, *Historia ustroju i prawa polskiego*, 185–187.

50 Janusz Tazbir, »Rzeczpospolita wielu narodów,« in *Polska. Losy państwa i narodu do 1939 roku*, ed. idem, Henryk Samsonowicz, Tadeusz Łepkowski and Tomasz Nałęcz (Warszawa: Iskry, 2003), 135–245, here 202–203.

51 On the specific situation of the Jewish population see *Jewish Privileges in the Polish Commonwealth*, ed. Goldberg, vol. 1, 11–14.

52 Teller, »Der Blick nach Osten,« 396, 400–401.

and was embedded in a larger political and economic network.<sup>53</sup> The category of religion is used as a marker of difference in formulating the privileges, which should not blind us to the other categories of difference that existed. For example the institution of the Jewish community as well as the Christian burgher community can equally be considered as economic units. Nevertheless, it is worthwhile to consider to what extent privileges took religious diversity into account, especially in the interaction between Catholics and Jews.

*Privileges for the town of Rzeszów – negotiations on the status of the Jews*

The noble lords of Rzeszów issued a manageable number of privileges for their town. From the middle of the 14<sup>th</sup> till the end of the 18<sup>th</sup> century, only seven such privileges are passed down to us,<sup>54</sup> and it is unlikely that many others were lost, as the known ones are linked to each other through frequent textual interconnections. As in other places, the changing of privileges either occurred after a change in political rule or in times of serious crisis. In contrast with minor regulations, town privileges had to address the entire socially and religiously heterogeneous urban population and provide it with a political constitution that expressed continuity and flexibility at the same time. In correspondence with this challenging requirement, they were formulated in very general terms.

A basic norm that was confirmed by each of the privileges was jurisdiction in accordance with the Magdeburg (Saxon) Law code. Furthermore, each privilege revised taxes and services, imposed rules for trade activities, and granted sublicences to manufacture, distribute, and sell alcohol. Occasionally privileges redefined the territory of the estate.<sup>55</sup> At the same time, the early privileges tell us little about the differentiation of the population in terms of religious or denominational affiliation. A privilege issued by Piotr Kmita Lunak from 1427 that confirmed Magdeburg Law on the estate and at the same time annulled old Ruthenian law<sup>56</sup> might refer to a Greek-Orthodox population. In 1571, Mikołaj

- 53 During the last few years the study of smaller towns in the *Rzeczpospolita* has attracted at least some attention. See Mazek, *Ku ozdobie i profitowi*; Mariusz Zemło, ed., *Małe miasta. Religie* (Lublin–Supraśl: KUL, 2006); Rohdewald, »*Vom Polocker Venedigs*«; Kaźmierczyk, *Żydzi w dobrach prywatnych*; Stopka, »*Die Stadt, in der die Polen Deutsche genannt wurden*«; Król-Mazur, *Miasta trzech nacji*.
- 54 13 more privileges that concerned the original granting of Magdeburg law, the transfer of rule to noble town lords and the granting of fair rights were issued by the Polish kings. See *Przywileje miasta Rzeszowa XIV–XIX wieku*, ed. Zawitkowska and Zamojski.
- 55 APRz, 1: AmRz, sygn. 2 (parchment) and *ibid.*, sygn. 27, 619–625 (copy); *ibid.*, 625–627; *ibid.*, 633; *ibid.*, 628–629; *ibid.*, 630–632; APRz, AmRz, sygn. 8.
- 56 APRz, 1: AmRz, sygn. 27, 620.

Rzeszowski, a successor of his, reminded the people of Ruska Wieś (Ruthenian village) and of the neighbouring villages that they had been subordinated under Rzeszowian jurisdiction by his ancestors and therefore owed him tribute.<sup>57</sup> Again this claim could hint at separate Greek-Orthodox settlements.

The category of religious affiliation entered the Rzeszowian privileges explicitly in the late 16<sup>th</sup> century. From this time on, the privileges mirror the noble lords' preoccupation with the growing settlement of Jews in the town and its consequences for the established order of the estate. The development of the social and economic relations between the long-established Christian burghers and the Jewish newcomers can be clearly traced in two privileges.

As early as 1599, Mikołaj Spytek Ligeza issued a privilege<sup>58</sup> that, through the absence of an *invocatio* and the brevity of its *intitulatio*, indicated the urgency of its purpose. Without any further digression, he formulated his motivation – the persistent misery in town and the emigration of many inhabitants, caused by the severe fires in 1576 and 1580.<sup>59</sup> In terms of patronage, Ligeza assumed responsibility for his subjects. He attributed the economic decline of his town to divine judgement and allegorically promised his wards shelter under his wings. In turn, he appealed to the solidarity of the urban community in times of trouble.<sup>60</sup> The measures for the reconstruction of the town announced in the privilege concerned his »dear subjects« without further differentiation: Ligeza fixed long-term tax exemptions for anyone who engaged in the construction of houses and the establishment of new workshops. In addition, he ceded a share of his landholdings to the inhabitants of Rzeszów so that they could set up workshops and gardens as a minimal source of income. In the same spirit he exempted the inhabitants of his town from urban customs »for eternal times« and proposed a reduction of taxes to the Crown. A single group was doubly restricted in its activities:

I hereby order, and promise to ensure, that the Jews do not build more houses than those they already have, and that they do not buy up merchandise needed by the craftsmen for their workshops.<sup>61</sup>

From this passage it is evident that Jewish merchants had successfully settled down and found their way into the latifundium's economy by 1599 – apparently

57 Ibid., sygn. 27, 622–623.

58 Ibid., 625–627.

59 Motylewicz, »Przemiany gospodarcze,« 225; Tadeusz Ochenduszek, *Dzieje Rzeszowa do 1918 roku. Kalendarium* (Rzeszów: Mitel, 2006), 29.

60 APRz, 1: AmRz, sygn. 27, 625.

61 »Zakazuję y strzyrać obietcię, aby Żydowie więcey nie budowali domów i eno ci, ktorzy place maia, y aby nie przekupowali takowemi towarami, które rzemieślnicy w rzemiośle swoim używaią.« Ibid., 626. – All translations from Polish are by the author (Y.K.).

to the detriment of the long-established local guilds. The privilege was clearly the outcome of negotiations between these two competing groups, and the town lord can be considered as their mediator.<sup>62</sup> The fact that he forbade the Jews from further purchasing real estate and restricted certain economic strategies points to his cooperative relationship with the Christian purlieu. Nevertheless, the quoted passage at the same time implicitly contains a conservative and reaffirming aspect: The presence of Jews in town was not fundamentally called into question, and their previously acquired possessions were guaranteed. Christian inhabitants no doubt had priority in the magnate's considerations, but their rights were not exclusive. What is more, Jews were not collectively excluded from the above-mentioned amenities. As to the normative content of the privilege, in particular the definition of the Jews' legal status, it has to be admitted that it was rather negligible. No concrete punishment was fixed for new Jewish settlers who disregarded the restriction. All in all, Ligęza's privilege can be characterised as a gesture toward the Christians complainants and at the same time as an investment in the future of the latifundium. The well-being of his subjects – whether Christian or Jewish – would finally have positive consequences for his coffers and the town.

One question reaches beyond the text: how much did the restriction against the Jewish population really hinder Jews from settling down in the subsequent decades? A privilege issued almost 70 years later, in 1667, by Hieronim Augustyn Lubomirski,<sup>63</sup> the town lord of Rzeszów between 1667 and 1706, sheds light on the legal practices of the day. In a brief introduction, Hieronim Augustyn confirmed the privileges of his predecessors, especially the application of Magdeburg Law, but when it came to Ligęza's privilege from 1599 he made one reservation: »as far as it does not contradict the laws of succession and is in accordance with the previous privileges.«<sup>64</sup> In the *narratio* he gave a more precise account of the current conflict in town:

Through these, our burghers and subjects, it has been amply proven why, in our growing town, harm creeps into our manner of community life step-by-step [...]

- 62 In another article I focused on the narrative aspect of the Rzeszów privileges. Yvonne Kleinmann, »Normsetzung, Narration und religiöse Symbolik. Privilegien als Grundlage der Religionspolitik auf dem frühneuzeitlichen Latifundium Rzeszów,« in *Kommunikation durch symbolische Akte. Religiöse Heterogenität und politische Herrschaft in Polen-Litauen*, ed. Yvonne Kleinmann (Stuttgart: Steiner, 2010), 249–269.
- 63 APRz, 1: AmRz, sygn. 8 (parchment). For this article I used a copy from the record of the court of lay assessors in Rzeszów. APRz, 1: AmRz, sygn. 27, 630–632.
- 64 »in quantum Iuri Haereditario non repugnat et anterioribus privilegijs est conforme approbamus.« Ibid., 631. – All translations from Latin have been edited by Sebastian Röbert.

– namely, because the infidel Jews [...] evidently take up permanent residence there and thereby [violate] these well-known privileges. Not only does the number of the existing permanent dwellings of the heads of household exceed forty, but wherever any given roof shelters occupants, they [the Jews] strive to contribute [only] one third of the number required in fulfilling burghers' duties and keeping watch, as was the custom at the time when they had only seven [households], and this was allowed to continue out of leniency.<sup>65</sup>

These few lines identify Christian burghers as the claimants and initiators of the privilege, document the significantly increased number of Jewish households, and trace the antagonism between Christians and Jews back to this change. Without hesitation, the town lord took sides with his Christian subjects and claimed that the Jewish settlement practice violated the privileges of his predecessors. In this case he did not exactly refer to Ligeza's privilege from 1599, but to a separate decree from the same year that had limited the number of Jewish houses in the Old Town to seven and, in the adjacent New Town, to 40.<sup>66</sup> Using this information, the evolution of the conflict can be reconstructed: Hieronim Augustyn's predecessors clearly had failed to adapt the tax and service system in Rzeszów to the increasing size of the Jewish settlement. Therefore, the considerably expanded Jewish community – in comparison with the Christian burgher community – bore a relatively small share of duties. Apart from this, as the privilege continues, another quarrel occupied the Christian and Jewish inhabitants:

Furthermore they [the Jews] pursue trade with all manner of goods within the town and beyond; most notably, they produce whole barrels of mead and presume to traffic everywhere in fish soup, other pickled goods, and salted fish. They serve imported beer and wine at will, and in town they trade in retail all kinds of grains they have purchased in the countryside in large quantities, and also publicly trade in other goods that do not compete with those of the craftsmen.<sup>67</sup>

65 »Cum[que] etiam eosdem cives ac subditos nostros sufficienter deductum fuerit qua ratione crescente in civitate nostra in dies infidelium iudaeorum [...], suum[que] inibi domicilium libere figente manifestum per hoc contra eadem privilegia praeiudicium, simul et notabile civilis ratione vitae dispendium pedetentim irrepserit et emergat, ut pote cum non tantum excedens quadraginta focos fixae et statae patrum familias mansionis numerus, quolibet vero tectum aliquot fovens inquilinos, oneribus civitatis ferendis excubijs quoq[ue] peragendis, per tertia solvendi partem quemadmodum protunc cum numero erant septem tantum servari contendant usum sicq[ue] hactenus per conniventiam servatum fuerit.« Ibid.

66 Ochendusko, *Dzieje Rzeszowa do 1918 roku*, 31.

67 »verum etiam omnis generis mercimonium tam intra, quam extra civitatem liberam sibi usurper negotiationem, specialiter autem mellis integras cremant orcas, halecibus, alijs[que] muralibus, sive salsis piscibus passim mercari deprehendantur, cocturam mulsi ejusdem[que] ut et cerevisiae advectitiae similiter et

From this description, we can conclude that the recently immigrated Jews had ignored established trade monopolies and guild privileges and thereby unhinged the economic system of the estate.<sup>68</sup> With the phrase »as we want to take care of the seriously weakened and rather unstable cause of our burghers and subjects« the town lord acted in favour of the traditional economic order. The issuance of the privilege was a way to protect established practice from newcomers.

In the *dispositio*, Hieronim Augustyn decreed »that the above-mentioned infidel Jews without any exception will be urged to take a proportional share in all regular and hereditary duties and charges«. <sup>69</sup> This measure was an effort to re-establish an equilibrium between the size and duties of each community and thereby prevent further social unrest. In the same sense, the directive addressed at the Jewish merchants that banned them from trade with certain goods and forced them to respect the guilds' privileges supported the old order.

Economic competition between Christians and Jews notwithstanding, the privilege did not express religious antagonism. The formula *Infideles Iudaei* – as well as the Polish terms *niewierni* and *starozakonni* – was a common term for Jews in official documents that expressed their clear separation from the Christian community, but did not touch upon free religious practice. The limitation in the production of mead explicitly did not concern mead for ritual purpose:

They [the Jews] are authorised to fabricate mead only in such quantities that seem reasonable for their Pessakh holiday. This applies anywhere within and beyond the town. Henceforth excluded are weddings and circumcisions.<sup>70</sup>

This precise differentiation indicates to which extent the town lord was informed by representatives of the Jewish community and had entered into negotiations with its elders. Apparently mead had also been consummated beforehand on the occasion of Jewish weddings and circumcisions, but this practice was regarded as a custom (*minbag*) – as opposed to the ritual con-

vini propinationem pro libitu exercean, frumentum omnis generis per praedia coemptum centenis modys intra civitatem distrahant, alijs quoq[ue] mercibus, quae nonnisi mechanicis competunt palam negotientur.« APRz, 1: AmRz, sygn. 27, 631.

68 The charge was probably addressed at a couple of Jewish commissioners who had settled down in Rzeszów and purchased merchandise for wholesalers in large quantities. Pećkowski, *Dzieje miasta Rzeszowa*, 277.

69 »quatenus praefati Infideles Iudaei ad omnia onera et contributiones tam regulares, quam haereditariae [...] proportionaliter sine ulla exceptione teneantur.« APRz, 1: AmRz, sygn. 27, 631.

70 »Coctura mulsi in tantum solummodo et praecise sibi permissa quantum necessitas pro Paschate eorum rationabiliter exigere videbitur, idq[ue] congiatim tantum et extra civitatem. Nuptiarum et circumcisionis actibus prorsus exclusi.« Ibid., 631–632.

sumption of mead at the Pessakh Seder – and could be dropped. The regulation of mead fabrication should be seen as a compromise between the Jewish elders and unmentioned guild representatives.

However, in the political field, the town lord clearly prohibited the legal dissociation of the Jews from the Christian purlieus, e. g. the rules of Magdeburg law. The privilege tells us about the Jews' striving to circumvent the local court of lay assessors and to establish an exclusive legal relationship with the town lord, as is was common practice in most private towns. In this case, Hieronim Augustyn again adopted the position of the Christian burghers and reaffirmed their jurisdiction as courts of first instance. Still, the crucial factor in his decision was not the Christian character of the Magdeburg Law code, which he did not even mention, but the authority of the long-established institution.

By 1750, after several wars, fires, and epidemics, the situation in Rzeszów had significantly changed. In that year, Hieronim Augustyn's son Jerzy Ignacy, town lord between 1706 and 1753, issued a privilege for the town that marks another shift in the legal status of his Jewish subjects.<sup>71</sup> The privilege was addressed to both the Catholic burgher community and the Jewish community: »equally to the town council and the whole Catholic community of my town Rzeszów, the Old and the New Town – and to the local Synagogue [Jewish community]«. In the face of his old age, his experience in rule and, perhaps, knowledge of European political thought of his time,<sup>72</sup> Jerzy Ignacy expressed his loyalty towards his subjects on the one hand, and on the other systematised their duties in order to hand over to his successor a functioning and well-ordered town. He requested total obedience and listed all kinds of obligations of the »orthodox Catholics« – various fees, the upkeep of public buildings and infrastructure, etc. – towards the town's *communitas* and its lord. Most revealing is the sentence concluding this passage, which obliged the Jewish community »for eternal times« to cover half of all above-mentioned expenses out of its independent tax revenue (*krupka*). In the subsequent passages, he stressed several times the common interest and responsibility of his Catholic and Jewish subjects. He entrusted only some tasks to either the Catholic or to the Jewish community exclusively, but still took care to maintain a general equilibrium. Strikingly, in the privilege of 1750, the common attribute *infidelis* for Jewish subjects had disappeared. If we read the privilegium like a will, the Catholics in Rzeszów would represent the elder son, but the Jews would still be a second

71 APRz, 1: AmRz, sygn. 12 (parchment).

72 Jerzy Ignacy Lubomirski in his function as a general of the Polish and Saxon armies during many years assembled at the Saxon court of the Polish king, Półćwiartek, »Latyfundium Rzeszowskie,« 562–563.

child. Their common inheritance consisted in a *convivitas* based on shared responsibility without regard to religious affiliations.

In summary, it can be claimed that the privileges for the town reflect a far-reaching neutrality of the noble lords in religious matters. None of the discussed privileges contains religious polemics or uses religious identities in its argumentation. The measures decreed aimed at mitigating political and economic conflict. Solely two markers indicate the privileges' rootedness in Catholicism: the dates of issuance follow the Catholic calendar, and the decreed fines were to the benefit of charitable Catholic foundations.<sup>73</sup>

### *Religious imprinting of guild privileges*

On the occasion of *quatember*,<sup>74</sup> which is held four times a year, the masters and apprentices of the guild – Catholics, Lutherans, and Calvinists – are obliged to assemble and celebrate a memorial service for the departed brothers and sisters of the guild, as is also custom in other guilds. Anyone who deliberately does not appear will have to pay the guild's fine of six pounds of wax (two pounds for apprentices) [...]. (The Jews who make up part of this guild are exempt from the duty to participate in the ceremonies of the Holy Catholic Church.).<sup>75</sup>

This passage from the privilege for the so-called German guild, issued by the above-mentioned Jerzy Ignacy Lubomirski on 17 March 1714, is representative of many other privileges for the various guilds of Rzeszów during the early modern period. It formulates a code of behaviour for the members of the guild, differentiated according to their religious affiliation. In addition, it describes the economic and social interaction of the various religious groups in town and reflects the influence of Catholic symbols and rituals on the guild. In a larger context it tells the following story: The population of Rzeszów at the time was subdivided into three Christian denominations as well as a Jewish community,

73 APRz, 1: AmRz, sygn. 27, 632.

74 Pol. *Suchedni* (also *Suche dni*) – in the tradition of the Roman Catholic Church, fast days that are held at the beginning of the four seasons respectively. They are meant to renew faith and are accompanied by church services, expiatory sacrifices, and pastoral care. *Pastoralliturgisches Handlexikon*, ed. Rupert Berger (Freiburg et al.: Herder, <sup>3</sup>2005), s.v. »Quatembertage«.

75 »Podczas suchedni, ktorzych bywa czworo w roku, wszyscy magistrowie y czeladź cechu tego, tak Katholicy, Lutrzy, iako y Kalwini powinni być na requialney mszy za zmarłych braci y sio[s]tr cechu tegoż odprawującej się, iako inszych cechowey sześć funtow wosku, a czeladnik dwa. [...]. (Żydzi ktorzy do tego cechu należec będą wolni od tego obligu, gdyż nie powinni bywać przy ceremoniach kościoła Świętego Katholickiego).« APRz, 1: AmRz, sygn. 27, 51–59.

who all cooperated with each other in the German guild. The name of the guild did not refer to its ethnic composition, but to the regional origin of the individual crafts assembled there.<sup>76</sup> All those practicing one of these crafts were obliged to join the German guild. Beyond its economic activities, the guild was a social and religious community that was dominated by the rites and values of its Catholic members. Even Lutherans and Calvinists who refused to join Catholic memorial services had to pay a wax fine that was destined for the Catholic Corpus Christi procession. All guilds were required to participate in this procession. Also, Jews were obliged to pay their membership fees to the guild, as well as fines in the form of wax, into the cash box.<sup>77</sup>

It is evident from this short description that the German guild was a heterogeneous joint venture with clear internal delineations and a distinctive hierarchy according to religious affiliation. A similar structure can be found in other guilds in early modern Rzeszów.<sup>78</sup> These efforts at delineation notwithstanding, several denominational and religious groups were united within one and the same guild in many cases – an unthinkable practice in the original late medieval understanding of guilds as a symbiotic Christian community, or *Lebensgemeinschaft*.<sup>79</sup> Still, against the opposition of Catholic guild members and clerics, mixed guilds were very common especially in the eastern territories of the Polish-Lithuanian Commonwealth.<sup>80</sup>

However, at the local level, one must ask why the town lords, in their general privileges, mostly avoided religious symbolism and the formation of explicit hierarchies among religious groups, but focused on Catholic values and rituals in guild privileges. Different functions and initiators for the two kinds of privileges are easily distinguishable: In the general privileges, the noble lord regulated the town's fundamental legal and economic matters. Therefore, they can be perceived as the core of the premodern local constitution. The town lord tried to strengthen the (admittedly) religiously heterogeneous *conciivilitas* via

76 Among others blacksmiths, saddlers, lorimers, tin moulders, turners, cobblers, and tailors.

77 APRz, 1: AmRz, sygn. 27, 55–56.

78 See the privilege for the cobblers' guild from June 16, 1654. APRz, 1: AmRz, sygn. 6 (parchment); the privilege for the tailors' guild from July 10, 1670. APRz, 1: AmRz, sygn. 27, 51–55 (copy); the privilege for the bakers' guild from February 28, 1728. APRz, 1: AmRz, sygn. 27, 75–81 (copy), and the privilege for the butchers' guild from the same date. APRz, 1: AmRz, sygn. 11 (parchment).

79 For a revised analysis of the late medieval guild system as a flexible institution in historical development see Jan Lucassen, Jan Luiten van Zanden, and Tine De Moor, eds., *The Return of the Guilds* (Cambridge: Cambridge University Press, 2008), 5–18.

80 M[oses] Kremer, »Der antayl fun yidishe ba'aley-malakhot in di kristlekhe tsekhn in amolikh Poyln,« *Bleter far Gesbikhte* 2 (1938): 3–32, here 6.

these privileges.<sup>81</sup> By contrast, guild privileges were usually initiated by a group of craftsmen who, in written form, had asked the town lord for permission to establish a guild and formulated their concept of a Christian community in work and life. If these orientations did not contradict other privileges and were not to the detriment of another group, the town lord would adopt them into a privilege and, through promulgation, give them legal force.<sup>82</sup>

The oldest preserved guild privilege in Rzeszów was issued in 1449 for the weavers' guild; that is, at a time when the Christian population was not yet divided by the Reformation, and Jews only started to settle down in the region. Even at this early date, this privilege prescribed an admission fee and fines in the form of wax.<sup>83</sup> It can be deduced from this circumstance that the community life of the Rzeszowian guilds was rooted in Christian ritual from the very beginning. Religious dissent – whether through the immigration of Jews or through the breakup of the Christian community into several denominations – inevitably challenged this order. A privilege issued by Mikołaj Rzeszowski for the cobblers' guild in 1569,<sup>84</sup> which referred to an older privilege, very adequately described the growing religious competition in town. This privilege reaffirmed the wax contribution and obliged new members to light candles in church on Sundays and holidays. In addition, its members were called to fabricate guild candles collectively before the Corpus Christi procession. They were obliged under threat of punishment to join the procession together with their wives and to carry the sign of the guild, along with the candles, immediately behind the sanctum throughout the streets of Rzeszów. The same requirement was applied to the Corpus Christi service, but with one exception: The privilege in that case allowed guild members to send a substitute.<sup>85</sup>

In comparison to the mid-15<sup>th</sup> century, the ritual activity of the guild, especially on the occasion of Corpus Christi, had grown considerably.<sup>86</sup> It signalled the Catholics' striving to take over public space through religious

81 On the concept of *conciuitas*, understood as collective action of various social and religious groups in one town, see Rohdewald, »Vom Polocker Venedig«, 16–23, especially on collective activities of early modern guilds: 263–266.

82 This procedure is explained in detail in the privilege for the German guild from 1714. APRz, 1: AmRz, sygn. 27, 51.

83 APRz, 1: AmRz, sygn. 27, 17–20, here 19.

84 Ibid., sygn. 1 (parchment).

85 Ibid., sygn. 27, 6, 8–8v.

86 Also in other parts of Europe the importance of the Corpus Christi procession was growing during the counter-reformation. Through the end of the Thirty Years' War it was the guilds' duty to organize these processions. Holger Nielsen, *Prozessionsfeste und dramatische Spiele im interreligiösen Vergleich. Eine religionsphänomenologische Studie zu Fastnacht, Fronleichnam, 'Ašura und Purim* (Berlin: Logos, 2005), 134–137.

symbols and to impose themselves on unnamed competitors. The privilege was issued only one year before the so-called *Consensus Sandomirensis* concluded by the Bohemian, Helvetian, and Lutheran protestant churches in the neighbouring Sandomierz in 1570.<sup>87</sup> Therefore, it is most likely that the concession to send a substitute for the Corpus Christi procession was aimed at Calvinist and Lutheran members. With the aid of this strategy, the guild saved its economic cohesion even though its religious cohesion had collapsed.

Religious dissent with Jewish craftsmen was dealt with by the guilds and town lords in various ways. As the privilege for the German guild has demonstrated, Jewish craftsmen could be economically integrated, but ritually separated. Another option was the complete exclusion of Jews from Christian guilds. This happened regularly in the various regions of the Polish-Lithuanian Commonwealth,<sup>88</sup> though I have not found evidence for such practice in Rzeszów. Jewish craftsmen could also establish their own guilds, as occurred in other towns of the region<sup>89</sup> but only in a few cases in Rzeszów from the late 17<sup>th</sup> century.<sup>90</sup> As to the town lords, they could also force craftsmen of different religious affiliation to join a common guild. This was true for Jerzy Ignacy Lubomirski's privilege for the bakers' guild from 24 February 1728. The privilege's *inscriptio* significantly differed from previous privileges.<sup>91</sup> With the words »to our glorious Council and the entire Jewish Synagogue of our town Rzeszów,«<sup>92</sup> the noble lord addressed the administration of the Christian purlieu and the elders of the Jewish community *pari passu*. Without entering into details, he referred to an enduring conflict between Catholic and Jewish bakers in town. Therefore, he

87 About the Consensus Sandomirensis see Michael G. Müller, »Der Consensus Sandomirensis – Geschichte eines Scheiterns? Zur Diskussion über Protestantismus und protestantische Konfessionalisierung in Polen-Litauen im 16. Jahrhundert,« in *Konfessionelle Pluralität als Herausforderung. Koexistenz und Konflikt in Spätmittelalter und Früher Neuzeit*, eds. Joachim Bahlcke, Karen Lambrecht, and Hans C. Maner (Leipzig: Leipziger Universitätsverlag, 2006), 397–408.

88 See Maurycy Horn, »The Chronology and Distribution of Jewish Craft Guilds in Old Poland, 1613–1795,« in *The Jews in Old Poland, 1000–1772*, eds. Antony Polonsky, Jakub Basista, and Andrzej Link-Lenczowski (London, New York: I.B. Tauris, 1993), 249–266, here 253–254; Kremer, »Der antayl fun yidishe ba'aley-malakhot,« 4.

89 For example 1735 in Zasław (Volhynia), where Jewish tailors and blacksmiths asked the town lord for permission to establish their own guild for ritual reasons. See *Żydzi polscy 1648–1772. Źródła*, ed. Kazmierczyk, 48–50. For a general outline on Jewish guilds see Horn, »The Chronology and Distribution of Jewish Craft Guilds,« 253–266.

90 Wizimirska, »Sytuacja prawna Żydów w Rzeszowie,« 7.

91 APRz, 1: AmRz, sygn. 27, 73–81 (copy).

92 »sławetnym urzędóm miejskim y calej synagodze żydowskiej miasta naszego Rzeszowa«. *Ibid.*, 73.

ordered the rival craftsmen, who until then had coexisted in free competition without any guild affiliation, to establish a single common guild.<sup>93</sup>

Nobody had asked for this foundation. The obvious motivation for the surprising measure was the acute need to bolster the insufficient bread supply for the urban population.<sup>94</sup> In contrast to the older mixed guilds, which had turned into such only through immigration and religious schism, the bakers' guild was explicitly founded »in order that, with the aid of this regulation, Catholics and Jews behave and administer well in the bakers' craft«. <sup>95</sup> The town lord gave them a clearly defined common task – satisfying the existential need for bread in the future – and made them mutually dependent in the case that they could not meet the demand.

This equality of responsibility notwithstanding, the hierarchy of Catholics and Jews within the guild hardly differed from that of long-established guilds: Exactly 30 Catholics and eight Jewish bakers were admitted.<sup>96</sup> The guild statutes established numerous religiously influenced rituals and fees. For instance, on the occasion of the annual collective purchase of grain, Catholics as well as Jews were obliged to contribute a certain amount of wax to the guild's treasury for the Corpus Christi procession. This was kept in the chapel of St Valentin, the Catholic patron saint of bakers. Correspondingly, the rhythm of weeks and holidays followed the Catholic order. Neither Catholic nor Jewish guild members were allowed to buy goods on the market before the end of Sundays or holiday services,<sup>97</sup> whereas Jewish holidays were not even mentioned in the privilege.

It does not appear from the text, whether more than eight Jewish bakers had exercised their craft in Rzeszów beforehand. Only in this case could the limitation be interpreted as a discriminating measure. Beyond any doubt, the new order was quantitatively and qualitatively in favour of the Catholic guild members. Given the dominance of the Catholic Church on the regional and state levels,<sup>98</sup> as well as the personal commitment of the town lord in church

93 This measure concurs with Moses Kremer's claim, that in private towns the town lords and not the guild masters decided whether guilds were religiously heterogeneous or uniform. Kremer, »Der antayl fun yidishe ba'aley-malakhot,« 5.

94 APRz, 1: AmRz, sygn. 27, 74–75.

95 »aby według tego prawa Katholicy y Żydzi konsztu piekarskiego dobrze się sprawowali y rządźili«. Ibid., 74.

96 Ibid.

97 Ibid., 75–77.

98 This dominance was manifest in a strong Catholic public sphere, imprinted by monasteries, educational institutions, the cult of Mary and – last but not least, the Catholic king. Hans-Jürgen Bömelburg, »Politische Öffentlichkeit und Verfassung zwischen Königsherrschaft, Oligarchie und Adelsrepublikanismus,«

patronage,<sup>99</sup> there was most likely no other option. The close connection between the guild's activities and Catholic ritual and space must be interpreted as an act of symbolic subordination. However, Jerzy Ignacy Lubomirski formally expressed a respectful attitude towards the Jewish community in the address. At the language level, the pejorative *infidelis* of the older privileges had given way to the neutral *Żydzi* in the legal ritual at the initiation into the guild, with the Jewish oath standing alongside the Christian one. No additional, humiliating ceremony was mentioned.<sup>100</sup>

The guild privilege of the bakers was, in two regards, not at all an exception: Many other guild privileges were also formed by Catholic symbols and rituals.<sup>101</sup> Beyond this, mixed guilds for Christians and Jews were common in Rzeszów as well as in other towns of the region.<sup>102</sup> The first known guild privilege in Rzeszów, the privilege for the shoemakers from 1569, had already admitted Christians and Jews.<sup>103</sup>

### *Conclusions and further perspectives*

Returning to the categories outlined at the beginning of this article: Did a substantial difference exist between the known privileges addressed exclusively to the Jewish community and those general Rzeszowian privileges concerning various religious groups in town? And, if yes, what does it mean in the larger setting of research in Polish-Jewish history? The answer has to be differentiated into two levels. As to the content, the town lords' privileges granted to the whole town population of Rzeszów focussed in particular on the same topics raised in exclusive royal and private privileges for regional Jewries, as well as for local Jewish communities: They addressed questions of judicial authority, religious freedoms or restrictions, and regulated tax payments and other duties, trading activity, property rights, relations between Jews and Christians, as well as the town lord's self-obligations towards his or her subjects.<sup>104</sup>

in *Polen in der europäischen Geschichte. Ein Handbuch*, vol. 2: *Frühe Neuzeit*, ed. idem (Stuttgart: Hiersemann, 2012), 369–396.

99 For Jerzy Ignacy's engagement in church patronage see APRz, 519: AL, sygn. 169.

100 APRz, 1: AmRz, sygn. 27, 75.

101 See for example the privilege of the butchers' guild from 1728, APRz, 1: AmRz, sygn. 11 (parchment).

102 Horn, »The chronology and distribution of Jewish craft guilds,« 258; Kremer, »Der antayl fun yidishe ba'aley-malakhot,« 3–32.

103 APRz, 1: AmRz, sygn. 1 (parchment).

104 These are the characteristics systematized by Jacob Goldberg in his collection of exclusive privileges for the Jews. See *Jewish Privileges in the Polish Commonwealth*,

The essential difference lay on the level of formal address and understanding of political rule. The issuance of a privilege for the entire population of the town – or for all members of a guild – automatically stressed the common concern of the document. Even though the privileges analysed here reflect various conflicts between Catholics and Jews, they group the two main religious communities in town into one common picture. The rights granted to the Jews were directly comparable to the rights of other groups and vice versa. One could even claim that the town lords used the privileges to mediate between antagonistic groups. It is symptomatic that they avoided broaching the issue of religious antagonism.<sup>105</sup> Only guild privileges emphasized clear delineations in the domain of religious ritual, but the coexistence of Catholics and Jews in one and the same guild was not thereby called into question.

On this empirical basis it can be claimed that the legal system of the Rzeszów estate – in this case town and guild privileges – reflects the close interaction and mutual dependence of Jewish and Christian inhabitants as well as the town lords at various levels. Forms of day-to-day communication, of course, could be further investigated at the level of neighbourly relations.<sup>106</sup> The privileges analysed indicate the flexibility and dynamics of legal regulations and practice in times of political change. They also point to the common political culture, especially negotiation strategies of Christians and Jews in Rzeszów – and elsewhere in the Commonwealth.

Coexistence and *conciivilitas* must not be confused with harmony. The noble lords, who from the mid-17<sup>th</sup> century on faced a serious military threat to their existence, as well as economic and demographic decline in their town, used privileges as an integrative measure. Nevertheless, the language of the privileges – at least until the late 17<sup>th</sup> century – clearly expressed the reservations of both lords and burghers towards Jewish settlers. Jews were perceived not only as an economically harmful, but also as a morally dangerous group which had to be disciplined in favour of the Christian burghers. Religious antagonism was postponed solely for the sake of urban reconstruction and economic growth, and Jewish inhabitants were able to obtain more and more rights. Not that the

ed. Goldberg, vol. 1, 4–5, 21–22, 32–33, 42–44. For some examples, see *ibid.*, 83–88 (Dobromil, 1612), 148–150 (Leżajsk, 1765), 313–317 (Sokołów, 1668).

105 The political role of silence is at the center of Yvonne Kleinmann, »Reden oder Schweigen über religiöse Differenz? Kommunikationsfelder eines städtischen Gemeinwesens im frühneuzeitlichen Polen,« in *Gottlosigkeit und Eigensinn. Religiöse Devianz im konfessionellen Zeitalter*, eds. Eric Piltz and Gerd Schwerhoff (Berlin: Duncker & Humblot, 2015), 353–385.

106 See the inspiring study by David Frick, *Kith, Kin, and Neighbors: Communities and Confessions in Seventeenth-Century Wilno* (Ithaca–London: Cornell University Press, 2013).

attitude towards the Jews was better than in other towns, but economic and demographic conditions were clearly worse. A truly neutral position concerning the religious affiliation of his subjects was taken only by Jerzy Ignacy Lubomirski in the mid-18<sup>th</sup> century.

If we, lastly, ask about the success of the arrangements between Catholics and Jews in the Rzeszów privileges (as well as in other legal regulations) we have to compare them to political strategies in other towns of the region. The described complaints of the Catholic burghers and guilds – about Jews buying up houses, harming the town's economy, etc. – were very similar to those for example documented in the royal town of Przemyśl.<sup>107</sup> There, upon the initiative of a royal commission, the ongoing competition and aggressions were settled in 1645 by a so called *ugoda*, a compromise solution between Christians and Jews concerning each group's rights and duties in town. This arrangement notwithstanding, complaints and conflicts did not cease, and in 1759 the reeve's (*wójt*) court even imposed the death sentence on six Jews in blood libel accusation.<sup>108</sup> During the entire discussed period no blood libels or accusations of host desecration occurred in Rzeszów.<sup>109</sup>

Yvonne Kleinmann

107 See the numerous examples given by Mojżesz Schorr, *Żydzi w Przemyślu do końca XVIII. wieku* (Lwów: Nakładem Funduszu Konkursowego, 1903), 95, 100, 102, 105–108, 114–116, 119–121.

108 Ibid., 28–29; 243–245.

109 See the documentation in Hanna Węgrzynek, »Czarna legenda« Żydów. *Procesy o rzekome mordy rytualne w dawnej Polsce* (Warszawa: Bellona, 1995), 182–194, as well as in Zenon Guldon and Jacek Wijaczka, *Procesy o mordy rytualne w Polsce w XVI–XVIII wieku* (Kielce: DCF, 1995), 96–101.