

The Union of the Estates in the Principality of Transylvania

The Basis of the Constitution*

Teréz Oborni 

Institute of History, Research Centre for the Humanities, Hungarian Research Network,
4 Tóth Kálmán utca, 1097 Budapest, Hungary; Institute of History, ELTE Eötvös Loránd University,
6–8 Múzeum körút, 1088 Budapest, Hungary; oborni.terez@abtk.hu; oborni.terez@btk.elte.hu

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Abstract. The paper briefly describes the basis of the constitution of the Principality of Transylvania, the union of Estates. Among the antecedents, it reviews the late medieval alliances of the Estates that were made by the nations (*nationes*) living in Transylvania, highlighting that the three ‘political nations’ were not nations or ethnicities in the modern sense, but rather were separated by their privileges and legal status. Based on Latin and Hungarian sources, the author reveals the covenants as renewed in the Articles of Law and emphasized that the concept of Union was broadened in the seventeenth century so that it no longer served only to support the unity of the state but also guaranteed the maintenance of the privileges of the Estates. The most precise interpretation of the Union was set out in the *Approbatæ Constitutiones*, a collection of laws compiled in 1653.

Keywords: Principality of Transylvania, union of the Estates, constitution, Approbatæ Constitutiones

The constitution of the new state that emerged from the eastern parts of the Kingdom of Hungary by the middle of the sixteenth century, the Principality of Transylvania, was based on and preceded by medieval alliances of the Transylvanian Estates, called Unions. When, after the fall of Buda (1541), the eastern part of the Kingdom of Hungary was forced to organise a new state, the Transylvanian Estates—the so-called nations—soon realised that their common interests called them once again to unite. These interests were initially to defend the country against external aggression and later to preserve the country itself and maintain internal

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order. While in the sixteenth and seventeenth centuries, the nations forming the Estates repeatedly strengthened the Unions, they also strove to preserve the privileges that ensured their distinct status. Each of the Transylvanian Estates had its own self-government and special rights, which were guaranteed by the privileges they had acquired in previous centuries and which they did not want to lose in the new state. Their latter aspiration was not one of unity but of disunity and separation. This duality, the preservation of the Estates' alliance that formed the basis of the state, and the contrasting disunity of the Estates, characterised the statehood of the Principality of Transylvania. In the seventeenth century, crises—arising from external dangers or internal political turmoil—threatened to disintegrate the state. In such cases, the Estates rose above their own different interests, and in most cases considered it necessary to strengthen the alliance, the Union, that ensured the existence of their common state, the Principality.¹ In this study, I would like to briefly review the characteristics and history of the Union of the Transylvanian Estates.

But before discussing the specificity of the Union, it is necessary to briefly mention the particular and complex structure of the Estates that developed in Transylvania during the Middle Ages. The social groups with political rights, i.e., the Estates, were made up of the nations (*nationes*) living in Transylvania that had been granted special rights and privileges by the Hungarian Kings.² The Estates thus formed were the Hungarian nobility (*natio Hungarica*), the Székelys (*natio Siculica*) and the Saxons (*natio Saxonica*). The Estate of nobility or 'Hungarian' nobility, in fact, included all persons of any ethnic origin living on the territory of the Kingdom of Hungary having noble privileges. The society of the Székelys, also of Hungarian ethnicity, was based on soldiering, and they formed a distinct social group through the specific rights (*libertates*) in this respect, preserved through customary law. The Saxons, who settled mainly in the southern region of Transylvania, were also bound together by their own privileges. The Romanian ethnic population of the Orthodox religion did not form a separate Estate with political rights in the Middle Ages and did not become a member of the Estates during the renewal of the Estates'

1 On the legal status of the Principality: Timon, *Magyar alkotmány- és jogtörténet*, 757; Rácz, *Főhatalom és kormányzás*, 108–10; Volkmer, *Siebenbürgen zwischen Habsburgermonarchie und Osmanischem Reich*, 28–42; Kisteleki, "The Principality of Transylvania."

2 On the Estates of Transylvania from various perspectives, see: Endes, *Erdély három nemzete*; Roth, *Kleine Geschichte Siebenbürgens*; Gündisch, "Ständische Autonomie und Regionatität"; P. Szabó, "Sachsen in Ungarn"; Zach, *Konfessionelle Pluralität*, 3–48; Crăciun, "Communities of Devotion"; Crăciun, *Die Szekler in Siebenbürgen*; Keul, *Early Modern Religious*; Kálnoky, *The Szekler Nation and Medieval Hungary*; Oborni, "A székelyek országrendisége és a szabadságjogok"; P. Szabó, "Legal Reform Efforts"; Ardelean, "Political Boundaries." See also the study by Rácz in this volume.

Unions, but they could enter the ranks of the *natio Hungarica* by acquiring nobility.³ However, the three ‘political nations’ were not nations or ethnicities in the modern sense, but instead separated by their privileges and legal status. It should nevertheless be added that the process of the ethnicisation of nations had already begun in the early modern period.⁴ In the following, I will use the two terms—Estates and nations—as synonyms, for the reasons mentioned above.

The Medieval Alliances of Transylvanian Estates

The antecedents of the Union of the Estates of the Principality of Transylvania can be found in the medieval alliances. The first known such alliance, the famous Union of Kápolna (Căpâlna), was formed in 1437 after a peasant uprising in Transylvania. The document drawn up at that time stated that the nobles, the Székelys and the Saxons had established a fraternal pact between themselves (“nobiles ac Saxones et Siculos talem fraternam disposuimus unionem”), the aim of which was to defend themselves jointly against internal and external enemies, i.e., the rebellious peasants and the threat of Ottoman attacks which by then had already threatened Transylvania. The united Estates also expressed their loyalty to the King of Hungary, Sigismund of Luxembourg. It should be noted in parentheses that ethnic consciousness played no role in the creation of the Union, which was shaped solely by the common interests of the Estates. The Union was reaffirmed at the next provincial assembly held in Torda (Turda) in 1438.⁵

The next renewal of the Union took place in 1459 at the provincial assembly in Medgyes (Mediaş), which was led by János Lábatlani, the *Comes Temesiensis* and *Comes Siculorum*, on the king’s personal order.⁶ The Estates agreed to defend their privileges, to unite against external and internal enemies, and to support each other with military force if necessary. A new element was added to the charter to the effect that if the king

3 From a vast literature on the issue: Jakó, “Újkori román települések”; Brătianu and Makkai, *Tündérkert – Grădina Zinelor*; Miskolczy, *Románok a történelmi Magyarországon*, 17–31; Drăgan, “Transylvanian Romanian Nobility”; Drăgan, “The Structure of the Nobility”; Dáné, “Az alsóoroszi Krajnikok.”

4 Brubaker et al., “Transylvania as an Ethnic Borderland,” 56–88.

5 On the medieval Unions, with documents: Teutsch, “Die »Unionen«”; Roth, *Kleine Geschichte Siebenbürgens*, 43–4.

6 *Comes Temesiensis* – The chief official at the head of the county of Temes (Hung. *ispán*), usually a person of high noble rank and a military leader. *Comes Siculorum* – The main political, military, administrative and legislative officer of the Székely people was the Lord of the Székely—in Hungarian ‘*székelyispán*’—appointed by the King of Hungary in the Middle Ages, usually a Transylvanian nobleman. The princes of Transylvania also bore the title of *Comes Siculorum*. See: Oborni, “The Titles of Transylvanian Princes.”

sent any of the lords to Transylvania with the task of imposing new taxes or other obligations on the population, the royal envoy would not be assisted, and his work would be obstructed. The strong alliance of the Estates and their common action against the central power is further underlined by the other points in the document. The three nations also promised each other that if any of them were to be harmed, they would inform the other two Estates, the voivode, as well as the captains of the Estates' communities, who would have eight days to provide legal remedy to the injured party.⁷

Less known about the following decades is the alliance of the Estates in Sárd (Șard) in Fehér County, obviously in continuation of the previous ones, which we can infer from a reference. In a letter written in December 1492, the Székelys asked the Saxons of Szeben (Sibiu) to join them in defending their rights, which had been violated by the voivod of Transylvania, Stephen Báthory. In this letter, the Székelys referred to the agreement concluded between them and the nobles of the country after the death of King Matthias on the field of Sárd, according to which, if the Székelys were harmed, the other two Estates would take joint action and demand the observance of the laws of the country, i.e., the privileges of all three Estates.⁸

Cooperation between the orders was further strengthened by the 1506 covenant of the three nations, whose authors again declared not only their unity but also their common provincial interests.⁹ The envoys of the Estates (“Nobilium, Siculorumque ac Saxonum earundem parcium Transsylvanarum”) were then meeting in Segesvár (Sighișoara) on 10 February 1506. After declaring their loyalty to their Royal Highnesses—Vladilauș II Jagiellonian and Anne of Foix-Candale—and the Holy Crown of Hungary, they declared that they would defend Transylvania (“defensionemque huius Regni Transsylvani”) with one will and in unison.¹⁰ The reasons given for the decision were as follows: for some time, there had been no voivod appointed to represent the king in Transylvania, and therefore, the administration of justice had been suspended, which had led to much confusion and conflict between them. Therefore, the Estates decided that, as long as the king was in charge of appointing a new voivod, the three nations would establish peace and order in Transylvania. Moreover, as Transylvania lay close to the Ottomans, Tartars and other enemies, and as the latter groups had repeatedly set fire to the villages, and as many robbers, villains, murderers and counterfeiters of money were rampaging

7 Teutsch, “Die »Unionen«,” 88–93.

8 Szabó, ed., *Székely Oklevéltár*, vol. III, 122–23; Horváth and Neumann, *Ecsedi Bátori István*, 119–20.

9 Teutsch, “Die »Unionen«,” 99–102; Szabó, ed., *Székely Oklevéltár*, vol. I, 309–13.

10 “[...] fidelitatem Regie et Reginali Maiestati, Sacreque eius Corone, defensionemque huius Regni Transylvani similiter Sue Maiestatis, consequenterque ipsarum trium nationum unanimiter et concorditer supportare possint.” Szabó, ed., *Székely Oklevéltár*, vol. I, 309.

through the country, they agreed to act against them jointly and to protect the internal public safety of their country and each other. It was therefore decided to set up a forty-three-member court to settle disputes between them and to deal with rogue criminals, with fourteen members delegated by each of the Estates and a dean from the Transylvanian Chapter. The arbitral tribunal thus set up would sit twice after the official oath had been taken. And if the latter had to decide a case in which a member of one nation was pitted against a member of another nation, and a sentence of death was passed, the condemned could appeal to the king. At the end of the covenant, they asked His Majesty to preserve the old privileges of all three Estates and promised that if the voivod and Lord of the Székelys, Peter of Szentgyörgy and Bazin should in the future violate their privileges, all three nations would take joint action against them, or would ask that such officials be removed by the king.¹¹

There is also an example of the unity of the three nations from 1509, when representatives of the Saxons travelled to Marosvásárhely (Târgu Mureş) to attend a provincial assembly to confirm the Union of the three nations (“rationem unionis trium nationum confirmandae”).¹²

The above alliances of the Estates, seeking to defend themselves against internal and external enemies, are undoubtedly evidence of the aspirations of the three nations to self-defence. This was not only due to the needs of the internal government of the Transylvanian province but also to the increasing Ottoman attacks in the first decades of the sixteenth century.

The Union of Estates in the Eastern Kingdom of Hungary

After the Ottoman conquest of Buda (1541), Sultan Suleiman expelled King John's widow, Queen Isabella, aged barely twenty, and her one-year-old son, who had been elected king, from the capital and ordered them to continue ruling in the east of the country. The territory which the sultan decided to give to Isabella and her son was still vague, but it can be defined as the eastern parts of the Kingdom of Hungary: Transylvania, the counties east of the Tisza River (i.e., Transtibiscan region) and Upper Hungary, centred on Kassa (Košice).

The Estates of Transylvania had to create a new state entity within the new geographical borders. In the following year, they held three national assemblies in which they tried to adjust their fate to the changed power situation. The first renewal of the fraternal union between the three nations in the new situation took place at the last Diet of the year in Torda on 20, December 1542:

11 Oborni, “From Province to Principality.”

12 The data mentioned: Pap, “A vallási különbség,” 70, note 14.

“[...] all who are here assembled, by unanimous consent, with careful forethought and common resolution, have agreed that in future, laying aside all rancour, pretense, and so much dissension, they will serve true and brotherly friendship, and that if any hostile force should [invade the country [...]], they will come together in spirit and will to the defence of the country, and will mutually support and defend each other by the order of the ordinary judges whom the Sovereign has appointed or will appoint with the country.”¹³

A significant milestone in the first phase of the constitution-making process was the assembly convened in Torda on 1 August 1544. Queen Isabella invited the Transibiscan region's counties (Arad, Békés, Bihar, Csanád, Külső-Szolnok, Temes, Zaránd) to the assembly, where they declared their loyalty to King Elect John II Szapolyai and Queen Isabella as regent and also declared their intention to join the Transylvanian Diet of the Estates. This fateful act marked the legal unification of the Estates of Transylvania and the Transibiscan counties and the establishment of the Estates' structure of the Eastern Kingdom of Hungary. The Estates of the newly emerging country then called themselves “the universal community of the lords and nobles of Transylvania and Hungary under the authority of the royal majesty John II” (“universitas dominorum et nobilium Regni Transsylvaniae et Hungariae ditionis Majestatis suae”) and defined their assembly as a General National Assembly (“generalis congregatio”).¹⁴ This Diet made provision for the national revenues of the monarchs and the re-establishment of the higher judiciary. Those present declared that there would then be an annual general Diet, which would now be attended by the Estates of the Transibiscan counties as well.¹⁵

The constitutional process did not end there, of course, as subsequent Diets continued to enact the fundamental laws governing the political system of the country, their amendments and the various laws regulating national affairs. In the 1540s, there was one more important assembly, the one that opened on 24 April 1545, also in Torda. At this meeting, the Estates forged an even closer alliance between the

13 “[...] domini Regnicolae trium nationum Transilvanarum in conventu Thordensi congregati [...] omnes unanimi consensu, longa praehabita deliberatione, paribus sententiis convenerunt, ut futuris temporibus [...] verum fraternamque amicitiam servent [...] animis ac voluntatibus ad tuendum regnum conveniant, juxta mandatum ordinarii judicis, quem princeps una cum regno constituit vel constituat, seque mutuo protegant ac defendant.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. I, 164.

14 Benkő, ed., *Diaetae sive rectius comitia*, 49.

15 “Singulis annis celebrentur huiusmodi congregationes generales, omnibus ordinibus ditionis Maiestatis suae tam Hungaris quam Transsilvanis.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. I, 190.

forces that held their country together. It was resolved and enacted by those present that since they all had one homeland (“una nobis omnibus patria sit”), they should unite in their efforts to sustain its welfare, and therefore, according to the old customary law and decrees, the burdens of the homeland should be borne jointly and equally by the three Estates.¹⁶

The process of forming the new country was interrupted for about five years when Ferdinand I Habsburg came to rule the eastern part of the country. In the summer of 1556, however, under the threat of Sultan Suleiman, Ferdinand relinquished control of the territory and returned it to Queen Regent Isabella and her son, King-elect John Sigismund II Szapolyai. The Szapolyai family returned to Transylvania in the autumn of 1556 after five years in Poland. After their return, the organisation of the state took on a new impetus, and in this spirit, the cohesion between the Estates had to be strengthened once again. This was the purpose of the article of February 1557, which stipulated that what two Estates agreed on should be binding on the third.¹⁷ The specific purpose of the law was to ensure an equal distribution of the state tax burden, but there was no doubt that this decision was also of great importance in establishing the integrity of the new country. It is worth mentioning that when the power of the Estates was strengthened during the crisis of the mid-seventeenth century, the Diet passed a law that any decision of the Estates was valid only if it was sealed by the stamp of all three nations. This provision ran counter to the law of 1557.¹⁸

The situation in Transylvania and the eastern territories was settled by the Treaty of Speyer of 1570–71 between King-elect John II Szapolyai of Hungary and King Maximilian I Habsburg of Hungary, the result of a decade of negotiations. In the treaty, John II renounced the title of King-elect and took in his place the title of Prince of Transylvania and the parts of Hungary attached to it (“Princeps Transylvaniae et partium regni Hungariae eidem annexarum”) and agreed with Maximilian that the eastern part of the country would henceforth be known as the Principality of Transylvania.¹⁹

16 “Deliberatum est: ut eiusmodi onera Patrie, juxta antiquam Consuetudinem et Constitutionem Regni, omnes tres nationes equaliter perferant, cum utilitas que ex conservatione Regni esse consuevit, ad omnes ex equo pertineat.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. I, 217.

17 “[...] semper enim tertia natio duarum nacionum aliarum deliberacionem sequi et imitari debet id quod longa consuetudine constat receptum esse.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. II, 73.

18 “[...] ez pecsétek nélkül, avagy ezek közül csak valamelyik nélkül is, excepto casu praemisso, ha valamely expeditiók nomine regni kelnének, erőtlenek és hitel nélkül valók legyenek.” Article III. of 1659. Szilágyi ed., *Erdélyi országgyűlési emlékek*, vol. XII, 295.

19 The Treaty of Speyer: *Österreichische Staatsverträge. Fürstentum Siebenbürgen*, 182–99; Fodor and Oborni, “Between two great powers – the Hungarian Kingdom of the Szapolyai family.”

The Union of the Estates in the Principality

As early as in the sixteenth century, the nobles had been quite successful in their efforts to redress grievances against their own privileges, but they also spoke out in defence of each other's old privileges. In November 1591, at a meeting in Gyulafehérvár (Alba Iulia), the three orders passed a law redressing the grievances of the Saxon nation, 'a member and ornament of our country'. The Saxons had complained that they had recently been overtaxed. In response, the three nations jointly called on the prince to maintain the privileges of the Saxons.²⁰

The alliance between the Estates for the common homeland became strongest in times of war. In 1600, when Michael the Brave, voivod of Wallachia had already been ruling the country for three-quarters of a year as a lieutenant (*locumtenens*) of Emperor Rudolf I, the Hungarian nobles (*Proceres, comites ac universitas nobilium Transylvaniae*) made an open appeal to the Saxon community. In a letter from the military camp near Torda, they asked the Saxons to join them and the Székelys in rebellion against the voivod.²¹ At the same time, the nobles of Transylvania sent a similar appeal to the Székelys, claiming that "your Grace is a true member of this country" and asking them to join the fight against Michael Voivod to save the homeland. In their letter, they mentioned that since, according to the covenant, the Estates also defended each other, the nobility reiterated their commitment to defend the privileges of the Székelys, if necessary.²²

The need for a law to strengthen the Union was usually raised by the Estates during elections of princes or other times of crisis when the state itself was threatened with disintegration or dissolution. This was the case, for example, in the spring of 1605, when the Saxons refused to recognise the rule of Stephen Bocskai, already elected prince by the Hungarian nobility and the Székelys, who had already sworn allegiance to King Rudolf of Hungary and Emperor. This meant that they had withdrawn from the Union, and its very existence was at stake. Finally, in July of the same year, at the call of the other two nations, the Saxons joined the nobility

20 "[...] az szegín százságnak szabadságokat mindennel helyen tartassa, liberálja és defendáltassa nagyságod." Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. III, 391.

21 "Az vajda magyar lovas hadának is jó része hozzánk jű, az székelységnek is alkalmas része mellettünk leszen, főképpen az aranyasszékiek; az több székelyek felől is jó reménységünk vagyon." Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. IV, 530.

22 "Sőt azon is megesküszünk kegyelmeteknek, mint szintén az aranyasföldi atyánkfiainak, kik immár velünk egy helyen vadnak táborban, hogy kegyelmetekkel együtt akarunk élni és halált is szenvedni. [...] Az magyar nemzetből való vitézljő rend is mind együtt vagyon velünk, az százság is jöttön jó mellénk, azonképen az egész föld népe, kegyelmetek is siessen mellénk, hogy kegyelmetekkel együtt országúl juthassunk jó állapotra." Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. IV, 534.

and the Székelys and pledged their loyalty to the prince and the common defence of the country.²³

The interdependence of the orders, their common will and their alliance for the survival of the country are also well illustrated by the decrees of the Diet of the Principality at the time of the election of Sigismund Rákóczi (1607). The assembled Estates reaffirmed their eternal Union (*foedus perpetuum super unionem*) and stressed that in the interests of peace and tranquillity, the nations must seek agreement on all national public affairs, but especially on the election of princes:

“[...] that one nation shall be bound to the other by oath, that in public affairs and in more troublesome matters, especially in the election of princes according to law and good order, one shall not oppose the other, and that the succession shall be in favour of the general condition of the country, the peace and progress of the country, but will not, either openly or privately, or in public or under any pretence, but will unite in a united effort to keep all the rights, the salvation of the people, in view, and will look to this end and strive with all their might to preserve peace and tranquillity in the country.”²⁴

They then agreed that one nation would protect the other, that they would not secede from each other in case of rebellion, and that they would not elect a prince by secret conspiracy. To this end, not only the representatives of the three nations, but also the major cities of Kolozsvár (Cluj-Napoca), Torda (Turda), Enyed (Aiud), Marosvásárhely (Târgu Mureş), Kézdivásárhely (Târgu Secuiesc), Várad (Oradea), Nagybánya (Baia Mare), Dés (Dej), Karánsebes (Caransebeş), Lugos (Lugoj) and Huszt (Хуст) had to take an oath.²⁵ An oath of allegiance to the unity of the country and to the prince was also made obligatory for the newly elected officials of local administration under penalty of disloyalty, loss of head and property. The law clearly indicates

23 “Kegyelmeteket, azért szeretettel intjük, mint urainkat, atyánkfiait, hogy kegyelmetek immár ne tréfával, hanem oly solidummal bocsássa követeit oda fel ő nagyságához, ki lehessen az közönséges unionak és ez szegény hazának megmaradásának és javának előmenetire.” Szádeczky, ed., *Székely Oklevéltár*, vol. VI, 12–6. The conditions imposed by the Saxons on the other two Estates and further documents for the renewal of the Union: Szádeczky, ed., *Székely Oklevéltár*, vol. VI, 17–9.

24 “[...] egyik nemzet az másiknak köteles legyen hittel, hogy in publicis et arduis negotiis et potissimum principis electione legitime et bono ordine fienda egyik az másiknak magát nem opponálja, sőt per successionem pártolásból contra regni publicum statum, patriae pacem et emolumentum privato ausu semmit nem igyekezik, sem publice, sem privatim, sem manifeste, sem aliquo exquisito sub colore, hanem totis viribus summam legem, populi salutem ante oculos ponit és erre a célra néz és omnibus viribus contendat, hogy pax et tranquillitas in patria conservetur.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. V, 454.

25 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. V, 454–55.

that the Estates saw the strengthening of the Union as a way of unifying their country. Almost immediately after his election as prince, Rákóczi informed Emperor Rudolf of the events, emphasising that the three Estates of the province had gathered in Kolozsvár on 11 February, where they first of all confirmed the Union, i.e., their everlasting confederation (*unionem sive perpetuam confederationem*), and assured each other of their mutual agreement by oath which was essentially equivalent to the oath of allegiance to the constitution of the country. It was also the first year in which the text of the Oath of Union has survived:

“I, [...], swear by the living God that I will keep the union and concord between the three nations in the country in all its articles, as it is written, faithfully and truly, until the end of my head, until the end of my wealth, and with all others who are under my possession or my authority, according to my ability, under the penalty of the law set forth above.”²⁶

Both the Estates and the would-be prince Gabriel Bethlen were well aware of the importance of the Union, and therefore, it was legislated as early as at the October 1613 prince-electing Diet that the alliance between the orders should be renewed.²⁷ This, however, only took place after further wrangling and princely tactics at the Diet of Medgyes in February–March 1614. After the election of Gabriel Bethlen, this was the first Diet to deal with questions of state organisation, and the prince’s main aim was to renew the Union and thus ensure the unity of the state. First of all, the prince’s well-thought-out propositions were uttered, in which he first of all formulated the essence of the Union:

“The union is nothing else but a sacred agreement between the three nations for the survival of our homeland, which all Estates must preserve with strong guard *pacis et belli tempore* and they shall bear the burden of the survival of the country in equal measure.”²⁸

26 “Én, [...] esküszöm az élő Istenre, hogy az országban lévő három nemzetség között való uniót és concordiat minden cikkelyiben az mint meg vagyon írva híven és igazán fejem fennállatáig, jószágom marhám fogytáig megtartom s mind egyebekkel, kik birodalmam vagy tisztem alatt vagynak megtartatom tehetségem szerint az feljül megirt büntetés alatt.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. V, 457.

27 “Az három natio között az unió újíttassék és tartassék; az kitől isten oltalmazzon, ha mi infortunium találna bennünket, ez országbeli nemességet, székelséget és minden rendeket az városi erősségben lévő uraim befogadjanak minden marhástúl, és bosszúsággal ne illessék, hanem egy értelemben lévén, fejek fennállásáig egymásnak szolgáljanak az unio szerint.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 360.

28 “[...] nem egyéb az unió, hanem az három nemzetség között hazánknak megmaradására való szent egyezés, minden rendeknek *pacis et belli tempore* erős vigyázással meg kell őrizni és az hazának megmaradásának terhet valamiből kívántatik, egyenlő értelemben viselniük.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 404–9.

The *propositio* formulated by the prince in this regard laid down a strict principle: if a person, city or province breaks his oath of Union or acts against the Union, it shall be considered a *nota infidelitatis* that is punishable by the loss of head and goods. Bethlen proposed the creation of a new judicial forum, a body of seven persons (*septemviratus*), which would be necessary both for internal government and for close cooperation against external danger.²⁹ The significance of the proposal lies in the fact that Bethlen wanted to set up a national judiciary, which had not existed before, to judge in a uniform manner those who violated the laws of the country. With the new court, Bethlen would not only have been able to control ‘rebels’ against the princely power by the force of law, but this proposal was also the first manifestation of his unifying ambitions in the field of justice.³⁰ He added that two members of each Estate that was to make up the proposed judiciary should be representatives of the Estates, and one should be appointed by the princely council. He specifically noted that the Saxons should send people who are also members of the princely council. The task of this judicial forum was to see to it that the laws, and the Union in particular, were enforced, stating that anyone who offended against the internal peace and the Union, or who planned to do so, either within or outside the country, would be answerable to the seven-member body.³¹ This was done by summoning the accused “per directorem caesarum unionis” to appear before the court, at which the councilors, the assistants to the judges (Hung. *ítélőmester*, Lat. *prothonotarius*) and the assessors (*assessore*s) of the Princely Table—the central court of law—were also present.³² In this way, Bethlen wanted to create not only a new judicial forum but a new country official, named after the office of *caesarum regalium director*, known in the history of the Hungarian government as a lawyer for the King’s—and later the Transylvanian Princes’—property rights. The prince also proposed that if someone was wrongly accused, the accuser should be punished according to the principle of *talio*, but if the accusations were proven, the question of punishment or pardon should be up to the ‘whole country’, i.e., the Diet. If one of the seven people were to die, the Diet would elect a replacement. Finally, the prince proposed that, in order to preserve the Union, everyone at the present assembly

29 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 409.

30 See: Csizmadia, “Az erdélyi jog fejlődése a fejedelmi korban.”; Dáné, “Bethlen »jog és társadalom harmonizációja«.”

31 “Valami oly akadályok, bontások az unio ellen esnének, titkos és nyilván való, ben avagy az ország kívül practickak afféléről contestatiok coram septem viris legyenek. Azonképen az unio ellen való vétékért, ha ki abba találtatnék, immediate a hét ember eleibe citaltassék, in dubiis et ambiguis solenni processu.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 409.

32 Bogdándi, “The Organization of the Central”; Dáné, “»Minden birodalmak«.”

should take an oath, as should all officials serving in castles and towns, along with all officials of the local administration.³³

With the above-mentioned proposals, Bethlen not only sought to strengthen his power. His main aim was to strengthen the unity of the state through legislation and to secure the financial basis for government expenditure. He also wanted to guarantee the rights of the Estates in general while at the same time calling on individual nations to respect and protect each other's rights. The prince explained that it was necessary that the *communitas*—here meaning the whole country—should jointly help and finance the envoys sent to external powers, that the Estates should mutually look after each other's liberties, borders, towns and villages, and that if anyone should be harmed, they should turn to the persons elected later to guard the preservation of the Union.³⁴ The broad and more extensive interpretation of the concept of the Union, which would be included in the collection of laws called *Approbatae Constitutiones* a few decades later, was formulated in this Diet thanks to the Prince's proposal.

He also proposed that the Transylvanian Estates should contribute to the rebuilding of Gyulafehérvár, while the Estates of the Partium should contribute to the fortification of the castles of Várad, Jenő (Ieneu, RO) and Lippa (Lipova, RO). He requested that in the event of war, all three nations should bear the burden equally and that, as the Hungarian nobility and the Székelys were more involved in warfare, the Saxons should receive within the walls of their castles and fortresses the simple refugees from the other two nations, the lords and the prince, during any campaign against the country. In retaliation, the other two nations should also try to defend the Saxon towns when the country is under attack.

He also proposed the establishment of a 'public treasury' (*publicum aerarium*) to which the nobles, lords and towns would contribute using their own wealth. Interestingly, he justified this by saying that no one could be asked for a loan in the case of need, because many people in the country had suffered great losses and no one would lend '*in usum publicum*.' The money collected in the public treasury could

33 "[...] az unioinak megőrzésére, mind most az gyűlésben, mind az hon levő várookban városokban levő tisztviselők most is megesküdjenek és ezután minden tisztviselőket continue annak igazán való megtartására megesküdtessenek." Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 409.

34 "Egymás szabadságára, határra, városára, faluira mind békesség és had idején igen vigyázzon mind az három nemzetség, igazságában, törvényében maradhasson meg minden rend, békesség idején ne hadakozzék az országbeliekkel, ne idegenkedjék, ne rekeszkedjék és ha valaki oly czégéres igazságban, város, falu, tartomány vagy uri ember megbántódnék, fegyverre mindjárást és nyilván való szerszámára ne menjen, hanem éljen contentatióval, azok előtt, kik az unioinak őrezésére rendeltettek és választattak lesznek." Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 406.

be used to cover unexpected expenses, embassy costs, or other needs of the country that the *fiscus*, i.e., the princely treasury, could not meet from its normal revenues. The sum collected in the public treasury would undoubtedly have served to better organise the armed defence of the country if it had been actually established, but this plan of the prince was not carried out.³⁵

Some points of the Prince's proposals, however, were defeated by the resistance of the Saxons. They stated in their response that they would seek to retain their own privileges and those of the other nations of the country, to the existing system of taxation, and that although they accepted the Union, they would be loyal to the Prince. In the case of war, they would be willing to receive refugees into their towns but would not consent to the establishment of a public treasury.³⁶ Nor did they agree to the establishment of a seven-judge forum, taking the position that everything should remain as it was, and that if someone committed an offence against the prince, the country or the Union, they should first answer to their own court and from there appeal to the Princely Court.

Finally, in the acts of the Diet of February–March 1614, the Estates confirmed the Union. They declared that, in the interests of the country, the Union must be maintained and that each nation must contribute to it in proportion to its position and in such a manner and at such a time as the Prince or the guardians of the Union may request each nation to do so.³⁷

After Bethlen's death, the Estates reaffirmed the Union and committed themselves to the oath to be taken at the Diet held in January 1630. Bethlen's widow, Catherine of Brandenburg, became the new 'prince'. The Estates declared that the only way to preserve the country was to maintain the Union and that those present should take the oath on the spot and those not present, later. In essence, the principles formulated in Bethlen's time were renewed, i.e., the freedom to practice the four established religions and the important stipulation that if one of the Estates suffered a violation of its privileges and rights, it could appeal to the other two, who together could lodge a complaint with the Diet and even take action against the princely power. They also added that the nobles living in the country had the right to sue the prince if their property or personal rights were infringed and to appeal to their own courts and those of other orders. Similarly, towns and cities had the right

35 Imreh, *Fejedelmi gazdálkodás Bethlen Gábor idejében*.

36 "[...] az publicum aerariumok jó volna meglenni, ha tudnók honnét [...] minthogy ennek előtte való ödőkben a fejedelemnek tárháza volt. Ennek után is az legyen, az szükségnek idején a főrendek magnatesek adjanak." Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 411.

37 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. VI, 412-14; Kovács, "Bethlen Gábor erdélyi országgyűléseinek törvényalkotása," 47-8; Horváth, "Bethlen Gábor korának erdélyi országgyűlései," 259-65; Oborni, "Az unió kérdése."

to lodge complaints and to institute proceedings. The article of law clearly spelt out the objectives:

“In whatever good things may be devised for the preservation of our country, its peaceful tranquillity, and the maintenance of its liberty and law, let all be in one mind, each forgetting his own utility and self-interests, and let all three nations and all Estates patronise and protect each other in all ways and means, with equal understanding and will, relating to our liberty.”³⁸

The Diet also decreed that the oath of allegiance to the Union must be renewed every ten years. However, this was not the case later on. In December 1630, among the conditions presented to George Rákóczi I, it was stipulated that he should preserve the Union and the rights of the Estates, that he should not transfer princely power to anyone, and that he should not negotiate with anyone.³⁹ On the accession of George Rákóczi II to the throne, the Union was renewed without any notable changes at the Diet held in the spring of 1649.⁴⁰ Afterwards, in the middle of the century, during changes of princes, the Estates several times enacted the oath of allegiance to the Union, which was also an oath of allegiance to the new prince. Such an oath took place, for example, in November 1658, when Prince Ákos Barcsay held his first Diet.⁴¹

In February–March of the following year, another assembly of the Estates was held in Beszterce (Bistrița). Here, an interesting incident occurred: in order to rescue János Kemény, who was a captive of the Crimean Tatars and secretly aspiring to the Transylvanian princely throne, his son Simon proposed that the Estates should take steps to free his father. In response, the Estates decided that first of all, the prominent persons in captivity, János Kemény and others, should give a letter of intent in recognition of the rule of the reigning prince Ákos Barcsay and thus take an oath of Union, in which case they would issue the document required for them to return home, the so-called ‘letter of guarantee.’⁴²

38 “Ország gyűlésében az mit hazánk megmaradására, békeséges csendességére, szabadsága és törvénye megtartására nézendő jókat feltalálhatnak, afféle dologban egy értelemben legyen minden, ki ki hátra vetvén az maga utilitását és privatumát, és nemzetségünk szabadságunk mellett mind az három nemzetség és minden statusok egyenlő értelemmel és akarattal, minden úton és módon egymásnak patrocínáljunk és egymást oltalmazzuk.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. IX, 77–78.

39 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. IX, 253–54.

40 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XI, 46–7.

41 “[...] concluditur ut sub poena unionis iurent ad unionem regnicolarum, immo etiam ad homagium principum intra quindenam” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XII, 89, 94–5.

42 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XII, 190.

When, at the beginning of 1660, in the midst of the power crisis that prevailed between 1658 and 1661, George Rákóczi II summoned the orders to Sellemberk (Comuna Șelimbăr), he exhorted them to appear and discuss the chances of the country's survival in view of the Union and their loyalty to the country.⁴³

At the Diet of April–May 1660, the Estates reiterated the importance of the oath of Union “which is the foundation of our duty to each other, both in our religion and in our other liberties.”⁴⁴ In June of the same year, at another assembly held in Medgyes, the inhabitants of the towns and the officials of the villages were also obliged to take the so-called *homagium*, i.e. the oath of loyalty to the prince and the Union.⁴⁵

In the autumn of 1660, János Kemény returned home from Tartar captivity and succeeded in gaining the princely throne. At Christmas 1660, the Estates assembled in Szászrégen (Reghin) and formulated the conditions given to Kemény, asking him to uphold the articles of the Union that the Estates wanted to swear an oath to. In the text of the law then enacted, the Estates spoke of the Union to which not only they but also the Prince must be loyal. It was stated that if any of the members of the nations could not take the oath of Union at the time, they would be dealt with through legal channels. And anyone who refused to take the oath would be accused of disloyalty to the country and the prince and threatened with a lawsuit.⁴⁶

The June 1681 Diet was the last time that the Union was renewed by the nations.⁴⁷ The reason for this was a grievance of the Saxons: in 1680, the Estates had decided to build a church for Calvinists in the village of Bolonya (Ger. Blumenau, Rom. Blumana) which formed part of Brassó (Brasov) city.⁴⁸ The Saxon nation not only resisted the decree but also refused its enforcement, which was clearly contrary to the principles of the Union. The Saxons declared that they were more willing to

43 “[...] generalis gyűlést promulgáltattunk egész országúii mindeneknek ad 25. praesentis mensis Januarii ide Selemberkre. Intvén Kitekét is ad unionem regni fidelitatemque nobis debitam az megírt napon és helyen becsületes követ atyjokfiai által compareálni és hazánk megmaradásáról hasznosan consultálkodni velünk egyező értelemből el ne mulassa.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XII, 429.

44 “[...] mely fundamentuma mind religiókn s mind egyéb szabadságinkra nézve, egymáshoz való kötelességünknek” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XII, 505.

45 “[...] végeztük, hogy minden városokban a mester-legények, egyéb városi szolgák, hostátban lakók is a Nagyságod hűségére s az unióra megesküdjének az articulushoz continentiája szerint; hasonlóképpen a mely falukban erősségek vadnak, azoknak az helyeknek tisztviselői és esküdtei is az unióra és fejedelem hűségére tartozzanak homagiumokat letenni de facto mindjárt.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XII, 514.

46 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XII, 473–74, 482–83.

47 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XVII, 31.

48 Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XVII, 153.

secede from the country and pay a separate tax to the Porte “than to support the Hungarians’ coercion and give them a church site.”⁴⁹ Finally, the matter ended with a declaration by the Saxons that they wished to maintain their loyalty to the other nations and that they would not be disloyal to the common homeland. They pledged that, in view of the approaching times of war, they would be willing to receive both the prince and the Estates within the walls of their towns.⁵⁰ It should also be added that the city of Brassó did not build the church for the Calvinists anyway.

During the seventeenth century, when a new prince came to the throne, the Estates and the officials of the central and local administration all swore an oath to the Union of the Estates, which united the country.⁵¹ The content of the oath of Union became increasingly complex in the second half of the century: the person taking the oath committed themselves to the free practice of the four established religions (*recepta religiones*) and the personal legal protection of the members of each of the three nations. The essence of this was that if an individual belonging to a given nation had been wronged in their person or property and the prince did not give them satisfaction, they could appeal to the other two nations, and thus, the three nations together could appeal to the prince to enforce the rights of the person concerned. In such a case, of course, each person could obtain redress on the basis of their own rights (*suum cuique*) and their acceptance of the common legal system of the state. The first major collection of Transylvanian laws, the *Approbatae Constitutiones* (1653), regulated in detail what was meant by Union:

“[...] the four religions shall have free exercise; the country being composed of three nations (and their decisions being preserved), if any nation should be offended in its liberties, immunities, and privileges, customary and long-established, by requisitioning the two nations, they shall be bound, according to their faith and duty, to find the prince and his council *de facto* before the assembly, in respect of the offence of the complaining nation; and that in all ways and means the three nations owe each other protection and assistance, worthy of their grievances.”⁵²

49 “[...] hogysen a magyar igát supportálják s templomhelyet adjanak.” Szilády and Szilágyi ed., *Török-Magyarkori Allam-okmánytár*, vol. VI, 98.

50 “[...] az több natiókbeli statusokkal az unió szerént tartozó kötelességünket, igaz hűségünket hazafiúságunkat fentartani igyekeztük, és semmi szerencsétlenségben megváltoztatni elménkben sem forgattuk.” Szilágyi, ed., *Erdélyi országgyűlési emlékek*, vol. XVII, 185–86.

51 Rácz, *Főhatalom és kormányzás*, 162–86.

52 “[...] a négy recepta religiónak szabados exercitiuma legyen; három nemzetből állván az ország (és azok constitutói megtartván), ha valamelyik nemzetnek szabadságában, immunitásiban, privilégiumiban szokott és régen bévött rendtartásiban bántódása lenne, requirálván felőle a két nemzetséget, tartozzanak hitek és kötelességek szerént ország gyűlésének előtte is de

This widespread interpretation of the basic element of the constitution, the Union, remained until the end of the separate Transilvanian state.

Summary

The late medieval alliances of the Estates living in Transylvania, which were repeatedly renewed in the Principality of Transylvania, formed one of the elements, that made up the basis of the country's constitution. The articles of law related to the Union were usually enacted after the election of the new prince and at the time of his inauguration. The Estates also made it compulsory for the newly elected prince to take the oath of allegiance to the Union. This meant that the Union also became a pact between the Estates and the Princes, the main aim of which was to maintain the alliance which was the basis of the State.

In the course of the seventeenth century, the concept of the Union was broadened: the Union, which symbolised the cohesion of the country, was also a guarantee of the preservation of the Estates' privileges. When the Principality was threatened with dissolution, both the Estates and the Princes sought to re-establish the Union, the alliance between the Estates, and thus ensure the unity of the state. By the middle of the seventeenth century, the articles of law that renewed the Union had become the cornerstone of constitutionalism, to which national officials and even local administrators had to take the so-called Union Oath.

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facto megtalálni a fejedelmet és tanácsit, a panaszolkodó nemzetségnek megbántódása felől; sőt minden úton és módon a három nemzetség egymásnak óltalommal, segítséggel tartozzék lenni, méltó panaszolkodásukra.” *Approbatae Constitutiones Pars III. Tit., I. Erdély Országának Három Könyvekre osztatott Törvényes Könyve, 77.*

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