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Luminița Dumănescu**

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Presă Universitară Clujeană

Str. Haşdeu nr. 51

400371 Cluj-Napoca, ROMÂNIA

Tel/Fax: (+40)-264-597.401

editura@editura.ubbcluj.ro

<http://www.editura.ubbcluj.ro>

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*Orphans and Abandoned Children in European History. Sixteenth to Twentieth Centuries* (2018). Nicoleta Roman (Ed.). Routledge: Abingdon, Oxon, New York, 302 p. ISBN 978-03-673-4887-8.(reviewed by: Camelia Zavarache).



# The Cause of the Fatherless: Spiritual and Material Guardianship in Eighteenth Century Transylvania

Oana Sorescu-Iudean

*Babeş-Bolyai University, Centre for Population Studies, Cluj-Napoca, Romania,  
oana.sorescu@gmail.com*

**Abstract.** The present paper examines how the “cause of the fatherless” was envisaged and defended over the course of the eighteenth century in Transylvania, and particularly in the capital of Hermannstadt (nowadays Sibiu). It does so by first surveying the emergence of the orphan court in early modern Transylvania, focusing on the legal landscape created by the Transylvanian Saxon cities and seats. Drawing on both early modern legal codices and eighteenth-century probate records, the paper seeks to chronicle the origins, functions, and facets of guardianship as a key position in the urban spiritual and political economy of the Transylvanian Saxons. On the other hand, it employs guardianship and the fate of the “fatherless” urban-born orphans as two adjoined lenses through which to peer into the character of family and kinship ties in the Transylvanian Saxon milieu, as well as into the hierarchies of the capital city. Building on these analytical frameworks, the paper examines the orphan-guardian relationship as it was reflected in eighteenth-century probate records – the so-called *Teilungsbücher* – as a means of delving into the nuances of family life. Finally, it questions to what extent the orphan court and guardianship arrangements worked to deepen the various inequalities of urban life. As the present study shows, the fates of early modern and eighteenth-century orphans diverged based not only on factors such as parents’ social status, but also on account of their ethnical provenance, material circumstances, or even according to the degree to which deceased fathers had been included into the fold of the urban burgher category.

**Keywords:** orphan court, probate, eighteenth century, Transylvania, orphans, guardianship

### ***1. Approaches to Guardianship and Orphanhood in Early Modern Transylvania***

Guardianship in early modern Transylvania has mainly been approached from the perspective of institutional and local history, as part and parcel of the narrative woven around the hallowed past of the Transylvanian Saxon medieval *natio*. During the second half of the sixteenth century, the parallel emergence of the urban probate court and that of the municipal law code which regulated estate transmission on the Royal Lands signaled the need for a legal and institutional framework that could supervise not only the fates of orphans, but, more importantly, the fates of their wealth, of increasing size and complexity. As opposed to other European areas, where the emergence of dedicated orphan courts has been singled out among other institutional developments of the late medieval and early modern periods (Schnitzeler 2021), Transylvania's so-called "office of (estate) divisions", which originated as a way of dealing with orphans' estates, has received scant attention. Apart from one recent work dealing with inheritance and testamentary behavior in the eighteenth-century Transylvanian capital of Hermannstadt (Sorescu-Iudean 2020), the main discussions centering on this institution and its officials have figured in synthetic works dealing with the political and administrative development of the Royal Lands (Müller 1941) or in histories of Transylvanian law published in the second half of the nineteenth century, as part of the *Landeskunde* movement (Schuler von Libloy 1868). The matter of guardianship – its legal tenets, attributes, and limits – has thus primarily been discussed as an addendum to such overarching treatments of political and administrative history. This is not unexpected, given the main directions of Transylvanian Saxon historiography and its principal concerns, i.e. the collective ownership of property that constituted the Royal Lands, the functioning of the Saxon University – the *natio's* embodiment –, and the hallowed age of the fifteenth and sixteenth centuries (Kessler 1990: 12-13).

Orphans and orphanhood have on the other hand begun to figure more prominently in historiographical discussions over the past few years, as part of the steadily developing field of family and social history in the area. Some of the most significant advances in this area have been made by Hungarian historiography, which has discussed orphans' fates mainly within the framework of wider enquiries centering on stepfamilies in the early modern Kingdom of Hungary (Erdélyi 2019). Historical discussions of early modern or eighteenth-century families (Fehér 2012, 2019) are joined by other studies with a more historical-demographic focus, which deal for instance with orphans' landed estates and the influence of property devolution on family composition

and re-marriage (Koloh 2021). However, given that for the most part, barring exceptional cases of divorce, “stepfamilies came into being because of death” (Erdélyi 2019: 658), the analyses of the effects of inheritance patterns or remarriage should award greater attention to orphan’s roles in these matters. Likewise, household strategies of adaptation in the face of challenges posed by losing a parent, among which surrendering one’s offspring to an institution such as an orphanage was not necessarily the most readily available solution, deserve increased attention alongside other ways of ensuring orphaned children’s survival (Safley 1993). The orphanages in Hermannstadt are likewise under-researched apart from nineteenth century works (Schmidt 1870), although their evolution is relevant from multiple perspectives, including the convoluted history of confessionalization in this area. A recent study by Dumănescu and Hegedűs (2021) has also come to improve the state of knowledge concerning the meanings attached to guardianship and tutelage in the counties of Transylvania during Dualism.

These works, though varied in focus and approaches to the issue of the historical experience of orphanhood and the orphan-guardian relationship, leave behind a host of unanswered questions and unopened research avenues. Foremost among them is the enquiry as to how orphan-guardian relationships were articulated. Within the urban milieu and as part and parcel of kinship ties, this constitutes a significant lens through which to peer into the space where family life and urban governance intersected. Looking at the institutional and legal background that supported orphans’ claims and guided what was regarded as a proper devolution of estates after parents’ death also allows us to glimpse into the structures that underpinned the social and economic evolution of a wide and densely inhabited area of Transylvania for almost three centuries.

## ***2. The Orphan Court and the Orphan Judges in the Royal Lands from the Sixteenth to the Early Nineteenth Century***

The present section provides a synthetic account of the evolution of the orphan court in the Transylvanian Saxon milieu, from its earliest phases until the introduction of the Austrian Civil Code in Transylvania in 1853, complemented by an overview of the office of orphan judge. The orphan court<sup>1</sup> emerged comparatively late in the Transylvanian Saxon milieu. Such dedicated institutions – or at least members of the town councils empowered

<sup>1</sup> The orphan court has been variably addressed in literature as “orphanage see”, as translated for instance from the Hungarian *árvaszék* or as orphan chamber (*weeskamer*). The study uses the term “court” because it is the most broadly encompassing one, from the perspective of the institution’s attributions.

to act as orphan judges – appeared in urban statutes in England, the Italian cities, or the provinces of the Low Countries between the thirteenth and fourteenth centuries, spurred for instance by events such as the Black Death (Schnitzeler 2021: 2-3). In select English manors, almost half of the cases of inheritance recorded following the Black Death featured orphaned heirs aged 5 or under, which made them highly problematic. There were few economic incentives for individuals to assume guardianship of younger orphans, “who were a negative labor input”, and especially of siblings who did not stand to inherit (Müller 2019: 122, 126-127). Such catastrophic events, which left behind primarily underaged heirs might have also spurred better record-keeping of estate devolutions with respect to heirs’ ages and other similar particulars (Müller 2019: 121). In Transylvania, a dedicated institution which served the purpose of supervising the devolution of orphans’ estates and the work of guardians appeared sometime between the 1540s and the 1570s, at least a century later than in cities such as Amsterdam, The Hague, or Rotterdam (Schnitzeler 2021: 7). Roughly during the same time frame, at least three waves of plague raged throughout the Principality of Transylvania and particularly through Hermannstadt: in 1554, at least 3200 individuals perished in the city; in 1573 and 1577 the plague came on the heels of the most harrowing fire to purge the city during early modernity, which burned down some 1300 buildings (Roth 2006: 71, 74, 83).

Beyond the rise in mortality occasioned by events such as the plague in urban settings, there were other reasons for this apparent delay as well. These owed both to the flow of political events in late medieval and early modern Transylvania, as well as to the characteristics of the Transylvanian Saxon legal milieu, where this institution assumed its most fully-fledged form. The Transylvanian Saxons – an umbrella term which came to designate various German-speaking populations settled by the Kings of Hungary on the borders of the kingdom between the twelfth and thirteenth centuries – brought with them a set of customary laws which drew on several sources (Szabó 2001: 99). As the Hungarian Kings wished to ensure the newcomers’ loyalty and steadfast presence, they were also granted collective and exclusive ownership rights to the lands they inhabited, the freedom to govern their own affairs as far as internal matters were concerned, collect taxes, to administer justice by self-elected judges, and to pass sentences according to their own customs (Nägler 1979, Kessler 1990). Thus, while in Western European legal contexts the orphan court originated and concluded “in the transfer of feudal rights to fledging cities” (Schnitzeler 2021: 2), in the case of the Transylvanian Saxons, the equivalent rights were transferred first to cities and the surrounding



provinces that were placed under their administration, and then extended to the entirety of the Transylvanian Saxon territorial estate (Kessler 1990:10; Szende 2019: 370). This was a piecemeal and non-linear process that built on each preceding charter and required the Saxons' collective efforts to capitalize on various political turns to maintain an ever-widening array of privileges and liberties. Although arguably the most significant charter was that awarded in 1224 by King Andrew II, the conclusion of this process of transfer can more likely be regarded as having occurred sometime during the second half of the fifteenth century. Around this time, the political elites at the helm of the privileged cities inhabited by the Transylvanian Saxons – some of which had been granted the status of free royal cities – took it upon themselves to coalesce into a political union – the so-called “universitas Saxonum” – that could defend the myriad of privileges awarded by the Hungarian kings to the German settlers in a more concerted manner (Gündisch 1990). This process coincided with an increased differentiation and refining of the cities' institutional-administrative frameworks: in 1495, joining the Small Council or *Rath* in Hermannstadt, which was likely established at the time of colonization, was the Great Council – *Hundertmannschaft* or the Community of One Hundred –, an elective assembly that aimed to balance the power of the ruling political elite gathered in the Small Council, and which gradually assumed a sizeable share of the urban administrative duties (Müller 1941: 75-76). The members of the orphan court would be drawn from both institutions – the Small and Great Councils – signifying this purported shared access to urban government.

Alongside the colonists' customary laws and the legal transplants from the law of the German cities in the Empire, the charters that came to regulate their presence would coalesce into a sort of “*iure theutonico*” (Szende 2019). These legal strands would be joined by Roman law in a subsidiary relationship, a process that resulted in the creation of a complex legal system that remained at least partially unwritten until the fifteenth century. Worth mentioning is that the Transylvanian Saxons followed a different pathway towards codification in the sixteenth century, compared to the other legal landscapes in the Principality: although it paralleled and was partly spurred by the Hungarian codification of customary law in the *Tripartitum*, the legal substance of Transylvanian Saxon law, and particularly family law – which regulated guardianship, marriage, and inheritance – differed from its Hungarian counterpart. The application of law presented further differences, even when legal texts presented similarities. For instance, although both the *Tripartitum* and the Transylvanian Saxon main municipal law code drew on Roman law in their treatment of guardianship, it was only in the latter context that these provisions

were enforced (Szabó 1994: 180).

A second factor that came to influence the emergence of the orphan court in Transylvania was urbanization. Compared to the pathway towards urbanization followed by Western European settlements, cities and towns grew at a slower pace in Transylvania, failing to reach very high population numbers. However, though neither Kronstadt nor Hermannstadt – the province’s most populous urban settlements – reached population numbers that would make them worthy of inclusion among the “large urban centers” of Western and Central Europe,<sup>2</sup> they nevertheless fit well into the early modern East-Central European paradigm of urbanization, wherein middling and smaller cities (between 5000 and 2000 inhabitants, or fewer than 2000 inhabitants) stood “at the forefront of economic, demographic, and social processes” (Miller 2008: 8). From a commercial standpoint, the two Transylvanian Saxon cities witnessed the most accelerated and consistent growth between the fourteenth and the sixteenth centuries (Niedermeier 2008: 128, 132), as the urban elites obtained the leaseholds for customs’ stations through which sizeable quantities of Oriental goods were entering Central and Western Europe (Pakucs-Willcocks 2007). These customs points generated high taxes and thus high incomes for the leaseholders, which gradually began to be reflected in the accumulation of sizeable estates, comprising diverse and valuable assets.

An apt example is the extract from the inventory of the estate owned by the Saxon Royal judge Albert Huet, one of the most revered political figures in the Transylvanian Saxon collective memory (Pakucs-Willcocks 2018: 103-105). Drafted in 1607, the *Teilbrief* detailed the share of the estate that was to go to a certain Margareta Wolffin upon Huet’s passing, “so that all of [...] Margareta’s [items] be diligently cared for by her aforementioned guardians.” The role of guardians – in this case appointed by testament – was crucial in safeguarding the minor’s share of the estate, which included, among other things, some 364 Gulden in cash, three houses, three gardens, three plots of arable land, two meadows, and one vineyard.<sup>3</sup>

While commerce with Oriental goods continued to flourish through the passes controlled by the two cities, at the end of the sixteenth century other urban competitors in the area, located outside the Transylvanian Saxon-controlled Royal Lands, began to attain an increasingly important role (Pakucs-Willcocks 2007: 67-73). Nevertheless, according to early sixteenth-century tax records, Hermannstadt could boast with some 996 households which paid a

<sup>2</sup> The two main surveys of urbanization in Western Europe, by Paul Bairoch and Jan de Vries, tend to assign the status of large city solely to those settlements which had reached 10,000 inhabitants by 1600.

<sup>3</sup> SJAN Braşov, Colecția de documente ale Bisericii Negre Braşov, Cutia 6, Seria IV E, 152.

full tax (Draskóczy 1999: 6), a figure which rose to 1460 by the mid-seventeenth century (Albrich 1883: 259). At the latter temporal marker, some 1730 burger households were listed in a similar tax register for Kronstadt (Philippi 1986: 272). Around 1566, Hermannstadt reportedly had at least some 2,000-2,600 inhabitants, a figure that was likely understated and which placed the city among the ten most populous urban settlements in Royal Hungary (Miller 2008: 28). According to the first and most comprehensive province-wide population enumeration undertaken in 1784-1787 by the Habsburg military, Hermannstadt would only barely exceed 10,000 inhabitants, while Kronstadt would reach an estimated population of some 17,792 individuals (Szelényi 2006: 192,172).

Thus, the convergence of several factors led to the emergence of an institution that served as orphan court. The concurrent processes of urbanization, the increase of inheritance cases involving minors owing to growing population numbers, and what was likely a higher in-flow of migrants from other German-speaking areas and beyond would move the Small Council in Kronstadt to signal the need for a dedicated official to handle guardianship matters and the division of estates involving minors (Müller 1941: 282). In this respect, the ecclesiastical and civil administration were united in their concerns for Transylvanian Saxon (landed) estates and assets, although the charitable concern for orphaned children's wellbeing and particularly their education was likewise emphasized. As Johannes Honterus argued in one of the foundational texts of the Evangelical Reformation in this milieu,

*“Second to caring for the poor is caring for orphans, whom God himself in many passages throughout the Old Testament entrusts to the care of the authorities (m.n. members of the Small Council), He himself promising to emerge as judge and protector of orphans.”<sup>4</sup>*

The task of the urban authorities was motivated by the fact that “there is often much inequity done with orphans’ assets”, signaling that it was primarily the need to provide a proper upbringing to orphans stemming from elite or upper middle strata which moved such decision-making, as the miserly “assets” owned by those at lower social-economic levels would not have provoked such concern. What is more, Honterus notes that “most equitable laws” were formulated to aid in caring for orphans’ estates and educational pathways, suggesting that this issue had already been preoccupying urban and ecclesiastical authorities by the time his writing saw the light of print.<sup>5</sup> The

<sup>4</sup> Honterus, *Reformatio Ecclesiae Coronensis*, p. 91: „Nach Versorgung der Armen gebührt die nächste Sorge den Waisen, welche Gott an vielen Stellen des alten Testaments der Obrigkeit fleißig befohlen hat und verheißen, er wolle selbst ihr Richter und Beschirmer sein.“

<sup>5</sup> Honterus, *Reformatio Ecclesiae Coronensis*, p. 91: “So nun aber bekannt ist, daß mit der Waisen

work, entitled *Reformatio Ecclesiae Coronensis ac totius Barcensis Provinciae*, was published in 1543 and meant to signal that the “reform” proposed in the Transylvanian Saxon church was neither a heresy nor a novelty (Honterus et al. 2017: IX). Appearing in the wake of political and religious instability, following the establishment of the Principality of Transylvania in 1541, Honterus’ work was nevertheless a visible product of reformatory tendencies: the chapters it allotted to the discussion of charity and education firmly place it within the legal tradition of the Reformation. As it did in other European milieus such as early modern Holland, in the free royal cities of Transylvania, charitable pursuits centering on orphans and widows “served the interests of the elite” (Parker 2003: 113) as well as those of their main, expressly stated subjects. Certainly, the intertwining of these two categories to be protected, the elite and those in need, – widows and orphans, but also the temporarily disadvantaged – was not necessarily the result of Protestant tendencies, having occurred in other earlier on in other urban centers such as fifteenth-century Florence, where the *Ospedale degli Innocenti* worked “towards the protection of ‘good’ families that had fallen on hard times.” (Lynch 2003: 117). The members of the Small Council envisaged themselves as fathers caring for the community, in accordance with the post-Reformation interpretation of the Christian magistrate’s dual role (Pakucs-Willcocks 2018: 72-73). In the new confessional framework, the urban authorities were due to perform the essential role of taking over charity from private and piecemeal initiatives, as it had functioned under the Church of Rome, and to work to establish “social welfare” (Witte 2004: 21-22). Thus, as in other European milieus where the Reformation took root, in the Transylvanian Saxon context parish-administered charity was “overhauled” and entered the domain of the *Stadtrat*, whose purpose in caring for orphans was twofold: on the one hand, this pursuit corresponded to its primary role as a Christian authority; on the other hand, care for orphans’ assets expressed the political elite’s desire to “preserve social order” (Parker 2003: 113).

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Gütern oftmals viel Unbilligkeit getrieben wird, haben wir ihnen durch billigste Rechtsordnung helfen wollen, auf daß kein frommer Testamentsverwalter durch Unverstand ihnen zu Schweres auflage und den Zorn Gottes, des Schützers der Waisen, auf sich lade.“

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Building on these developments was the emergence of the Transylvanian Saxons' main civil law compendium, which provided the basis on which estates devolved and were managed from 1583 until the mid-nineteenth century and came to contain an entire chapter devoted to the issue of guardianship and the administration of minors' assets. The second book of the *Statuta Iurium Municipaliū Saxonum in Transylvania*, as the work was entitled, offers insight into the functions and limits of the orphan court in the Transylvanian Saxon legal milieu. The provisions it contains "are entirely drawn from Roman law", and more precisely, from Justinian's works. The *Statuta* likewise does not distinguish between *Kuratel*, or guardianship over an adult individual or tutelage, and *Vormundschaft*, or guardianship over a minor (Szabó 1994: 180). When the former term does appear in registers of orphan estate management, it is often joined by the term *Tutel*, and thus not regarded as a special type of arrangement. As a corollary, the Transylvanian Saxon milieu did not witness the emergence of gender tutelage, or *Geschlechtsvormundschaft*, unlike other areas such as early modern Württemberg (Sabeau 1990: 210-211).

As was the case with its Western-European counterparts, the attributions of the orphan court fell in practice to the Small Council of the city, which delegated special tasks related to this matter to dedicated officials, namely the *Teilberren* or *divisores*. Caring for orphans' estates and managing the business of guardianship in the urban fold were thus part of the array of tasks which fell under the purview of the probate officials, as *Teilberren* were foremost entrusted with ensuring that wealth – and especially landed property – devolved in accordance with intestate or testamentary legislation. However, as an examination of probate records will show, the letter of the law was not always followed, especially in cases where the orphans or their parents were not regarded as being part of the Transylvanian Saxon *natio*. The *Teilberren*'s attributions concerning orphans' wellbeing were secondary to their care for property devolution, as was the case in Western European cities where this institution also appeared (Schnitzler 2021). As such, the court officials were less concerned with the fates of propertyless orphans or of those offspring sired by migrants, though it was these groups who most often swelled the ranks of the residents of the local orphanages.

This hierarchy of priorities is also attested to by the later evolution of the orphan court in the urban and rural areas surrounding Hermannstadt and the other towns located on the Royal Lands. In 1573, the first attested *Teilberren* in Hermannstadt were responsible for overseeing the divisions of estates falling to minors located throughout the city. In a pattern of office-

holding that would continue throughout the institution's existence, one probate or orphan judge was part of the Small Council, while the other was part of the Great Council or Community of One Hundred (Müller 1941: 280). This was likely meant to express the balance of power between the two institutions, and the corresponding balance between the ruling patrician families on the one hand, and the broader corps of the urban citizenry, whose concerns and interests were represented by the Great Council. At the same temporal marker, four *Teilherren* were attested in Kronstadt, signaling the city's greater prosperity and higher population numbers (Müller 1941: 277).

Further institutional ramifications appeared towards the late seventeenth century in Hermannstadt: in 1670, different registers for protocolling estate divisions began to be kept for the Upper City, where the elite was concentrated, and the Lower City, where the majority of the town's craftsmen lived. This change also followed a severe wave of plague which hit the province and the city during 1660-1661, which was said to have robbed the city of over 2700 of its inhabitants (Graffius 1840: 229-231). Most of the probate events recorded – and the accompanying guardianship arrangements – still pertained to the inhabitants of the Upper City well into the eighteenth century. Adding to this, the registers that began to be kept for the Lower City displayed much less care for accuracy, oftentimes probate officials leaving inventories incomplete, without for instance calculating estate totals and the resulting shares to be inherited.

A second stage of development occurred in the first half of the eighteenth century: the city's sprawling suburbs had their own dedicated register from at least 1736 onwards, although the task of overseeing the fates of orphans' estates fell to an already overburdened official, namely the town steward or *villicus*. Likewise, in the early 1730s different officials handled the devolution of orphans' estates in the Inner City of Kronstadt and in its suburbs or *Vorstädte*. Finally, the need to protocol the devolution of rural property and assets began to concern the urban officials in the first half of the eighteenth century. The first registers of estate divisions for the villages located in the Seat of Hermannstadt dated from 1739, when separate protocolling was introduced to prevent extensive and protracted legal proceedings occasioned by "quarrels pertaining to inheritance" (*Erbstreitigkeiten*) (Müller 1941: 277-278). Thus, the direction of institutional development flowed from the inner city towards its margins and suburbs, and only then extended into the neighboring rural areas.

Compounding this tendency was the fact that the fates of suburban or rural orphans were more often fraught with difficulty owing to material precariousness than those of children whose deceased parents had lived in the inner city; had these children's wellbeing been at forefront of urban authorities' concerns, the establishment of a suburban orphan court would have likely occurred sooner.

The seventeenth and eighteenth centuries brought on further developments and institutional refinements. A 1698 statute from Hermannstadt noted that the "Herren Divisores" should proceed in all estate divisions in accordance with the statutes, "treat widows and orphans in a Christian manner", "ensure dispassionately and disinterestedly that each is received of their own share" and that in cases where a compromise between heirs could not be reached, higher courts of law were to be called in to see that justice was performed (Schuler von Libloy 1862: 130). In 1787, a separate department for overseeing orphans' guardianship accounts was mentioned in an instruction issued by the town council of Kronstadt. Towards the end of the century, the Transylvanian Saxon University – the estate's main legislative assembly on internal matters – also signaled the need for a procedural uniformization of guardianship and estate division matters, which was at least partially achieved in 1801 (Müller 1941: 282).

A transitional period would set in after the revolution of 1848-1849 in terms of the administration of orphans' affairs. However, bespeaking the persistently fragmented legal landscape of Transylvania, which translated into a similarly fragmented institutional-administrative framework, differences between the three main administrative areas still existed. Thus, in the so-called Hermannstädter District (the Saxon Royal Lands) all norms and institutions pertaining to "matters of tutelage, wardship and estate devolution" remained valid and in use; in the Hungarian counties as well as in the regions of the former military border regiments, the latter of which had been dissolved, a new instruction for the management of wards' affairs would be implemented (Sachsenheim 1856: 327-348).

Still, this period of relative stability in terms of orphans' estate management would end soon after. Once the *Allgemeine Bürgerliche Gesetzbuch* was enacted as the single valid civil law code for Transylvania on the 1<sup>st</sup> of September 1853, the provisions of the Transylvanian Saxon *Eigenlandrecht* contained in the *Statuta* lost their applicability. Although the Transylvanian Saxon University continued its existence throughout the tumultuous 1850s and 1860s, its "legitimizing principles" – and particularly that of exclusive property rights to the Royal Lands – were overturned by the implementation of the

*AGBG* (Kessler 1990: 20-21). The post-*Ausgleich* legal landscape focusing on orphans' welfare would partially resemble that instituted by the *Statuta* and the early nineteenth-century Habsburg regulations, while lacking the distinctive provisions that had made probate compulsory for decedents with minor children on Transylvanian-Saxon administered territories.

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What were the attributions of probate officials as overseers of guardianship arrangements and orphan care, and how did they evolve over time?

According to the *Statuta Iurium Municipalium*, the town council (*Rath*) bore a collective responsibility over the fates of orphans living within the city. It was either the *Rath* or the “appointed estate division officials” who were supposed to name guardians for minors whose fathers had passed, if no natural (legitimate) or testamentary guardians existed (*Statuta Iurium Municipalium*, II. Buch, III. Titul, §5).<sup>6</sup> In case guardians needed to be officially appointed, the town councilors or the orphan judges were also responsible for deciding upon their level of retribution. According to the nineteenth-century Transylvanian Saxon legal scholar Friedrich Schuler von Libloy, next-of-kin guardians had initially been allowed the usufruct of their wards' estates. This was then prohibited by the *Statuta*, which provided that only appointed guardians were entitled to receive payment for their services, as opposed to legitimate guardians who were next in line to inherit, should a ward pass away. As the *Statuta* noted, “he who wishes to enjoy the fruits [of wealth] must also carry the burden” (*Statuta*, II. Buch, III. Titul, § V). Although the amount guardians were bound to receive generally went uncodified, it customarily ranged between one sixth and one third of the yearly income generated by the ward's estate (Schuler von Libloy 1868: 236). This could add up to significant sums when the orphan in question had inherited pieces of real estate or loans which generated interest.

A second task shouldered by the orphan judges was to assist and manage the inventorying of minors' assets upon either of their parents' passing; the relationship of guardianship could not be established prior to drafting clear records of a ward's estate (*Statuta*, II. Buch, III. Titul, § 9). As was the case in other European urban areas where the town councils assumed

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<sup>6</sup> Owing to the strong subsidiarity of Roman law, Transylvanian Saxon civil law distinguished between three types of guardianship: the *legitima*, that is, guardianship that fell to the next of kin who would be entitled to inherit should the ward pass away; guardianship established by a father through a last will and testament; finally, the “bestellt” or appointed guardian, who was called for to serve in this capacity by the orphan judges (*Statuta*, II. Buch, III. Titul, §3).



the role of supreme guardian over orphaned minors, this group's assets were at the forefront of authorities' concerns. Honterus' *Reformatio Ecclesiae* clearly states in this instance that the inventory procedures needed to be upheld owing to "numerous occasions on which orphans' assets are infringed upon"<sup>7</sup> and to protect against guardians' interests coming before the best interests of their wards. In order to avoid such situations, those empowered by the Small Council would "carefully record the entire estate to be inherited by an orphan", which was then to be "sealed and kept in the building of the town council."<sup>8</sup> These sums would then be used "to aid orphans in their most praiseworthy education."<sup>9</sup> Not even guardians appointed by testament – the most important manner of entry into such a role, preferred to other guardianship arrangements (*Statuta*, II. Buch, III. Titul, § 4) – could begin to manage an orphaned ward's share of the estate without the prior approval by the Small Council and the proper recording of assets.<sup>10</sup>

The orphan judges also had the ability to remove "unfit" guardians from the management of wards' estates, as a corollary of their ability to appoint individuals to serve in this capacity (*Statuta*, II. Buch, III. Titul, § 8). Finally, the town council bore collective responsibility in overseeing all transfers of property belonging to minors; no immobile or landed assets could be estranged without its prior approval (*Statuta*, II. Buch, III. Titul, § 11).

Thus, towards the late sixteenth century, the office of orphan judge was relatively limited in terms of the scope of its attributions. Tasks were hazily assigned either to those town councilors handling probate matters or to the entire Small Council as collective highest guardian of orphans' interests. It is likely that, given the limited number of estate divisions overseen yearly at this stage,<sup>11</sup> the need for a dedicated official to supervise and record the financial proceedings engendered by guardianship was not yet direly felt. Individual town councilors who were not serving as probate judges could also be appointed to handle more difficult or significant cases, either as temporary

<sup>7</sup> Honterus, *Reformatio Ecclesiae...*, p. 91, "daß mit der Waisen Gütern oftmals viel Unbilligkeit getriben wird".

<sup>8</sup> The original Latin text designates it as the "pretorium".

<sup>9</sup> Honterus, *Reformatio Ecclesiae...*, p. 91-92 "Darum ist verordnet, daß der Waisen unversehrtes Erbe durch verordnete Männer des Senats fleißig aufgeschrieben und versiegelt im Rathaus aufbewahrt werde und den Waisen davon zu einer ehrsamten Erziehung geholfen werde."

<sup>10</sup> Honterus, *Reformatio Ecclesiae*, p. 92. "Und wenn einer außer dieser Ordnung durch ein Testament zum Tutor bestimmt worden ist, soll er ohne Genehmigung des Senats auf keine Weise die Tutel übernehmen und die Güter der Waisen nicht in seine Gewalt zu nehmen wagen, wenn sie nicht vorher durch den Magistrat aufgeschrieben worden sind."

<sup>11</sup> Based on author's calculations from the *Teilungsprotokol* of Kronstadt between 1572-160, there were, on average, fewer than 10 per year in late sixteenth-century Kronstadt.

orphan judge or even council-appointed guardian (Müller 1941). The probate and orphan court were nearly identical in their sphere of attributions, and explicit guardianship arrangements were secondary to the supervising of estate devolutions according to either intestate or testamentary legislation. More significantly, as opposed to their Western European counterparts, the orphan judges in the Transylvanian Saxon milieu were initially responsible only for ensuring that wards' estates and financial situations were preserved, rather than improved.

The situation would change over the course of the seventeenth and eighteenth centuries, mainly due to the work of Habsburg state-building and administrative uniformization. As part of the *Regulativpunkte*,<sup>12</sup> an 1804/1805 ordinance (no. 10040) spelled out the new contours of the office of orphan father – *Waisenvater*, *Pupillarverwalter* or *Pupillar-Inspektor* – which was clearly delineated from its counterparts handling probate matters in general. The orphan judge was bound to submit a yearly report to the urban authority, containing – in tabular form – nominal information on all orphans in the city, their guardians, the size of the estate managed in each case, and a note on its increase over the course of the past year since the last report had been submitted (Schuler von Libloy 1868: 237-238). Thus, by this time, the need to monetize wards' estates had been recognized by the urban authorities as well by the Habsburg administration. In fact, the form of the yearly reports to be submitted to the municipal councils on the matter of orphans would prove to be an enduring one. Even after the establishment of the Dual Monarchy and the successive administrative reorganizations that followed, the individual holding the office of *Pupillarverwalter* in the cities of Transylvania would be tasked with providing a synthetic overview of all orphans under his care, focusing on delivering precisely the same pieces of information to his superiors.<sup>13</sup> To this yearly report would be appended an account made by each guardian, which was meant to detail what sums had been spent on providing an appropriate form of education to the orphan. The *Pupillenverwalter* was to ensure that each ward either received a form of schooling, or was apprenticed to a particular trade, when appropriate. Based on this documentation, the city council could then decide to dispense with the services of negligent guardians (Schuler von Libloy 1868: 238).

<sup>12</sup> The so-called *Regulativpunkte* were a series of ordinances and decrees passed by the Habsburg government between roughly 1795 and 1805 which pertained to various administrative and public governance issues on the Royal Lands.

<sup>13</sup> Ügyrend az árvaszékek részére (169. sz.), in *Magyarországi rendeletek tára*, no. 11, Budapest, 1877, p. 682-683.

Moreover, the orphan judges needed to keep a distinct register wherein all extracts of inventories detailing the assets inherited by orphans were to be entered. This was done in an effort to make these more legible to the urban authorities, as the prior recording of orphans' assets as part of the general probate process, in the *Teilungsbücher*, would have been proving increasingly difficult to parse with the general rise in probate registration, which ranged from 20 to 30 events in the first half of the century to 80-90 events towards its final quarter.

The instructions for orphan judges from the beginning of the nineteenth century place a greater emphasis on property and the possibility that it might devalue over time given improper care. This was likely the case for houses and other buildings, but could also be argued for unused or improperly fructified arable land, pastures, etc. Thus, it became the orphan judge's task to see that any asset which could be subject to vitiation (“der Verderbniß ausgesetzten Pupillar-Realitäten”) be auctioned off to the orphan's advantage and the money thus collected then be deposited and loaned out to accrue interest against sufficient surety. Houses and buildings needed to be rented out, while pieces of land had to be leased out, likewise with sufficient guarantee that a profit would be generated through their usage (Schuler von Libloy 1868: 238). This represented a departure from early sixteenth-century regulations, such as the 1528 entry in the *Stadtbuch* of Hermannstadt, which noted that orphans could no longer sell their estates, and that no purchases of estates belonging to orphans could be made, regardless of whether any contracts had already been drafted in this sense (Pakucs 2018: 56). The *Statuta* then allowed guardians to estrange immobile assets and items that were not necessarily subject to vitiation, but only after they had obtained the expressed approval of the *Rath* (*Statuta*, II. Buch, III. Titul, § 11; Sachsenheim 1856: 294). In practice, auctioning off orphans' estates, apart from pieces of real estate, was an often-encountered solution especially in cases where the deceased parent had only been present in the city on a temporary basis. This in turn would make both orphan and guardian less likely to remain in the city for a lengthy time span, and thus engender the need to transform unwieldy movables into cash at the earliest convenience.

A further, separate instruction from the same year was meant for the *Pupillenverwalter* and mentioned that this official's duty was not only to care for orphans' estates, and, if possible, to improve it, but also to care for “the orphan's person.” Orphan judges had to ensure that each ward was supported in receiving an appropriate upbringing “in religion and good morals” and that, at reaching the age of maturity, each orphan could be prepared to earn their

own keep (Schuler von Libloy 1868: 239). Just as the new provisions regulating the management of property belonging to orphans noted that it needed to at least be maintained to its original value, if not improved by means of selling, renting, or leasing, this expressly stated interest towards the orphan's person represented a novelty, compared to older, sixteenth-century statutes. While this is not to say that orphans' wellbeing was not on the minds of sixteenth-century reformers and lawmakers such as Honterus, it was viewed primarily through the lens of keeping their property intact and providing them with the necessary sums to be appropriately brought up. Prioritizing care for assets corresponded to the needs of the Transylvanian Saxon elite and upper middle strata or the urban citizenry. If an orphan was received of their legally prescribed share of the estate, and guardianship arrangements were made according to law – that is, male kin in the area or trusted persons appointed by will or by the officials saw to the estate's management – then children were bound to be able to enjoy the fruits of their parents' labor and remain well placed both socially and economically.

### ***3. Guardianship in the Transylvanian Saxon Legal Milieu***

This section explores the contours of the office of guardian, emphasizing how it was envisaged in legal-ecclesiastical works, municipal legislation, and in later ordinances of Habsburg origin that aimed to codify and bring into uniformity a host of procedures related to the oversight of orphans' estates.

The *Waisenwater* exerted his task of caring for urban-born orphans through the intercession of their guardians, who were directly responsible for the wellbeing of their wards. The main legislative provisions regulating the attributions of guardians and the guardian-ward relationship appeared in the *Statuta Iurium Municipalium* but were improved upon over time.

Drawing on Roman law, the *Statuta* provided that no women apart from the orphans' mother or "honorable matrons" could serve as guardians. Should they remarry, custody over their children's estates needed to go to a male relative, as both the remarried mother and the stepfather were presumably excluded from this role. Likewise excluded were squanderers (*Verschwender*) or individuals under the age of twenty-five (*Statuta*, II. Buch, III. Titul, § 10). The 1589 local statutes of Hermannstadt also prohibited any "members of foreign nations" to act as tutors or to assume control over any orphans' "houses and assets" (Schuler von Libloy 1862: 120). This stemmed from the dangerous prospect that members of the Hungarian *natio* – the nobility – could insinuate themselves into the social fabric of the Transylvanian Saxon urban centers by acquiring property under the guise of acting as

guardian or through marriage. Individuals who were not accepted into the fold of the Saxon *natio* – by purchasing burger rights, being born free on its territory, and adhering to Lutheranism, which made them “German” – were thus at least theoretically barred from assuming legal positions that would entitle them to encroach on the Saxons’ exclusive property rights. Given that owning real estate came hand in hand with political enfranchisement, it is understandable why relationships of guardianship were not established lightly (Sorescu-Iudean 2020).

Legitimate guardians – next-of-kin – could be excused from assuming this task under several conditions: if they had too many children already under their care; if they were suffering from a “longstanding illness”; if they occupied public office or a similarly onerous position; if they were poor (*Statuta*, II. Buch, III. Titul, § 6; Schuler von Libloy 1868: 236-237). Should a male relative who was bound by law to assume guardianship of an orphan refuse to take on this task, then he would also forfeit the share of the estate that was to devolve upon him (Schuler von Libloy 1868: 236, note 7).

According to Honterus, a guardian’s most important duty was to provide protection to their ward, “dealing as a good housefather would deal in his own affairs.”<sup>14</sup>

#### ***4. Guardians and Wards: Family Ties and Inequalities***

The present section surveys the orphan-guardian relationship as it appeared in probate records from eighteenth-century Hermannstadt, focusing on both the orphan or probate judges’ perspective on this essential tie, and the subjects’ own wishes and dealings. It firstly examines how the hierarchies present in the urban milieu were reinforced by the probate court as the highest authority overseeing orphans’ fates. It also looks at family and kinship ties as they were reflected by the guardian-ward relationship, emphasizing reciprocal expectations as well as clashes between the letter of the law and its implementation.

Regardless of what may have happened in earlier centuries, by the 1700s the Transylvanian Saxon probate judges were no longer upholding the letter of the law concerning orphans’ assets in all inheritance cases. On the one hand, this tendency represented an adaptation to the growing number of estates and orphans which required oversight, which had made the business of probate into an exceedingly cumbersome task; on the other hand, the

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<sup>14</sup> Honterus, *Reformatio Ecclesiae...*, p. 92: „Weil das vornehmste Amt eines Vormundes ist, daß er die Waise nicht unbeschützt lasse, genügt er seiner Pflicht nicht, wenn er in ihrer Sache anders handelt als ein jeder gute Hausvater in seinen eignen Dingen.“

subsidiarity of Roman law and the fragmentariness of the guardianship and inheritance section of the *Statuta* left considerably leeway to urban councilmen who exercised this duty, allowing them to focus on those cases that were likely deemed more important, limiting their involvement in others of lesser significance. Thus, practices that were not legally sanctioned began to establish themselves as a solution to more onerous cases.

The first of these practices which deserves mention was the delayed – and presumably cash - payment of inheritances to minors. After their mothers' passing, the disbursement of minor children's shares of the estate was sometimes deferred. There were several practical reasons behind this circumvention of legal provisions: both urban authorities and the children's fathers understood that very young orphans were at risk of passing soon after their mothers' deaths. If a child passed away, the siblings' and father's shares would need to be recalculated, a process that was inconvenient for the probate officers and costly to their fathers, who acted as guardians.

Fathers also invoked the need to preserve the estate, especially when it mostly comprised *Handwerckzeug*, or the tools of their respective trades. Such an arrangement was made in 1773, after the passing of Maria Franck, wife to Josephus Franck, a clothier (*Tuchmacher*). Although the estate was valued at almost 779 fl.<sup>15</sup>, the widowed spouse argued that “most of the assets consisted in *Handwerck*” and that the “abovementioned ward (*Pupill*) was very little.” The probate officers approved his request to record the orphan's share of the estate as being worth 170.86 Florin, which would presumably be disbursed later on, should the child survive.<sup>16</sup> A similar disposition was made in 1779, when the widowed wigmaker Joseph Mayer – a foreigner – promised to give his two orphaned children (Anna Maria, aged 6 years, and Joseph, only 9 months old) a share of 50 Rhenish Florin in cash compensation for the share of the estate they would have inherited from their mother, Sophia Mayerin.<sup>17</sup>

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<sup>15</sup> Fl. is used throughout the study to designate the most widespread currency in use in Transylvania at the time, namely the “Hungarian Florin” or Gulden. When the currency mentioned differs, this is explicitly noted.

<sup>16</sup> The Sibiu County Branch of the National Archives (Serviciul Județean Sibiu al Arhivelor Naționale, hereafter abbreviated SJANS), *Magistratul orașului și scaunului Sibiu - Registre de inventariere și partaj a averii locuitorilor decedați* [*Magistrate of the city and seat of Sibiu - Registers of inventory and division of deceased inhabitants' estates*], Fund no. 214, register 295, 1772-1773, fol. 90r, division id *Probate Database of Transylvania* 785.

<sup>17</sup> SJANS, *Magistrate-Registers*, register 129, 1778-1782, p. 68, division id *Probate Database of Transylvania* 1695.

In some cases, the assets that should have been part of the orphans' shares were not even inventoried:

*“Before proceeding to the inventory, the widower explained that both his children were little and, apart from the stock and tools of the trade, he owned nothing more than a few household items, as was to be seen; thus, he considered it unwise (m.n. the inventory process), because his entire estate could not be valued higher than 300 Rhenish Florin, [and] that it would be more advisable for his children if he would oblige himself to give them today or tomorrow 50 Rhenish Florin in cash when the time came, proposal which then the Officium was all the more in agreement with since the children would be little served by [owning] household and perishable items...”<sup>18</sup>*

Although this type of arrangement might appear at first glance to be primarily gender-based, with fathers who acted as guardians to minor children being allowed additional liberties with their wards' estates compared to widows, it was not wholly restricted to male guardians. After the passing of Johannes Füll, a cook, his widow Anna was allowed to remain in possession of the entire estate and would be expected to compensate her children in cash at a later, undisclosed date.<sup>19</sup> In some cases of deferred allocation of inheritance shares, either the deceased or more often their spouse had likely not been part of the fold of the Transylvanian Saxon *natio*, but rather an immigrant to the city. This was the case for the wigmaker Joseph Mayer, who had immigrated to Hermannstadt from Essingen, in the Electorate of Bavaria, and had only obtained “settler” status in the Transylvanian capital in 1779.<sup>20</sup> Mayer was also a Catholic, having had both his children – Anna Maria<sup>21</sup> and Johannes Josephus<sup>22</sup> - baptized into this denomination.

<sup>18</sup> SJANS, *Magistrate-Registers*, register 311, 1797, division id *Probate Database of Transylvania* 3022: “Ehe und bevor zur Inventur geschritten wird, so erkläret Viduus da seine beide Kinder klein und er ausser seinem Verlag und Handwerkszeug nichts mehr als wenige Hauseinrichtungen, wie zu sehen, besitze: so erachte er es unmaßgeblich, da sein ganzes Vermögen nicht höher als auf 300 RFL zu berechnen seyn dürfte, daß es ratsamer für sein Kinder seyn dürfte wenn er einem jeden heut oder morgen 50 Rfl im baaren zu seiner Zeit hinaus zu geben sich verpflichte welche diesem Antrag denn das Officium um so mehr Beistimmung da den Kindern mit Hausrath und verderblichen Effecten bis zu ihrem Gebrauch der selben wenig oder gar nichts gedienet wird.”

<sup>19</sup> SJANS, *Magistrate-Registers*, register 129, 1778-1782, division id *Probate Database of Transylvania* 1717, p. 101.

<sup>20</sup> *Probate Database of Transylvania* – Section of Citizenship Records - id 3351, entry from 4<sup>th</sup> August 1779.

<sup>21</sup> *Historical Population Database of Transylvania*, register 150011, event id 63029.

<sup>22</sup> *Historical Population Database of Transylvania*, register 150011, event id 63655.

Foreigners' minor orphaned children represented an increasingly pressing issue for the urban authorities in the eighteenth century, as immigration from various areas in the Holy Roman Empire increased. Alterity was expressed both in terms of confession, with the sizeable Roman Catholic community in the midst of the Lutheran city building a world apart, as well as in terms of geographical or quasi-ethnic background – i.e. non-Saxon. Both alterities required careful control and thought on behalf of the authorities, for several reasons. On the one hand, incomers to Hermannstadt who did not hail from the city itself or from a nearby village were presumably less well connected in terms of kinship ties in the area (Lynch 2003). In the event of their passing – or that of their spouses – their minor children were presumably left at a disadvantage, compared to locals' orphans whose network of kin was put into motion, sometimes vying for assets as well as concerned for the children's wellbeing. Likely, as was the case in other urban centers during the eighteenth and nineteenth centuries, most of the immigrant group, barring exceptional cases such as the Austrian exiles, were “young, single, and unspecialized adults.” (Winter 2009: 131) As opposed to middle-aged or elderly former immigrants to the city, who had had the time and resources to build up and cultivate a network of support by the time of their passing (Verbeke 2021:14-15), parents to small children were generally still young themselves, and still in the process of establishing themselves in their surroundings.

On the other hand, some foreigners held significant positions in the social and professional hierarchy of the city, although they were placed outside the Transylvanian Saxon urban elite both confessionally and ethnically. These constituted the growing web of individuals who populated the institutions required to run the province, namely the Habsburg bureaucracy. From the perspective of social and kinship ties, they were located in a liminal space. To a certain extent, Habsburg officials were connected to the Saxon urban administration – by virtue of their upper class or even elite status – while also holding positions that were perceived as anti-Saxon, working for the state which heavily infringed upon the elite's privileges, and adhering to the Roman Catholic or Reformed Churches.

What happened when they left behind orphans to care for? The next logical choice, which the urban authorities as well as those involved in the management of the orphans' assets readily embraced, was to appoint a guardian who had been employed in the same professional milieu as the deceased or their spouse. When the provincial exchequer office clerk Sigismund Enyedi passed away in 1796, leaving behind an estate worth some 502 Rhenish Florin and 9-year-old Barbara Enyedi, his assets were inventoried



in his rented living space and placed under sequester, as procedures dictated. The orphaned ward, present for the proceedings, was placed under the guardianship of Farkas Szekély, an official on the department overseeing the Mureş River Valley, who was joined in this role by a certain Páal von Gaborffi, a correspondence clerk on the provincial commissariat. The appointment occurred through the intermission of the Transylvanian Hungarian nobleman Count Gabriel von Haller.<sup>23</sup> A similar procedure was followed in 1783, when Theresia von Friesel, a Catholic widow of a Habsburg military physician, passed away. Her minor son Carl von Friesel was placed under the guardianship of Joseph Carl Klein, cameral registrar, who was the orphan's "next living kin", "according to our municipal laws". Klein was appointed by the Office of Divisions as "curator and tutor."<sup>24</sup> This appointment is noteworthy because the urban probate office *cum* orphan court usually did not handle the fortunes of the Habsburg military and the fate of their orphans. A special department, the *Judicium Delegatum Militare*, was meant to oversee the devolution of military individuals' property.

Individuals who worked in the Habsburg bureaucracy were regarded as trustworthy choices for the position of guardian, both by their colleagues and the orphan judges. When the urban authorities were at a loss and could not easily find a suitable guardian, they appealed to the Roman Catholic clergy in the city to counsel them in this decision. Given that wide majority of the Habsburg bureaucracy in Hermannstadt adhered to the confessional pillar of the Empire, the clergy was well acquainted with this professional segment and could tell who could be trusted. When the widow Maria Pürgerin passed away in 1765, her estate was divided between three surviving children, Johann, Elia, and Joseph Stetzel. The estate, which amounted to 873 fl. in total, consisted in a wide variety of low-value items, most of which were worth under 1 fl., a series of substantial active loans, and 153 fl. in cash. This was especially the case given that the widow Pürgerin apparently hadn't owned any real estate, the cornerstone of most high-value estates. Joseph Stetzel, Maria's son from a previous marriage, inherited a considerable part of the estate, amounting to some 637 Hungarian Florin; his share included what he was owed from his father's initial estate, what his mother had bequeathed to him in her will, as well as a bequest from his stepfather, Maria's subsequent and unnamed deceased husband. All three children as well "the above-described items" were then surrendered to the care of one Simon Ignaz Kraemer, Habsburg cash-

<sup>23</sup> SJANS, *Magistrate – Registers*, register 145, 1796-1799, division id *Probate Database of Transylvania* 892.

<sup>24</sup> SJANS, *Magistrate – Registers*, register 132, 1783-1786, division id *Probate Database of Transylvania* 1624.

desk clerk. Kraemer had been appointed as tutor by the municipal authorities “with the agreement of the Esteemed Pater Superior”, the highest-ranking Catholic clergyman in the city.<sup>25</sup>

That certain groups of foreigners represented quasi-closed communities within the midst of urban Saxon society was also attested to by the repeated choice of the same individual to serve as guardian for orphans from their midst. For instance, the German shoemaker Adam Abt was appointed by the urban authorities to act as guardian for 11 and 8-year-old sons of Johann Ventzel and Theresia Hakel on January 5<sup>th</sup>, 1797;<sup>26</sup> on the same day, “declared himself willing to assume the guardianship” over the 12-year-old Franz Foith upon the passing of his father Caspar Foith, a “German shoemaker”;<sup>27</sup> finally, on the 29<sup>th</sup> of August of the same year, following the passing of the construction engineer Bartholomaeus Kleinbaur, “as future tutor” the same Adam Abt was handed over all remaining items which had not been auctioned off as well as all cash money. The items Abt would keep for the ward included a steel diopter with a sight-vane, a wooden diopter, three silver compasses, and an entire array of travel accounts and early statistical and natural science works, such as Büsching’s *Erdbeschreibung* and Johann Jacob Ebert’s *Naturlehre*.<sup>28</sup> It is clear that Abt was a trusted individual in the eyes of the urban community, who considered that he could be relied upon to provide adequate care for orphaned minors and appropriately manage their estates, guiding them into a earning a living and thus preventing them from growing into a burden on the city’s orphanages. The fact that Abt was appointed guardian for the children of immigrants also meant that he was equally well-viewed in Hermannstadt’s immigrant community. Abt appeared to be a successful migrant: he had immigrated from a village in the Lower Palatinate to the Transylvanian capital before 1772, at the time having purchased full burgher rights directly for the non-negligible sum of 15 fl.<sup>29</sup> Thus, by 1797, he had had more than two decades to establish himself as an individual worthy of safeguarding assets and the wellbeing of migrants’ orphans, who were highly in danger of quickly falling through the cracks of the urban welfare, presumably

<sup>25</sup> SJANS, *Magistrate – Registers*, register 115, 1765, p. 23-30, division id *Probate Database of Transylvania* 1888.

<sup>26</sup> SJANS, *Magistrate – Registers*, register 145, 1797, p. 84, division id *Probate Database of Transylvania* 897.

<sup>27</sup> SJANS, *Magistrate – Registers*, register 145, 1797, p. 85, division id *Probate Database of Transylvania* 898.

<sup>28</sup> SJANS, *Magistrate – Registers*, register 145, 1797, p. 155-156, division id *Probate Database of Transylvania* 925.

<sup>29</sup> *Probate Database of Transylvania* - Citizenship records section, id no. 3066.

having no kin in the area. Migrants who had been in the city for longer were more likely to have already attained good social positions in the community (Winter 2009: 91), a tendency evidenced by Abt's regard in the eyes of the urban magistrate as well as in those of the migrant group.

While plenty of orphans appeared to be on the brink of destitution following their fathers' passing, the specter of poverty loomed especially large for younger children born to immigrants. The orphan court did not always see fit to take a sufficient interest in their futures and seek a reliable guardian, such as the shoemaker Abt presumably was. This worked to compound social and economic inequalities in the city, likely shepherding very young orphans to their early graves. When the carpenter's apprentice Johann Vadleger of Waydenbach (Weidenbach, *Ro. Ghimbav*) perished in 1782, his wife came to notify the probate court that "there was nothing left to divide" between herself and their two minor children. Moreover, Vadleger's spouse was "left in hopeful expectation", an ominous prospect for all involved.<sup>30</sup> While the orphan court took notice of the fact, it refrained from taking any measures to address the situation.<sup>31</sup> The burial records of the Lutheran parish in Hermannstadt provide further insight into this matter. Some 2.94% of infants who passed away and were buried between 1753 and 1779 had fathers listed as deceased; furthermore, 4.22% of infants who passed away had a father who had immigrated to the capital.<sup>32</sup> Over 14.3% of those who had a father listed as deceased were the offspring of immigrants, while only 3.9% of those whose father was still living had been sired by an immigrant. Fathers' immigrant backgrounds thus compounded the risk presented by being rendered a half-orphan in infancy.<sup>33</sup> The orphan court accomplished little to alleviate this burden.

The office of divisions did however seem to take an interest in the fates of some more fortunate orphans whose parents had likewise been less well connected in terms of kinship or other ties. Nevertheless, in most cases, this interest was compelled by the appearance of third parties who had knowledge of the parents' fates but were neither materially incentivized nor legally obliged

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<sup>30</sup> SJANS, *Magistrate – Registers*, register 129, p. 422, division id *Probate Database of Transylvania* 1846.

<sup>31</sup> Neither Vadleger, his offspring, nor his spouse are mentioned afterwards in the parish records for burials in the city, suggesting that the latter may have attempted to relocate following their father's passing.

<sup>32</sup> This includes the category of the Austrian Transmigrants, who were forced exiles.

<sup>33</sup> Author's own calculations, based on data from the Lutheran burial register from 1753-1779, part of the Historical Population Database of Transylvania, which contains information on 5,676 infant deaths.

to act as guardians. This occurred for instance for the three unnamed minors who were left behind by Joseph Sammer and his wife in 1789. Sammer's wife had been bed-ridden for "many years, and thus died completely destitute" and thus "there was nothing left to divide". Sammer had likely been an Austrian Protestant exile to Hermannstadt, as were the two individuals who appeared *coram officio* to notify the probate judges of the precarious position occupied by the three orphaned children and "to pray that the *Theilamt* intercede on behalf of these poor orphans, that they be taken into the orphanage."<sup>34</sup> The Austrian exile community in Hermannstadt was an especially poverty-ridden and marginalized one (Nowotny 1931). Nevertheless, the urban authorities were more likely to address issues concerning members of this community, especially when these were brought directly to their attention, than in the case of other less well-defined groups. This was not the result of any particular sense of duty towards co-religionists who had suffered a brutal displacement. Rather, it was due to the Habsburg oversight over the fate of the Protestants they had relocated to the multi-confessional milieu of Transylvania and the accompanying enquiry into the defrauding of this group's finances by Transylvanian Saxon officials in the 1770s and 1780s (Steiner 2014: 280-289).

Other intermediaries between the orphans' parents and the office of estate divisions made their appearance as well. The level of the obligations they were prepared to assume vis-à-vis the orphans depended not only on the parents' background or material possibilities – nothing to inherit meant little incentive to take a young child into care – but also on other factors, such as the intermediary's sense of charity and the nature of their ties to the deceased parents. For instance, when there were few or no kin in the area, landlords with whom the parents had lodged sometimes assumed care for orphaned minors, especially in extenuating circumstances. This occurred in 1794, when Johann Durmes pledged to care for the 14-year-old Johann Thieringer, who was "lying ill" in Durmes's home at the time, having lived there with his mother Maria Thieringerin until her passing. Johann's deceased mother had "left nothing behind", his father – a Prussian "colonist" relocated to the province after the Prussian war – having already passed away "impoverished in the hospital" sometime prior to this event. Thus, Durmes was performing "a work of mercifulness" by assuming custody – likely envisaged as temporary, as Johann was also expected to follow his parents to an early grave. The arrangement was witnessed and attested to by the neighborhood heads, who were bound to oversee the fates of such destitute individuals who were living

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<sup>34</sup> SJANS, *Magistrate – Registers*, register 358, 1789, p. 17, division id *Probate Database of Transylvania* 1359.

and lodging within their midst, in an attempt to preserve order within the city and avoid issues such as vagrancy or begging.<sup>35</sup> Still, not all children were as fortunate as Johann in finding individuals ready to perform works of charity on their behalf. After the passing of Maria Drothloffin sometime prior to August 22<sup>nd</sup>, 1764, her three children – Petrus, Catharina, and Thomas – were presumably left to the care of her husband, a certain Thomas Drothloff, a master brickmaker. Thomas Junior was the widower’s own son, while the other two children – possibly of age or nearing majority – had been sired in a previous marriage. Preferring to rid himself of the burden of caring for his offspring and two stepchildren, the brickmaker decided to abscond following his wife’s passing rather than inherit the heavily indebted estate. The little that was left behind was auctioned off in the presence of two neighborhood heads and used to pay outstanding debts, leaving a meagre 2 Kreuzer to be split among the three orphans. Creditors were also satisfied with receiving part of the assets in kind, alongside any cash that was to be had after the auction had concluded, as the probate officials carefully recorded. Somewhat less care was evidenced for the fate of the orphans themselves: between the first recording of Maria Drothloffin’s passing and the widower’s abandonment of his children on the one hand, and the auctioning off of the estate followed by a resolution concerning the children on the other, some five months had passed. While Petrus and Catharina had presumably went into service or found a way of earning a living in the meantime, a fate shared by many of their orphaned peers, 1-year-old Thomas had been relegated to the care of the enslaved Gypsy population who inhabited the city’s sprawling suburbs. It had taken the defenders of orphans’ interests, the fathers of the community, almost half a year to see that “the poor child” be remitted the necessary funds from the poor chest for his upbringing.<sup>36</sup>

Fortunately for orphaned infants, most (step)fathers did not demur from taking on full responsibility as guardians. Rather, the relationship between children and stepparents, and particularly stepfathers, could also be a highly positive one. In some cases, stepchildren preferred their stepfathers’ care and guardianship to that provided by other extant kin. This contravened the designs of the *Statuta*, which noted explicitly that the orphans’ mothers, “when they betook themselves to another marriage, were to be freed of their guardianship, and their children be settled another guardian, even if their stepfather were an honorable and appropriate person thereunto.” (*Statuta*, II. Buch, III. Titul, § 10) On the one hand, this type of provision likely had to do

<sup>35</sup> SJANS, *Magistrate – Registers*, register 143, 1794-1795, *Probate Database of Transylvania* Id 2595.

<sup>36</sup> SJANS, *Magistrate – Registers*, register 288, 1762-1765, *Probate Database of Transylvania* Id 2157.

with the protection of a ward's interests in the common event that a widower who acted as guardian to stepchildren remarried or sired children of his own in a different marriage; on the other hand, it also worked to indirectly control the flow of real property through marriage to an individual who was deemed dangerous to the political order of the Transylvanian Saxon estate. Similar provisions existed in sixteenth and seventeenth century city ordinances, which prohibited estrangement of houses in the city through engagement or marriage "between two persons of two different nations" and threatened to punish such liaisons and their consequences "by penalty of fines and exile" (Schuler von Libloy 1862: 79-80).

Cases of guardianship arrangements wherein stepfathers received this appointment with the approval of the authorities can also shed light on the extent to which orphaned wards could exercise their own volition. In 1787, after the passing of Maria Töpfner, guardianship over her minor daughter from her first marriage was to be granted to her mother's siblings in Schellenberg (Ro. Şelimbăr), a village near the capital. The younger Maria, however, expressed her wish to remain with her stepfather for as long as this was possible, rather than relocate to an unfamiliar environment. The probate officials assented to this request, and a further meeting to discuss the details of the arrangement was held the next day, bringing together:

*"the relatives of the ward Maria together with her stepfather, of whom the sister of the ward Maria's mother, Catharina, along with her husband, Michael Teutschlander, ask that this be appended [to the estate division record]: firstly, that the stepfather Paul Döpfner keep and care for [the ward] without any payment either until the end of the year or until he married; secondly, if after having married, his wife should not accept the abovementioned ward under the same conditions, then the present relatives will come together, and settle a wage for him."*<sup>57</sup>

Thus, a stepfather could very well serve as a guardian under the same conditions as a legitimate guardian, without expecting payment for the services rendered. This was regarded as a suitable arrangement both by the authorities and the relatives of the ward on the mother's side, whose pretenses were only that the arrangement be committed to writing in an explicit manner, to avoid any misunderstandings that might occur later. The only potential for dispute would be the establishment of a new family by the widowed stepfather: it would be expected that a stepmother would regard her own interests as well as those of her offspring as taking precedence over the upbringing of a stepdaughter who had not been sired by her husband. Even in this case,

<sup>57</sup> SJANS *Magistrate-Registers*, register 135, 1786-1788, *Probate Database of Transylvania* Id 1300.

however, the arrangement could continue, as the stepfather took on the mantle of appointed guardian, receiving a wage for providing care and upbringing. The relationship established between stepparents and children could prove to be long-lasting, and as durable as that which existed between birth parents and their own offspring. The resilience and quality of this tie, manifested throughout guardianship and well after the orphan in cause had reached majority, were also visible during moments of hardship experienced by the latter. This was the case for instance in 1773, when the overburdened estate belonging to the maser cabinetmaker Andreas Vill underwent probate. Owing over 273 fl. and with an estate amounting no more than 155 fl., the widow Catharina along with her young child were faced with the inability to pay outstanding debts and likely squalor. However, most of the debts incurred had been loans contracted by her spouse from her own father, a certain Johann Ludwig, who “declared himself satisfied with the deceased’s personal items, clothing, and work tools”, thus extinguishing most of the debt. Ludwig felt it necessary to note that he would make no more claim on the widow or the orphaned child’s share of the estate “because he had taken on the widow as a foster child when she was a young orphan herself, and because of the early death [of her spouse] both she and the child had been cast into hardship”. Even more, Ludwig engaged himself to settle all other outstanding debts his son-in-law had contracted.<sup>38</sup>

However, not all stepparent-stepchild relationships continued in the same vein when guardianship and care were at stake. Some stepparents regarded their responsibility as guardian as a duty that incurred costs on the ward’s share of the estate and were not above claiming what they regarded as their due. The orphan court officials were likewise in agreement that stepparents deserved pay for the services they rendered for their stepchildren. In 1798, when the young Anna Maria Stertzing perished, her stepmother Eva Stertzing petitioned the court to grant her payment for having cared for her ward, arguing that “her deceased stepdaughter, who had been a frail person, had been in her care and provided with meals for nine years and several months”. Despite reckoning no more than a minimal sum for her daily fare, the accumulated debt the stepdaughter incurred for her care far exceeded what she was bound to inherit from her father’s estate – and what had been in her stepmother’s administration. Thus, the entire estate devolved upon Eva Stertzing, with the probate officials adding that her claim had been “true and fair.”<sup>39</sup> Other appointed guardians were allotted over 40 fl. yearly for the same

<sup>38</sup> SJANS *Magistrate-Registers*, register 295, 1772-1773, *Probate Database of Transylvania* Id 795.

<sup>39</sup> SJANS *Magistrate-Registers*, register 312, 1797-1798, *Probate Database of Transylvania* Id 1204.

services they provided to their wards, which amounted to a little over 4% of the dividable estate, after debts had been settled.<sup>40</sup>

Probate proceedings also reveal other ties that overlapped with the relationship of guardian-ward, such as that established between siblings. In large families, where several siblings were left behind by the parents' passing, custody of the orphaned offspring was often divided between remaining relatives. This made sense from most material or financial perspectives, as it meant that no guardian had to bear too great a burden in caring for the orphaned minors; at the same time, because all children regardless of gender inherited equally from the parental estate, guardians could expect the same level of retribution should their wards pass away. However, not all orphans were agreed to this type of arrangement, as it would also imply separation from their siblings. Elder siblings, who had established families of their own, sometimes wished to take the place of ascendant collateral kin (uncles and aunts) and assume the guardianship of younger brothers and sisters for themselves. In 1799, four children were left behind after the passing of their mother, Elisabetha Klein, a master tanner's widow: Maria Elisabetha, who was of age and already married, Anna Maria *in capillis* – of age but as yet unmarried, Michael aged twelve and the youngest, Sophia aged nine. The orphans were in a fortunate position: once their guardianship accounts – held by their mother, who had not remarried – were reviewed by the probate officials and found to be in order, several relatives announced themselves as potential guardians to the three minors in question. Firstly, custody over Michael was assumed by a certain Herr Gross, likewise a tanner master, to whom the boy's father had owed a significant sum of money used to purchase his house. Given that Herr Gross had not received interest on the loan for the past year, during which the widow and her children had inhabited the building, he wished to maintain the administration of this property – to be inherited by the youngest son, in this case, the abovementioned Michael. Likely, Gross was related in some way to the youngest male heir. Next, custody and guardianship over Anna Maria was taken over by Simon Klein, brother of the deceased. Finally, the question of custody over the youngest daughter, Sophia, opened up: her eldest sister Elisabetha Niedlich expressed her wish to “take her into her care”. However, the elder sister's petition was paralleled by her husband's refusal to acquiesce to this claim, suggesting that this wish had not been discussed or at least agreed to beforehand; Elisabetha's spouse was the one “concerned with the administration of guardianship” in the eyes of the authorities and outright pleaded that the young heiress be “appointed a different guardian” as “he

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<sup>40</sup> SJANS *Magistrate-Registers*, register 129, *Probate Database of Transylvania* Id 1819.



could not assume it for himself”. Several names were brought into question, among whom Herr Gross and another Herr Dotz, exchequer clerk – and therefore part of the reliable upper-middle class – were included, “the probate officials being completely pleased” with either choice. The question of guardianship aside, both guardians – Gross and Klein – were quite pleased to have the young Sophia reside and be taken care of by her elder sister:

*“in addition, the abovementioned Herr Gross and the brother Simon Klein propose that, because the married sister as a very young and still new householder would not be able to provide unpaid lodging and board for her little sister, that the Divisorat settle a wage for the elder sister; which request is regarded as reasonable by the Divisorat, [and therefore it is decided] that for the first year, 20 fl. will be provided for the meals, clothing, and care of the ward, on which account all other parties are agreed.”*<sup>41</sup>

Thus, the probate proceedings reveal that guardianship and actual care for minors were not identical: guardianship involved primarily overseeing the material foundations of a ward’s future, and, to the extent that it was possible, improving them; care for an orphaned child was a task that could be divorced from the actual management of the estate. At the same time, care for an orphaned ward implied expense; the cost of children’s care was not negligible, and thus explicit cash payment in exchange for care was regarded as a reasonable measure. The recently married Elisabetha, as overseer of a “newly-established household”, was not yet regarded as capable of fulfilling the task of caring for a child not of her own, without any financial aid. Likewise, her husband did not see himself as equal to the task of acting as official guardian to his young sister-in-law in his same capacity as head of a newly established household. Spouses’ notions of care for orphaned kin could thus differ, as could their knowledge of what precisely guardianship of a minor involved, and how it might diverge from simply providing lodging, care and affection.

Moreover, a future guardian needed to be propertied, and able to fulfill tasks that were not uncomplicated, such as organizing auctions of orphans’ moveable assets and ensuring settlement of any debts contracted by deceased parents. Further attesting to the fact that caring for orphans – especially when they reached higher ages – was regarded as a separate and different responsibility than managing their assets, wards who had reached maturity but were not yet in a position to establish themselves within a new household or earn their own living were still appointed a curator, while still in their

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<sup>41</sup> SJANS, *Magistrate-Registers*, register 313, p. 39-40, *Probate Database of Transylvania* id 1229.

guardians' care but working for themselves.<sup>42</sup>

### ***5. Conclusions***

On the Transylvanian Saxon-administered Royal Lands, which comprised almost a third of the territory of early modern Transylvania, a comprehensive system of care for property devolution and orphans' assets was set in place following the onset of the Reformation around the mid-sixteenth century. The concurrent processes of urbanization and adherence to Lutheranism, had, alongside the growth in personal wealth in the major urban centers of Kronstadt and Hermannstadt, made it necessary to establish a probate *cum* orphan court in the final quarter of the sixteenth century. However, owing to the strong subsidiarity of Roman law in the Transylvanian Saxons' main legal code, the provisions governing guardianship arrangements and the devolution of orphans' assets managed to reach and reveal to the historical gaze an entire host of families and bereaved children who were not necessarily part of the elite, the main focus of sixteenth-century welfare arrangements. Because all minors had to have their assets inventoried when one of their parents passed away, the probate records that contained guardianship accounts reveal a highly diverse image in terms of social and economic range, spanning from the late sixteenth to the mid-nineteenth century.

Dealing with orphans' assets – and unintendedly, with orphans without means as well – and overseeing guardianship relationships was part and parcel of the Transylvanian Saxon legislative complex geared to preserve exclusive property rights to the Royal Lands and thus maintain political ascendancy in the tumultuous multi-estate system of early modern Transylvania.

However, the system did not function to its intended design in all cases, throughout its century-long existence. The same subsidiarity of Roman law as well as the fragmentariness of provisions regulating the attributions of guardians meant that leeway existed in how the law was implemented. This space of action that did not necessarily contravene the law, while also not guiding itself entirely according to its provisions, meant that a space of negotiation was opened up where both authorities and families could stake their claim concerning matters of guardianship. Families – including collateral kin as legitimate guardians, stepparents, or even orphaned wards themselves – could negotiate among themselves preferred arrangements, while also petitioning the probate officials in their capacity of orphan judges when a desired outcome was not forthcoming. Some actors managed to skirt legal provisions, such as the necessity to draft a clear inventory, with the assent of the authorities.

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<sup>42</sup> SJANS, *Magistrate-Registers*, register 129, p. 394, *Probate Database of Transylvania* id 1827.

The actions or rather the in-action of the orphan court often worked to compound inequalities in the urban fold. Migrants' children or the orphans of the unpropertied were not necessarily treated on an equal basis to the offspring left behind by full burghers, members of the political community of the Transylvanian Saxons. Delays in handling inheritance cases and inconsistent or absent measures when immigrant fathers passed away often meant that minors were left on the brink of destitution, alongside their mothers. This could also translate to children staying in liminal areas such as the city's suburbs for months, informally placed under hazy custody, such as that provided by Gypsy serfs inhabiting these spaces. Private charitable initiatives had to step in to deliver migrants' orphaned offspring from such fates, as the urban authorities' actions were mostly absent. Such inaction rapidly translated into a significantly higher chance of passing away in infancy for migrants' orphans, compared to orphans whose parents belonged fully to the urban community and had a working kin network in place in the city or neighboring area.

Certainly, while affection moved much of the decisions regarding the establishment of guardianship ties, it was secondary to pragmatic aspect of a material nature: the primary aspect consideration was to ensure that the financial and material background of the orphaned ward were maintained and improved upon. This reflected the priorities which had led to the establishment of the probate *cum* orphan court at the end of the sixteenth century, namely, to ensure that the children of the elites and propertied upper social strata remained in their stations through careful management of wealth, which would turn them both into eligible partners (for daughters) and provide them with an appropriate education (for sons).

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# Institutional Care for Orphaned Children in the Kingdom of Hungary (From Private Charity to a State System)\*

Ingrid Kušniráková

*Institute of History of Slovak Academy of Sciences, Klemensova 2522/19, 811 09 Bratislava - Staré Mesto-Staré Mesto, Slovakia, histkusu@savba.sk*

**Abstract.** The study provides a synthetic view of the history of institutional care for orphans in the Kingdom of Hungary from the mid-18<sup>th</sup> century to the final decades of the 19<sup>th</sup> century. The first orphanages in the country emerged at the beginning of this period, with objectives that were overwhelmingly defined in religious terms. At the end of this period about a hundred orphanages existed in the country and there was extensive debate in society about the need to create, with the support of the state, an efficient system that would provide care to all groups of children in need, not only of orphans but also rejected, abandoned and neglected children. The state did not regulate the institutional care for orphaned children in any manner; the admission criteria, level of care and the education provided was entirely dependent on the wishes of the founder or administrator.

**Keywords:** Hungary, 18th - 19th century, orphanages, provision of orphans

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Hungarian society paid little attention to the care of orphans until the first few decades of the 18<sup>th</sup> century. Orphaned children were usually taken in by their relatives or tutors and their care was funded by the yield from the property inherited from their parents. If, following the death of their parents, the children were left without the protection of family or tutors and especially without possessions, the municipal or county council took care of them. For a small fee, younger children could be placed in the care of a wetnurse or foster parents, older ones were apprenticed or were sent into service. Another solution was to place the children in a hospital or poorhouse, where they lived together with other categories of people in need. Some poor orphans, especially rejected and abandoned children, remained outside of any safety net and had to take care of themselves, either by working or begging. Hungarian legislation did not regulate the manner or quality of care for orphaned children in any way; the laws only defined the form that the management and protection of their assets should take.<sup>1</sup>

### ***Orphanages as a Tool in the Religious Battle for the Child***

Unlike those countries west of Hungary, where the institutional care of poor orphaned children was primarily established as part of the measures intended to eliminate begging in the street and to support manufacturing (Scherpner 1966: 40-46), in Hungary the reasons for the foundation of the first orphanages were largely religious. In a country where several different Christian churches operated alongside each other, institutional care of orphans became part of the battle between them. Thus, the main objective of the institutional care was to ensure that the children continued to follow the faith of their parents, to prevent them from converting to another church or to persuade them to convert from another church. As opposed to institutions established to serve mercantile interests, which above all educated children through manufacturing apprenticeships, the Hungarian orphanages emphasised a religious upbringing and education, to meet their religious objectives.

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<sup>1</sup> The existing legal norms only regulated the management of the orphans' assets and the mechanism for their supervision for noble and burgher orphans. Although it was assumed that the property of serf orphans would be managed in a similar way and its supervision would be performed by the administration of noble estates, the laws did not reflect this fact until the mid-19<sup>th</sup> century.



The plans for the foundation of the first orphanages in Hungary emerged in a small circle of Pietist priests and teachers, which formed in the first half of the 18<sup>th</sup> century in the Transdanubian Evangelical Church District. (Nagy 2017: 332; Csepregi 2000: 122–124) By building institutions where Protestant orphans would receive, in addition to care, a religious upbringing and education, the intention was to prevent the possibility that they would be placed with a Catholic fosterer who would lead them to convert to Catholicism. Due to the relative poverty of the local Evangelical church communities, they were only able to found an *alumneum*<sup>2</sup> at the Latin school in Nemescsó, which also partly served as an orphanage. (Lambrecht 1997: 38) As a reaction to the existence of the Protestant institute in Nemescsó, a small municipal orphanage was founded in nearby Kőszeg in 1741. The founding of the institution was initiated and pushed through by the mayor, Jozef Szvetics, despite resistance from the Protestant burghers. He argued in favour of his proposal by saying that there were a number of orphans living in the city, who either wondered about without parents or any means of support, or were taken by the non-Catholics to Nemescsó to bring them up in the Protestant faith (MNL OL, C 39, LAD. B, fasc. 19). With the approval of the municipal council, the management of the Kőszeg institution was taken over by the Society of Jesus in 1750. Under the administration of the Jesuits the orphanage became a “*Seminary of Converts*”, the religious aspects of its activities were significantly boosted and this originally municipal institution turned into an institution with regional importance. From 1750 to 1773 the institution primarily accepted children who had converted to the Catholic faith contrary to the will, or without the knowledge, of their parents and were seeking refuge in the seminary from their Protestant relatives. A smaller group consisted of the children of converts or children from marriages of mixed religion, who, in the opinion of representatives of the church or state, were not receiving a proper Catholic upbringing in their family environment.<sup>3</sup> Only an insignificant portion of the children were true orphans, most were the children of non-Catholic parents or converts who were to be protected from a Protestant upbringing by their relatives through admission to the institution (SzEL, Kelcz-Adelffy árvaház, *Historia seminarii convertitarum Günsiensis ab anni erectionis (...)*). After the dissolution of the Society of Jesus in 1773, the administration of the institution was first taken over by Bishop Ferenc Zichy of Győr and after the foundation of the Szombathely Diocese, its first Bishop, János Szilly (SzEL, Kelcz-Adelffy

<sup>2</sup> Alumneum—an institute similar to today’s halls of residence, which provided free care to poor students of the local Evangelical school.

<sup>3</sup> According to a decree of Charles VI (Resolutio Carolina) from 1731, all children born into mixed marriages were to be brought up in the Catholic faith.

árvaház, box No. 1). Not even the change of administrator or the issue of the Patent of Toleration led to a change in the religious objectives of the institution, which remained unchanged well into the 19<sup>th</sup> century. Thanks to the support of those providing funds and benefactors, this small orphanage, initially meant only for five children, gradually became one of the largest charitable institutes in the country, with over a hundred residents in the late 18<sup>th</sup> century (SzEL, Kelcz-Adelffy árvaház, *A Kelcz-Adelffy árvaház növendékei névsora 1755 – 1856-ig, respective 1791/2 – 1836-ig*).

It was the model of the Nemescsó and Kőszeg institutions that most likely inspired the childless widow Maria Dorota Voss ab Ehrenfels, who founded an orphanage in nearby Sopron in 1768. The institution was intended to house 24 orphaned boys and girls of the Catholic faith. Another condition of admission was that the children were born within wedlock and were aged between six and ten years. Both children from the burgher and peasant (plebeian) classes were admitted. The children could stay at the orphanage until they were capable of taking care of themselves. For boys that meant until they had finished their craft apprenticeship and for girls until they entered service. If they displayed academic talents, two boys were allowed to stay in the orphanage until they graduated from grammar school (MNL OL, A 35, 1768 Júl, N. 70). The institution opened in 1772, two years after the death of its founder (MNL OL, C 39, LAD. D, fasc. 82).

### ***The Royal Orphanage at Tomášikov – Senec***

The efforts made by the royal court in Vienna to support population growth, improve the labour supply and its capacity for war, to eliminate begging and expand manufacturing production in Hungary in the early 1760s, was reflected by, among other things, increased state interest in orphans and their care and education. In an “intimatum” of 22<sup>nd</sup> August 1763 the Council of Lieutenancy declared that the care and upbringing of orphans along with the protection of their property to be a “*politicum*”, that is, a public matter and one of the priorities of the ruler, Maria Theresa (ŠA BA, Bratislavská župa, 1763, f. 6, n. 24). This attitude, however, was not born out of sympathy for the fate of orphaned children or in an effort to make their lives easier. The state was interested in protecting the assets of orphans and in providing them with an education appropriate for their social standing, so that they would become self-sufficient in adulthood, a benefit to the country and its ruler. In order to reach this goal, from 1763 onwards the Council of Lieutenancy gradually expanded its supervision over the provision for orphans in the cities and counties and insisted, with increasing emphasis, that all the orphaned children of noble and

burgher origin have tutors, receive the necessary education and that proper control be exercised over the administration of their assets.

Poor orphaned children who were left without tutors or property upon the death of their parents represented a special category. Under the influence of mercantilism, the Viennese court perceived them (together with other people on the margins of society) as a potential threat to public order and a pool of cheap labour for manufactures (Feldbauer 1980: 25). Therefore, following the tenet of mercantilism, poor orphaned children, like all potential beggars, were to be placed into workhouses, enforced labour houses or orphanages. There, in addition to a modest degree of care, they were to receive a primary education and be involved in manufacturing production from their early youth, so that they could become disciplined and productive manufacturing workers. The mercantilists assumed that it was the duty of the state to ensure that the children be taught to work from an early age, because they considered idleness in childhood to be one of the chief reasons behind a disorderly life in adulthood (Heiß 1977: 316–317). This was behind the foundation of the orphanages supported by the Viennese court in the residential cities of the individual Austrian countries in the mid-18<sup>th</sup> century. These “Theresian” institutions were connected to textile manufactures, where the orphans were to work. The chief goal of these institutions was to provide a financial benefit and vocational training for the children. Religious and academic education was limited to the minimum required. The children were overworked, they lived in poor material and hygienic conditions and suffered from a lack of healthcare and outdoor activity. The rate of sickness and death among the residents was exceptionally high (Scheutz 2014: 52–54; Olexinski 1970: 434–438).

Hungary, too, was to have its own analogous institution: the royal orphanage, for a hundred children, founded in 1763 by Maria Theresa in Tomášikovo with the support of Ferenc Esterházy, the Chancellor of Hungary. With regard to the specific religious situation in the country, the institution was to merge together the mercantilist and religious goals. In particular noble converts were to be admitted to enable them to liberate themselves from the influence of their Protestant relatives and to strengthen their Catholic faith through their upbringing and education. Pursuant to a stipulation in the foundation charter, the orphanage was to provide the children with a basic education, a religious upbringing, and instil good working habits. The residents were to learn to spin, weave, grow mulberries and breed silkworm moths. Maria Theresa’s intention was for the institution to train specialists in silk production who would then work all over the country and replace specialists

from abroad (MNL OL, C 39, Lad. E, fasc. 31 (1763-1766), c. No. 107). But, from the very beginning, this goal was more or less unrealistic. Unlike the Austrian regions where the Viennese court established orphanages at the site of existing manufactures, the orphanage in Tomášikovo was founded with no tie to any manufacture, and in addition, not such manufacturer even existed in that area of Hungary at the time. The repeated attempts by the orphanage to establish their own manufacturing failed, and they were unable to establish any practical instruction in silk spinning in Tomášikovo. This failure was one of the reasons why the Viennese court slowly modified the educational goals of the institution and, at least for the most talented residents (boys), replaced the position of manufacturing worker with professions requiring a higher level of education.

Unlike the Viennese court, Esterházy and the members of the Council of Lieutenancy who were jointly responsible for its operation had wanted to operate the orphanage as an educational institution from the very beginning. Thanks to the influence of Esterházy, the administration of the institution and the education of the children was entrusted to the Piarists in 1766, who alongside the traditional educational trivium (writing, reading, reckoning) began to teach arithmetic, calligraphy and architecture (the basics of buildings) (MNL OL, C 39, LAD. E, fasc. 31 (1766 – 1769), c. No. 108). Conceived in this way, the educational programme considerably exceeded the scope of the education provided at the Hungarian elementary schools at that time. Similar to the orphanage in Vienna, a great deal of attention was dedicated to musical education and military exercises. In 1774, through an initiative of the curator of the time, Ferenc Berchtoldt, a normal school was established at the institution, which, together with the one in Bratislava, was the first in the country (MNL OL, C 39, LAD. E, fasc. 31 (1770-1777), c. No. 109). In 1778, after a proposal from the curator Ferenc Balassa, the educational programme was further expanded with another course, economics (teaching the basics of agricultural and artisan production), which was intended to provide the boys with a wide range of theoretical knowledge and practical skills with which they would be able to find a job in agriculture, craft production or enter service (MNL OL, C 39, LAD. E, fasc. 31 (1778-1783), c. No. 110). In 1780, as part of the school at the institution, a teacher training school was established, where some of the inmates were prepared for the profession of elementary school' teacher (MNL OL, C 39, LAD. E, fasc. 31 (1778-1783), c. No. 110; LAD. E, fasc. 31/III/2, c. No. 111). However, the subjects that went beyond the scope of the trivium were only offered to boys. The education of girls was still limited to religious education, writing and reading. For girls, a particular emphasis was put on the

domestic skills and handicrafts, as most of them were expected to support themselves by entering service in adulthood. In the first years of the rule of Joseph II the normal school established at the orphanage became a model educational institution, which was intended to demonstrate to the Hungarian political and social elites the virtues and advantages of the primary educational system promoted by the Viennese court (MNL OL, C 69 Departamentum scholarum nationalium 1776-1848, 1781, Districtus Posoniensis, fasc. 2.; 1782, Districtus Posoniensis, n. 3).

Maria Theresa determined that the orphanage was to admit poor children after the death of both of their parents or at least their father, the breadwinner. Other conditions of admission were that they came from the Kingdom of Hungary, were born in wedlock and were at least seven years old. At this age children were already considered capable of maintaining order in the household and mature enough for education at school. Pursuant to the foundation charter, only Catholic children or those who could be converted to the Catholic faith were to be admitted. Although the Viennese court declared a particular interest in admitting children of noble origin to the orphanage, the noble families were at first not interested in taking up places in the institution, since manufacture work was not considered suitable for people from this social class. In the 1760s and 1770s most of the residents admitted came from the families of artisans, soldiers or servants (cooks, doormen or coachmen) of the aristocratic families. The institute did not admit children from the lower social classes, the offsprings of beggars or labourers. A minority of the inmates were children who, contrary to the law, had not been raised as Catholics at home and who arrived at the institution through a decision made by the state authorities. As the quality of the education provided improved (especially after the establishment of a normal school at the institution), the number of residents of noble origin from the families of lesser royal officials began to grow (MNL OL, C 39, LAD. E, fasc. 31 (1778 – 1783), c. No. 110; LAD. E, fasc. 31/III/2, c. No. 111).

### ***The State's Concept for the Institutional Care of Orphaned Children***

The road to the reform of the primary education system in the Kingdom of Hungary was longer and more complicated than in other countries of the monarchy. The Hungarian political elites rejected the *General School Regulation* (1774) which defined a unified way for the construction and management of the elementary schools throughout the whole of the monarchy, instead they pushed through an independent plan for school reform for the Kingdom of Hungary. (Kowalská 1987: 17–19) One of the specific differences in the plan,

when compared to the other countries of the Habsburg monarchy, was the inclusion of the orphanages in the network of elementary schools. Through the newly created state school administration, the state had the ambition to direct and supervise education in orphanages, employ teachers, oversee the study results of the inmates and the selection of their future profession (MNL OL, A 39, 1778, n. 3993). The 1777 school law, *Ratio educationis*, required that an orphanage be established at the primary (normal) school at the centre of each of the nine school districts. This institution also needed to include a teacher training school, while the education of the boys in the orphanages should primarily focus on the profession of teacher for elementary schools (Mikleš and Novacká 1988: 74).

As part of the preparation and launch of educational reform in Hungary, the Viennese court also once more defined the goals for the institutional care of orphaned children. It gradually stopped regarding orphanages as a tool to support manufacturing production and that their chief role was to teach poor orphaned children to work and train them as manufacturing workers (Heiß 1977: 316–317). Maria Theresa's decree from March 1779 defined orphanages as educational institutions that were to provide the orphans with the necessary education for them to become self-sufficient and useful citizens. All the inmates of the orphanages were to receive an education in the trivium at school, to equip them with the knowledge and skills needed in their professions by "*people from lower social classes and good Christians.*" Depending on the degree of their talent and ability, after graduation from the trivium male residents could continue their studies to become teachers, soldiers, economic officials, traders, artists and craftsmen or servants. Those who displayed no special abilities were to be sent to the countryside and employed in agriculture after graduating from the trivium (The mandate by Maria Theresa of the 26<sup>th</sup> March 1779, the "intimate" of the Council of Lieutenancy of the 15<sup>th</sup> April 1779. OSzK, Kézirratár, Fol. lat. 853).

Maria Theresa also commissioned the creation of a general directive to govern the foundation and management of all the orphanages in the country. The Council of Lieutenancy charged Ferenc Balassa with this task, he was the councillor and curator of the royal orphanage in Senec.<sup>4</sup> Balassa submitted the proposed directive to the Council of Lieutenancy on the 26<sup>th</sup> February 1780, which passed it on for approval to the Viennese court on the 4<sup>th</sup> of April, without further comment. The extensive document had three sections, which were further divided. The first dealt with the financial provision for

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<sup>4</sup> The royal orphanage established in 1763 in Tomášikovo was moved to Senec in 1780, to Bratislava in 1786 and finally to Győr in 1800.

orphanages, suitable localities and buildings, and laid down regulations for their management. The second dealt with the admission of children to the institution, the care and education to be provided, as well as the circumstances of their departure from institutional care. The third section contained the house orders and detailed instructions for all employees. In the context of the period, Balassa's considerations about leading the children towards religious and ethnic tolerance, his ban on an enforced conversion to the Catholic faith, the possibility to provide talented boys with a higher education regardless of their origin and pointing out the deficiencies of the education given to apprentices by their masters seem interesting. The recommendation that orphanages may admit children of living, especially noble parents, who could not provide them with suitable education for objective reasons was also contrary to normal practise (MNL OL, C 67, 1780, Miscel. n. 13). The Viennese court never approved the proposals prepared by Balassa. It is likely that Maria Theresa was not able to do so before her death in November 1780, while after the accession of Joseph II to the throne the question of the regulation of the orphanages was no longer topical.

### ***Institutional Care of Orphaned Children under Joseph II***

After the death of Maria Theresa, the Viennese court did not continue with the establishment of district orphanages or the state's concept for the institutional care of orphaned children. One of the reasons for this was that in the context of reforms of Joseph II the mercantilist (Austrian lands) or religious (Hungary) purposes of the orphanages lost their former importance. Work done by children in manufacturing proved to be inefficient and after the issue of the Patent of Toleration, the religious mission of the Hungarian institutes was considered outdated by the state authorities. However, the educational goals of the orphanages under the Habsburg monarchy had already gradually begun to change from the 1770s, when an upbringing targeting manufacturing work had gradually been replaced by primary education within the reforms of the elementary school system. Under the influence of cameralism, the state began to consider control of the primary educational system as its chief tool to provide discipline and the religious and moral indoctrination of poor children, including the residents of orphanages. (Melton 2002: 114–115, 119) However, primary school education could also be provided to orphans in foster care at a significantly lower cost. In general, Joseph II considered the non-institutional care of persons in need to be cheaper and more efficient, which for orphaned children meant the prioritisation of foster care over institutional care. Joseph II also fully identified with the opinion of Ludovico Antonio Muratori that

poorhouse care, including the care of orphaned children, should be exclusively financed by alms from the population or through other private means (last wills, endowments). (Linzbauer 1853: 58–63) Therefore he cancelled the financial support that the orphanages had received from state or public sources in the time of Maria Theresa's rule. This led to their demise or to a large reduction of the number of residents in the majority of orphanages. (Olexinski 1970: 443–444).

Joseph II's view on the institutional care of orphaned children led to a fundamental reorganisation of the existing orphanages in Hungary with a strong preference given to the non-institutional forms. The assets of all the orphanages and the endowments designated to provide for the orphans were merged with the royal orphanage, which became the central, general institution for the whole country and moved to Bratislava in 1786. It had a capacity of 80 places in institutional care and 330 in foster care. As part of the reorganisation, the school at the orphanage was closed, as the residents were able to attend a public normal (municipal) school in Bratislava and the most skilful of them were free to attend the local grammar school. With regard to the possibility to follow higher studies, places in the orphanage were exclusively designated for boys, especially those of noble origin or coming from the families of chamber officials. The remaining children were placed in foster care. The duty of the foster parents was to provide the children in their care with religious education, primary education, and to teach them to carry out household and agricultural chores (OSzK, Fol. lat. 695). However, the fee paid for foster care was so low that it was obvious that the foster parents would only take in the children from the institute as cheap labour. The reforms of Joseph II to Hungarian orphanages may also be perceived and interpreted as a reverberation of the theoretical discussion about the form that the care of orphaned children should take. This discussion had been alive from the 1760s, particularly in German-speaking countries, led by doctors, teachers, theologians and orphanage managers influenced by the Enlightenment. This is referred to in historiography as the *Waisenhausstreit*.<sup>5</sup> (Neumann 2003: 157–160) But the decision by Joseph II to eliminate institutional care for orphaned children to the maximum possible extent and replace it with non-institutional care was particularly motivated by economic and financial concerns; specialist or ideological considerations probably only had a minimal influence. (Feldbauer 1980: 81–82).

Similar to other projects of Joseph II, the general orphanage in Bratislava did

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<sup>5</sup> The focal topic of this discussion was the advantages and disadvantages of institutional care of orphaned children compared to foster care.



not survive the death of its founder and was dissolved immediately after his death. The orphanages in Kőszeg and Sopron were restored to their original form; the restoration of the Oradea orphanage was not possible as some of the premises were no longer standing, but its assets were used to provide orphans with foster care for a certain period of time (OSzK, Fol. lat. 695). The royal orphanage remained in Bratislava and, in particular, for financial reasons it maintained the form it had taken in the time of the rule of Joseph II. The provision of institutional care was reduced to only 70 places which were especially designated for boys from noble families or the families of chamber officials. These places were primarily occupied by boys whose fathers had in some manner done a service for the homeland or the monarch. With regard to their origin and assumed future, most children wished to complete grammar school studies, and many of them were allowed to do so, especially after the death of Joseph II. The remaining 180 children were placed into foster care or apprenticeships with master craftsmen (1791, f. 21, C 80 Departamentum fundationum saecularium 1783 – 1848, MNL OL). The level and quality of care for them outside the institution was exactly what the contemporary critics expected from non-institutional care for orphaned children. The children did not fully attend school, they were not properly clothed and the foster parents refused to take care of them if they were ill. Although some children ran away from their foster carers or masters, this was always judged to be a failure of the child, the lack of a desire to work or a result of a damaging influence in their surroundings. After the great fire which befell Bratislava on the 18<sup>th</sup> July 1800, the royal orphanage was transferred to Győr, where de facto it ceased activity in 1809 and de jure ceased to exist in 1815. (Kušniráková 2019: 249-252, 255-266)

The death of Leopold II in 1792 ended the period of Enlightenment reforms in the Habsburg monarchy and along with them the interest of the state in poorhouse care, the development of the concept and management. (Feldbauer 1980: 13) During the first half of the 1790s, the authority of the state to regulate the institutional or non-institutional care of orphaned children was rescinded and its powers were limited to checking the annual accounts of existing institutions and approving the charters of newly established institutions. Both the institutional and non-institutional care of orphans became a matter for the local authorities and churches for more than a century. The consequence of the disinterest of the state authorities in orphanages was that they were not considered to be necessary, not even by the church or secular elites, which then almost completely ceased to be involved in their foundation or in the provision of financial support. (Feldbauer 1980: 106-107)

### ***Institutional Care of Orphans in the Kingdom of Hungary in the First Half of the 19<sup>th</sup> Century***

In the early 19<sup>th</sup> century, there were only two private Catholic orphanages in existence in the Kingdom of Hungary (in addition to the royal orphanage in Győr, which was closing down): one in Kőszeg and the other in Sopron. Unlike the state orphanage, the private orphanages in Kőszeg and Sopron managed to overcome the consequences of the Napoleonic wars, state bankruptcy and currency reform and were continued to be active, without interruption, until the middle of the 20<sup>th</sup> century. The statutes approved by the Council of Lieutenancy in 1792/1793 represented a basic framework for their existence and operation in the first half of the 19<sup>th</sup> century. The statutes of both institutions were written by their administrators along the lines of Balassa's general directive and included all of its basic principles. They connected the primary religious aims of the orphanages with the Enlightenment emphasis on the "appropriate" provision for poor orphaned children and their primary school education (MNL OL, C 80, 1793, f. 45; SzEL, Püspöki levéltár, I. Acta cancellariae, b. 17 Kelcz-Adelffy árvaház, c. No. 3). Nonetheless, the institutions developed in different ways over the following years. The administrators of the Sopron orphanage admitted both boys and girls and traditionally oriented their education and upbringing on crafts or service. Following the wish of the founder, two boys, selected for their background or abilities, could undergo the whole of grammar school. At the beginning of the 19<sup>th</sup> century the orphanage in Kőszeg ceased to admit girls and fully concentrated on the education of boys. The goal of this change was to guide at least some of them into the profession of priest. Therefore, having graduated from the municipal normal school, most of the inmates were not apprenticed but continued their studies at the local grammar school, thanks to which they were able, in adulthood, to work in professions that required a higher level of education. In particular they found employment as priests, monks, teachers and various officials, but also, to a lesser extent, as doctors, lawyers, artists and scientists (SzEL, Kelcz-Adelffy árvaház, A Kelcz-Adelffy árvaház növendékei névsora 1755 – 1856-ig, respective 1791/2 – 1836-ig).

In the first half of the 19<sup>th</sup> century, the church and the state in Hungary considered and presented the institute in Kőszeg, with its secure funding and high number of orphans, as a model orphanage. It inspired the operation of two other Catholic orphanages in this period, founded and managed by the bishops and their chapters in Veszprém and Pécs. Based on the wishes of its founder, Provost Dávid Zsolnay, the Veszprém orphanage, founded in 1809,

was especially intended for children from Protestant or mixed marriages whom parents wished to bring up in the Catholic faith. If no converts applied for a position in the orphanage, it could also admit orphaned or poor children for whom parents were unable to provide the necessary care and education. The Pécs orphanage, founded in 1825, was only intended for boys of the Catholic faith. Another Catholic orphanage was founded in 1833 by the Bishop of Nitra, Jozef Vurum, in Žilina in an effort to mitigate the consequences of the cholera epidemic which had hit the country two years earlier. The institute was intended for poor orphans of both genders of the Catholic faith or those who were to be brought up in the Catholic faith under Act No. 26/1791. The patrons of private endowments could also admit Protestant children to the orphanage but had to provide them with religious education and a suitable teacher at their own expense.<sup>6</sup> Another condition was that their parents had to reside in Trenčín County. Children between the ages of three and ten were to be admitted, older children could already serve or help on the farms, in the opinion of the bishop. The bishop assumed that boys would leave the institution to join master craftsmen as apprentices and the girls would enter service. Talented students could remain in the orphanage until they completed their studies at the local grammar school. It was also stipulated by the bishop, that disabled children and those with long-term illnesses, along with children found on the streets, could not be admitted to the orphanage (ŠA ZA, Bytča, Biskupský sirotinec, c. No. 2).

In addition to the traditional Catholic institutes emerging in the Kingdom of Hungary from the mid-18<sup>th</sup> century, several municipal orphanages were also founded after the 1831 cholera epidemic. They differed from the church orphanages in several ways: in the identity of those who founded the orphanage, through the form of management, financing and the quality of the education and care provided. Catholic orphanages were educational institutions with a religious mission which put an emphasis on the religious education of the children. These institutes provided their residents with a higher standard of living (domestic chapel, study rooms, bathrooms), employed more staff and to some of the boys, selected for their background or abilities, they offered a higher education. Children from a wider surrounding area were admitted to these orphanages, most often from the diocese, or sometimes from the county. Municipal orphanages founded by charitable associations (Pest, Bratislava) or by municipal councils (Győr, Pest) were not educational but charitable

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<sup>6</sup> But that could be a problem in practice, as there was no Evangelical church community in Žilina, which meant that the priest or catechist would have to commute to the orphanage from some other village in the vicinity.

institutions, which given their limited income were only able to provide the local poor orphans with simple care and basic education. In these institutions vocational education was preferred to school education and the training given to the children for their later life was limited to crafts or service. The statutes of the orphanages, even at a theoretical level, did not allow for the possibility that gifted boys would continue their studies after completing elementary school, which might possibly have allowed a rise in their social status. The residents remained in the orphanages for as little time as possible, only until they were capable of working or entering an apprenticeship. (Ausweis über die 1834:13-16; Ballus 1833; A' szabad királyi 1846; Bericht 1856)

### ***The Boom***

The preference for the non-institutional care of orphaned children and Hungarian society's reserved attitude to the foundation of orphanages remained unchanged after the 1848/1849 revolution. Only a few new institutions (Košice, Pécs) were founded during the times of neo-absolutism, compared to the insignificant number of orphanages that had been founded previously. The topic of orphanages and the institutional education of orphans was not the subject of debate within the social discourse of the society until the late 1850s. When it did, it was not as a social issue but rather as a religious issue. All the orphanages which had been established and operated in Hungary by that time were Catholic or, in the case of some municipal institutions, were inter-faith. But even those institutions that accepted non-Catholic children without an overt intention for them to convert were in essence Catholic institutions. Most of their inmates followed the Catholic faith, the only religious education provided was meant for Catholics, they were managed by church figures (priests or nuns), and attendance at a Catholic mass may have been obligatory at least once per year. After the fall of Bach's neo-absolutism, the religious autonomy of non-Catholic denominations was re-established in Hungary and an extensive discussion opened up about the revival of the church life, which included the educational system, training and poorhouse care. Within these discussions voices were heard about the need to found orphanages that would provide religious education to non-Catholic orphans that corresponded to their faith. (Über evangelische 1858: 199–200, Flesch 1862: 41–42) By founding their "own" faith-focused orphanages, the intention was to prevent children from being brought up in the Catholic faith (either in an orphanage or with foster parents) that might lead to them abandoning their original faith. The first result of these discussions was the establishment of non-Catholic institutions for orphaned children in Pest: a countrywide

Protestant orphanage and two Jewish ones (one for boys and one for girls).

The last three decades of the 19<sup>th</sup> century, when 70 new institutions were founded in the country, may be considered as the period of the true development of institutional care of orphaned children in the Kingdom of Hungary. As no more than 30 had been founded in the Hungarian part of the monarchy between 1749 and 1870 (Statistisches 1888), this truly represented exceptional growth, which was driven for both social-economic and religious-political reasons. Of the social-economic reasons it was primarily the destructive cholera epidemic of 1872 to 1873, which significantly increased the number of orphans and in fact triggered a wave in the foundation of orphanages after 1870. Although there were many waves of the cholera epidemic up to the end of the 19<sup>th</sup> century, in this later period the foundation of new orphanages was especially driven by the industrialisation and urbanisation of the country. The urban environment significantly reduced the possibility to provide for orphans within the traditional family or social ties, which meant that orphaned children within cities were, to a greater extent than in the countryside, in need of aid from the authorities or charitable institutions. During this period the growing secularisation of society and the disassembly of the remnants of the confessional state from the period of the early modern ages likewise significantly contributed to the development of orphanages. The legislation passed by successive Hungarian governments concerning the educational system, entering into marriage and the education of children of mixed faith couples created new conditions for the existence and operation of the churches, which they attempted to reconcile through an increase in their activity in the areas of the educational system, healthcare and social care. Part of this process, sometimes referred to as the second confessionalization, was the interest of the ecclesiastical and secular elites in the foundation of orphanages along religious defined lines which provided education to the children in line with their notions and expectations.

### *The Founders of the Orphanages and Their Financing*

The founders of the orphanages were mainly women's and other charitable associations; according to statistical records from 1900, they had founded and operated a quarter of the one hundred institutions that existed at the time. (Ungarisches 1900: 371) Additionally the associations also founded some municipal (e.g. in Bratislava), county (e.g. in Šariš, Ung and Borsod Counties) and religious institutions (e.g. the countrywide Protestant orphanage in Budapest), thus it can be assumed that altogether they founded and managed over a third of the orphanages. As the foundation of an orphanage is

financially demanding, only a few orphanages were founded by individuals and they tended to be representatives of the hierarchy of the Catholic church. There were not many secular founders, even with regard to their need to provide for their own descendants. The opening ceremony of a new institution was often organised on days with extra significance, for example, the name day or birthday of the monarch or his wife. In the second half of the 19<sup>th</sup> century, some of the newly founded and older orphanages were named after the female members of the monarch's family: his wife Elisabeth (e.g. in Košice, Budapest), his daughters Marie Valerie (e.g. Kaposvár, Cluj) and Gisela (e.g. Liptovská Teplička, Timisoara), as well as his daughter-in-law Stéphanie (e.g. Bratislava, Levice).

In the second half of the 19<sup>th</sup> century, only a very small number of orphanages were financed in the traditional way, through interest on capital. Among them were those that had been established back in the 18<sup>th</sup> century or had been founded by private individuals. The financing of the majority of institutions was based on several pillars. For the orphanages run by associations the primary source of income came from membership fees; for other institutions they were charitable collections supplemented by gifts, bequests and the income from charitable events or lotteries. Contributions from the municipal or state treasuries did not begin until the late 1890s in relation to the provision for rejected and abandoned children. Until that time, cities had helped orphanages by gifting land for construction of the orphanage or by donating a suitable building and state support had been limited to the organisation of charitable lotteries and disbursement of the money raised between selected institutions. Most of the administrators of the orphanages saved part of their annual income and either placed it on deposit to earn interest, purchased shares or into a reserve fund designated for the construction of a new building or maintenance. In this way over the course of their existence most orphanages managed to build quite a substantial financial fund whose yield represented another source of income and enabled them to continue to increase the number of residents and to meet unexpected expenses.

### ***Admitting Children into Institutional Care***

In general, Hungarian orphanages were intended for poor orphaned children who had lost both their parents or at least their father, the breadwinner, through death. However, abandoned orphans without means were not automatically placed in institutional care. They had to request admission to the orphanage from the administrator. It was necessary to apply for admission to

the orphanage administrator or so-called holder of patronage right and meet the criteria stipulated in the foundation charter or statutes. Nevertheless, even meeting all of the conditions did not necessarily provide a legal right of admission. The decision on admission was made on an individual basis, with regard to the situation in the institution (the existence or otherwise absence of a vacancy), the defined goals of the educational provision and especially the position and influence of the person who recommended the child's admission.

The first and most fundamental condition for admission to an orphanage was whether the child was born in wedlock and the working life of his/her parents. All of the orphanages only admitted children from a predetermined locality or region – i.e. from the city, local church community, county, diocese or church district. Only a few orphanages had inmates who came from the whole Kingdom of Hungary, for example, the provincial Protestant orphanage in Budapest, the institution for the orphans of military commanders in Sopron and the orphanages for the children of teachers. The founders, or the statutes, also determined the religious character of the orphanages, that is for the children of what faith they were designated. Faith was also considered to be an important part of the (self)identification of an individual in the second half of the 19<sup>th</sup> century, and the religion was the basis for the upbringing and education of children. Regardless of their founder and denomination, all orphanages put an emphasis on the religious and moral education of their wards and required them to fully meet their duties that related to practice of their faith. The religious practice as well as the holiday and commemorative culture were usually adapted to the dominant confession in the institution and the children of minority denominations were exposed to direct or indirect pressure to change their faith. In the predominantly Catholic country, Catholic orphanages continued to be perceived as a tool for the re-Catholicisation of non-Catholic orphans. Within Protestant and Jewish institutions, religious goals were placed above charitable goals. The elites of these faiths argued in favour of the foundation of their own orphanages especially to meet the need for orphans to be brought up and educated in line with their faith and to prevent them from growing up in the Catholic milieu, which may have led to their conversion. With regard to the religious identity of the residents, their upbringing provided and the form of administration, most of the orphanages were Catholic, even if they were association, county or municipal institutions. According to a statistic from 1888, that stated the faith of the residents of individual orphanages, only 15 out of 70 institutions were primarily designated for children of non-Catholic faiths. Another eight could be described as multi-faith ones, in that they admitted a number of Catholic,

Protestant and possibly even Jewish children. (Statistisches 1888) The Catholic character of most orphanages, with regard to the faith of their residents, was also confirmed by a survey from 1900. (Ungarisches 1900: 371)

Unlike the past, when the lower age limit for admission to an orphanage was set at 6–7, in the second half of the 19<sup>th</sup> century the statutes of some institutions allowed the admission of children as young as three or four years of age. The children left institutional care between the ages of 12 and 18, from most institutions as 14- or 15-year-olds. As at this age they could still not fully take care of themselves, some orphanages looking after their former wards until they came of age. In the second half of the 19<sup>th</sup> century, the practice of only building orphanages for boys, or of admitting limited numbers of girls as a cheap labour force completely ceased, although girls were still expected to help with domestic chores and handicrafts. As society gradually began to perceive girls as more vulnerable due to poverty and a lack of education, with institutions specifically designated for boys only, or for children of both genders, orphanages specifically for girls began to emerge. The first to be founded in Sopron in the 1850s was an institution for the daughters of fallen military commanders, and later in the early 1860s, in Pest, the municipal girls' orphanage and the orphanage of the Provincial Association of Hungarian Housewives. Over the following years, women's charitable associations founded girls' orphanages in more Hungarian towns.

### *The Upbringing and Care for Inmates in Institutional Care*

It was also in the second half of the 19<sup>th</sup> century that the prevailing opinion in Hungarian society was that care for children in orphanages should be simple and modest but should not threaten their lives and health. The standard of care provided in orphanages was in no way regulated by the state. The level of care for residents in individual institutions depended on the goals and financial means of their founders, the amount of income and social origin of the children, as well as on the attitude of the administrators and other employees.

The daily regime in orphanages was highly organised, the children were always occupied and under supervision. In line with the habits of the time, the residents got up between five and six o'clock in summer, somewhat later in winter. On workdays, the daily schedule was adapted to school instruction, which was divided between morning and afternoon sessions. Children spent the rest of their time doing homework and working. The residents of all institution were required to help with household chores or farm work to varying degrees. The institutions which put a greater emphasis on the education of children employed a domestic teacher to revise the school



curriculum and help with their homework. On Sundays and holidays most of the day was dedicated to church rituals and religious education. The children might also have been given time for relaxation and entertainment. They ate three times a day. For breakfast, they had bread or a thin soup, for lunch soup and meat with a side dish, for dinner again soup or a thick sauce. An afternoon snack of bread or fruit was already quite common at this time. As most of the orphanages were Catholic, alternating days of meat or fast was commonplace. The level of accommodation of both the children and employees depended on whether the orphanage was located in an old building or in a new one built for the purpose. Large joint dormitories were normal, separate ones for boys and girls, which in some institutions also served as day (work) rooms. In-house infirmaries were considered a necessity, so that ill children could be isolated from healthy ones. Most orphanages cooperated with the municipal doctors, or other local ones, who treated their residents free of charge or at a discount. The institutes were also capable of providing the necessary medication to the children. In most orphanages the children wore identical clothes; the clothes for the girls were mostly made in house, the clothes for the boys were ordered from the local masters. The residents usually knitted their own socks and stockings. The clothes were “passed down” by the children and repaired for as long as possible. But a child was not allowed to walk around in dirty or torn clothes. It was considered a required standard of hygiene that the children wash and comb their hair every morning and evening and have a bath once a week. Their hair was washed and inspected once or twice a week, and their underwear and bedlinen were regularly changed and their top clothes cleaned. The educational goals of the institutions did not change, even in the second half of the 19<sup>th</sup> century, and the priority remained the provision of primary education with an emphasis on religious education and occupational training. Most institutes did not offer any higher education to their residents even at an academic level. Some orphanages had their own educational institutions, while others sent their residents to public schools.<sup>7</sup> It was also taken for granted that girls from orphanages could only be employed as maidservants or nannies for children, and the scope of their upbringing and education was adapted to that. One of the few exceptions was represented by the orphanage for military orphans in Sopron, whose wards could study at a teacher training school and become teachers or governesses.<sup>8</sup> Most of the male residents of orphanages

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<sup>7</sup> In the school year 1888/1889 there were 70 orphanages in the Kingdom of Hungary, out of which 31 had their own schools – 31 elementary schools, two higher elementary schools, one grammar school and one gardening school. (Schwicker 1891: 227–228)

<sup>8</sup> <http://www.fotos-geschichten.at/3Officers.htm>

continued to be prepared for the professions of craftsman, agricultural worker or navy. Higher education was preferred to an apprenticeship especially within the boy's orphanages that were run along religiously defined lines, such as the Catholic institutions in Kőszeg and Pécs and the Protestant and Jewish orphanages in Pest. Some administrators of municipal or association orphanages changed their initial attitude of rejecting higher education for their residents over the course of time and allowed some of the children to continue studying after the completion of elementary school. The promotion of the idea of a unified Hungarian nation and the growth of nationalisation in society over the final decades of the 19<sup>th</sup> century drew the attention of the Hungarian elites to the issue of the education and spoken language in orphanages. Unlike the 18<sup>th</sup> century, when the orphanages had placed an emphasis on the teaching of people's languages, or when German-Hungarian bilingualism was taken for granted in speech and education, ever-growing pressure may be observed on the upbringing and education of residents in Hungarian from the 1860s.

### ***The Road to a System***

Although the number of orphanages in the Kingdom of Hungary grew significantly in the last three decades of the 19<sup>th</sup> century, given their limited capacity the dominant form of care for poor orphaned children remained their placement with foster parents or their entry into an apprenticeship or service. But most of the Hungarian orphanages were only designated for orphans whose parents, although leaving them with no property, nonetheless left them with social capital in the form of birth inside wedlock and a full working life, through which they could expect support from society. Help and support was not only needed by poor orphans without tutors or property, but given the lack of care and education, also by a number of rejected, abandoned or neglected children. Nevertheless, society continued to refuse to take responsibility for the children of live parents out of a concern that there would be an enormous growth in their number and argued that caring for children was the duty of the parents. However, in the 1870s the high mortality rate of rejected new-borns and the criminality of abandoned or neglected children became, especially in big cities, a problem which could no longer be ignored. As the state and lower-level administrations hesitated, the first to take care of these groups of children in need were various charitable associations. An example of this was the White Cross Association Provincial Orphanage, which became the most important institution for the care of foundlings, and the orphanages they established later formed the basis for the state system of care for children in need. The Association of the Capital City for the House of Salvation was one of the first

to care for abandoned and rejected children and with the support of the city and state founded the first institution for them in Budapest in 1877. Representatives of the municipal authorities ever more emphatically voiced the request that care for all children in need be organised, and especially financed, by the state. The state system of care for children in need which eventually emerged in Hungary at the turn of the 20<sup>th</sup> century would thus be based on cooperation between the state and charitable associations.

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# Overseeing Orphans' Care: The Presidents of the Orphan Courts in Transylvania during Dualism

Ovidiu-Emil Iudean\*, Nicoleta Hegedús\*\*

\**Babeş-Bolyai University, Centre for Population Studies, Cluj-Napoca, Romania,  
ovidiu.iudean@ubbcluj.ro*

\*\**Babeş-Bolyai University, Centre for Population Studies & the Romanian Academy, George Bariţiu  
Institute of History, Cluj-Napoca, Romania, nicoleta.hegedus@ubbcluj.ro*

**Abstract.** The present paper provides a glimpse into a less researched position in the Hungarian civil service during Dualism, namely the officials presiding the orphan courts or sees (*sedrii orfanale*) in Transylvania. It argues that this office and the corps of officials holding it should be examined more closely in order to be able to better understand the shifts in the Hungarian state's welfare programs during the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. The paper explores several key issues related to the presidents of the orphan courts in Transylvania between 1876 and 1914: firstly, the professional attributions held by this office; secondly, the importance of the office as reflected by the income and level of public influence it generated; thirdly, it sketches out a group analysis of those individuals who occupied this position during Dualism in Transylvanian counties.

**Keywords:** Transylvania, clerks, regional elite, Orphans' Courts (*Sedrii orfanale*)

In September 1899, the Budapest gazette *Magyarország* featured an article recounting a particular event from Turda (hu. Torda) which had aroused spirited reactions not only at local level, in the Turda-Arieş (hu. Torda-Aranyos) county, but also throughout Hungary. Several other major publications, such as *Pesti Hírlap*, had republished the news piece entitled "Inzultált árvaszéki ülnök" [An insulted orphan assessor], which featured the ruckus caused by the young baron Aladár Jósika of Brănişca (hu. Branyicska) in the building of the orphan court in Turda. The baron Jósika had asked the orphan court to release a certain sum from his estate, which the court was overseeing.

The court had agreed to release only a part of this requested sum, thus causing the young magnate's dissatisfaction, who elected to appear in front of the court in person in order to resolve the matter. In an exchange with the assessor Géza Fosztó, the young baron criticized the court's decision and requested that the entire sum be released. The assessor, in turn, replied that the court's decision had been made on legal basis and that the court would not be swayed to decide otherwise. The assessor's arguments were deemed unconvincing by the young baron, who, in a fit of rage, took matters into his own hands and hit the clerk of the orphan court in the face with his whip, threatening him with his revolver. As was the case for a clerk with many years of experience in civil service, who was older than 50, Fosztó did not lose his calm and acted promptly and rationally, managing to disarm the furious young man. However, the episode of aggression against the clerk enraged the local inhabitants, who took Fosztó's side, given that the assessor's image at local level was an extremely good one. He was regarded as "one of the oldest county clerks, a hard-working man, with attention to detail, orderly, and the only candidate for the currently vacant seat of president of the orphan court" (Magyarország 1899: 7). The public opinion lent its support to Géza Fosztó, who, in turn, wanted to sue the young baron. However, because Jósika would have risked a hard sentence, pressures were made on Géza Fosztó to renounce his legal claim and accept the solution of a duel, which would have resolved the conflict "in a manly way" (Délmagyarország 1914: 7). Finally, both protagonists survived the duel, Fosztó's honor was defended, and, as a reward for the tactful approach to the matter, shortly afterwards he was elected president of the Turda-Arieș county orphan court (hu. Torda-Aranyos) (dspace.oszk.hu 2021).

The episode which occurred in Turda (hu. Torda) can be seen as an argument for the need to more closely examine the situations in which the clerks of the orphan court found themselves, as well as the qualities required by this professional pathway, coupled with the image and status that such a clerk could achieve within his community, provided he skillfully and competently handled his attributions. Thus, the present paper will explore several key issues related to the presidents of the orphan courts in Transylvania between 1876 and 1914: firstly, the professional attributions held by this office; secondly, the importance of the office as reflected by the income and level of public influence it generated; thirdly, the paper will sketch out a group analysis of those individuals who occupied this position during Dualism in Transylvanian counties. The study's focuses on the Dualist period because of the uniformity exhibited by the county-level administration during this time



frame, which it had obtained after the administrative reform of 1876 and which it had kept well into the First World War. This uniformity had been achieved as a result of the provisions of the law no. XXXIII of 1876, which regulated the administrative division for the entirety of Transleithania, and had eliminated units such as the Transylvanian districts and seats, and implemented a 15-county structure in Transylvania (Pál 2007: 77).

***The state of research concerning the orphan court presidents as civil servants***

Although both Hungarian and Romanian historiography have focused on the history of the administration and that of its civil servants, the results of these two lines of enquiry have so far been relatively meager, leading one of the most important voices in this field to state, more than a decade ago, that “there has been only little research on the administrative elite” (Pál 2007: 75). Since the 1980s, the Hungarian historian Gábor Benedek began to collect the information concerning the civil servants from the Neoabsolutist and Dualist period in a data base, which he then partially discussed in a series of studies, including the prestigious series *Die Habsburgermonarchie 1848–1918* (Benedek 2010). Similar preoccupations, which came as a follow-up to Benedek’s work, were also evidenced by István Kajtár, who worked on urban administration between 1848 and 1918, Magdolna Balázs, who published a study on mid-level civil servants during Dualism, as well as by Judit Pál, who has authored a plethora of studies on the administrative elite in Dualist Hungary, in general, and the Lord Lieutenants, in particular (Pál 2014: 232–233).

Romanian historians have shown interest almost exclusively in corps of Romanian civil servants (Popovici 2018: 54). Despite this preoccupation, a recent article stated that the Romanian civil servants who operated in the county administration during Dualism have been “almost entirely neglected”, even though this professional category benefitted from a considerable interest from those who studied the Neoabsolutist and the Liberal periods. The same historian argued that this situation can be explained in a twofold manner: on the one hand, the period between 1848 and 1865 represented a watershed moment in the political evolution of the Romanian nation, as individuals of this national background began to accede to public office more consistently; on the other hand, the fact that Romanian civil servants who were active during Dualism were employees of the Hungarian state and therefore at least nominally loyal to the Budapest government also determined their marginalization by Romanian historians, despite the fact that these civil servants constituted essential elements of the Romanian elite during this time

frame (Popovici 2016: 1-2). Nevertheless, we should also mention that there have been exceptions to this situation: for instance, Ioan Chiorean, a Romanian historian, published a consistent synthesis regarding civil servants in Transylvania, including in his analysis both public civil servants and clerks who operated in private institutions (Chiorean 2002-2003). In general, Romanian historians have however tended to focus more on the organization and functioning of the administration and less on the corps of civil servants per se. This status quo has been slowly overcome owing to more recent studies which employ the prosopographic method and target the social-professional group of the civil servants (Pál 2008). Despite these accumulations, the topic at hand remains open for further enquiries.

One of the gaps which can be identified in the state of research concerns the presidents of the orphan courts which operated at county level in Transylvania, who have not benefitted from an exclusive historiographic discussion. More recently, these civil servants were included in a broader analysis of administrative elites, alongside other clerks, which focused only on the time frame between 1840 and 1876 and on the Transylvanian counties inhabited by the Szeklers (Pál 2021). Thus, the present study will contribute to the state of knowledge concerning the corps of the civil servants, lowering the focus from the level of the higher officials – the Lord Lieutenants – to the mid-level, which has garnered significantly less attention.

### ***The attributions and legal tasks of presidents of the orphan courts***

Who were the presidents of the orphan courts and what role did they play in the county-level administration? The Hungarian legislation concerning the statute of the clerks from the administration of the counties in Dualist Hungary provides a glimpse into this matter. The set of laws under question was meant to reorganize the corps of civil servants and to modernize it, a process which had been initiated by the Budapest governments shortly after the *Ausgleich*. The laws XLII of 1870 and XVIII of 1871 aimed to impose a uniform administrative system as well as to separate it from the law courts and the administration of justice. They also replaced the corporate system of responsibility with the individual responsibility of civil servants. These legislative measures made the county-level civil servants dependent on both municipal councils and the government, through the interposition of the Minister of Internal Affairs (Pál 2020: 19).

This process of uniformization and modernization would also affect the office of the president of the orphan court, which became an increasingly important position within the hierarchy of the county administration. For instance, the possibility for it to be simultaneously held by the vice-commissioner – as was for instance the case in the autonomous Romanian districts of Năsăudului and Făgăraș – was eliminated, although it also contravened the modernizing project which aimed to separate justice from administration.

According to the law XXI of 1886, paragraph 67, the president of the orphan court was included among the main civil servants who worked at county level, and, according to paragraph 51, this official was also part of the general assembly of the county (Pál and Ferenczi 2020: 162-201). The organization of the orphan courts was regulated through the law XX of 1877, according to which this institution exerted “the prerogative of orphan court in the first instance with full authority” (paragraph 176). The following paragraph provided the staff list, which comprised a president, two assessors who acted as advisers, and at least one notary, to which several ancillary positions were added. Paragraph 185 noted that “the ordinary staff of the orphan court is placed under the unmediated disposition, inspection, and control of the president of the orphan court” (Corjescu 1921: 512-514).

The attributions of the president of the orphan court were more clearly regulated through the „Ügyrend az árvaszékek részére” [Guidelines for the orphan courts] of 1877, which offers the most detailed information concerning this matter in twelve paragraphs. This official was tasked with supervising the activity of the court, being bound to ensure that “the case management procedure was correct, rapid, and precise, and to follow it in all stages, to request the resolution of urgent cases and the submission of delayed reports, to check as often as possible the official records, the notes and reports drafted by the assessors, the jurist, the fee collector, the notary and the cash desk clerks”. Thus, the president needed to be aware in detail of the activities undertaken by his subordinates and was responsible with taking adequate measures whenever he noticed “deficiencies, delays, omissions or abuses”. When such sanctions did not lead to the desired results, the president was bound to draft reports on the matter which needed to be submitted to the higher state authorities<sup>1</sup> in order to implement further sanctions against those civil servants who constituted the object of his complaints (Ügyrend az 1877: 658-661).

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<sup>1</sup> The orphan court was supervised by the county administrative commission.

The president was also tasked with recording deadlines by which a certain official assignment needed to be completed by the court clerks or by which certain documents in guardianship cases needed to be received. These needed to be recorded in a special register, and any delayed causes had to be expedited. The president was also responsible with counseling all individuals who came before the court with matters concerning their own causes and lawsuits or with complaints regarding one of the court's officials. If the request could be resolved solely by the court, the president would then mandate the notary of the institution to draft a protocol of the matter and sign it alongside the petitioner. Furthermore, as part of a bureaucratic system, the president was also bound to draft monthly reports about the institution's activity, wherein he would recount "the situation of causes processed, the potential difficulties, impediments or conflicts" and which would then be submitted to the county administrative commission (Ügyrend az 1877: 658-659).

Paragraph 213 of law XX of 1877 detailed the types of reports which this institution produced on a regular basis. These included a synthetic account of those under guardianship and tutelage, a quantitative report concerning the activity of the court (issues handled, documents issued, reasons for delays), a financial account issued by the cash desk of the institution, a report including the number and identity of those court clerks who had not completed their tasks by the imposed deadlines. These documents were periodically checked by the president to ensure their correctness and submitted every three months to the county administrative commission (Corjescu 1921; 519, Ügyrend az 1877: 659-660).

The procedures and deadlines which regulated the institution's activity were not always followed to the letter, as the times' press was quick to note. In 1897, the *Székegy Nemzet* gazette portrayed the discussions held in the county-level general assembly of the Trei Scaune (hu. Háromszék) county. The president of the orphan court, Tamás Séra, drew attention to the great number of persons placed under guardianship and to the fact that the records concerning their situation were not appropriately kept. This issue cause delays further on in the court's legal decision-making: many of those individuals who were under guardianship but had reached legal age could not be declared as such because of this impediment. Defending his subordinates, Séra mentioned that until the early 1870s, a record containing information on all orphans – the so-called *árvakönyv* [orphan book] – had not been kept because of the very low number of clerks dealing with orphan-related matters on the staff lists of the county. This status quo then reverberated in the record-keeping of the institution for over two decades, even though the number of clerks at its

disposal had risen and a court archivist had been appointed and tasked with handling the matter. Despite the latter's attempts, as a result of the significant rise in the county's population and the immense flow of documents the business of guardianship produced, this monumental task still witnessed delays. Thus, in an account of the difficult situation faced by the court, although emphasizing the fact that the clerks' activity left something to be desired, the president also underlined the institution's chronic inefficiency owing to the exceedingly high number of documents and reports which needed to be drafted (Székely Nemzet 1898: 1).

Another challenging situation involving the responsibilities borne by the president of orphan court was detailed in *Székely Napló*, a Transylvanian gazette, just prior to the onset of the First World War. The gazette featured a news piece from the Mureș-Turda (hu. Maros-Torda) county which brought into question the president's responsibility of supervising the court's financial resources. Because the court had invested the entirety of the funds it oversaw - in practice the estates inherited by orphans and managed by their guardians - into hypothecary credits, which did not generate the necessary cash flows in return at an appropriate rate, the persons placed under guardianship whose interests the court was defending were unable to come into possession of their estates once reaching legal age (Székely Napló 1913: 2). It is likely that the enterprising intentions of the president Sándor Szentiványi had not materialized in the expected manner.

In addition, the president of the orphan court was also tasked with chairing the institution's meetings, which occurred publicly, according to the law XX of 1877. However, the president could decide to exclude any audience when the subject matter under discussion was of private interest or when it could "endanger de reputation or interests of one of the parties involved" if it became widely known (Corjescu 1921: 514). What is more, the president led the discussions, issued legal decisions, and oversaw the correct drafting of documents and the appropriate procedural handling of appeals, always using the expression "it is issued" when the decisions became final (Ügyrend az 1877: 660).

Another important task which fell under the president's purview was that of assigning cases to be handled by other clerks, who were then bound to make their enquiries and present a report. How the president saw fit to handle this task mattered a great deal in setting the tone of his collegial relationship within the institution. The 1877 guidelines noted that the president needed to maintain a balance between each clerk's work burden so that each would be "equally required" as well as to keep case assignments unitary - all documents

pertaining to a particular cause had to be handled by the same person. As could be expected, these tasks came with the additional responsibility of checking the clerks' registers and hurrying certain cases which suffered delays or at least receiving clarifications regarding the reasons behind any potential delays (Ügyrend az 1877: 660).

The guidelines also explicitly stated the situations wherein the president was prohibited from intervening in the processing of causes: a) when he was a co-interested party and could expect either direct damage or earnings; b) when the co-interested party was "his wife, affianced, ascendant or descendant relatives, persons in collateral kinship to the fourth degree, persons in affinal kinship to the second degree, adoptive children or persons with whom he shares guardianship or tutelage"; c) when the official was cited as a witness, expert, representative or mediator; d) when among the parties already involved anyone had a "hostile relationship" with the president or was engaged in a lawsuit against him (Ügyrend az 1877: 660-661).

Under special circumstances, when "delaying [causes] could be dangerous" for the "interest of the persons under tutelage or guardianship", the president was able to instruct the institution's clerks through "presidential dispositions" which he was then obliged to report immediately, in the first meeting of the court after they had been issued. What is more, as signatory of the most important pieces of documentation issued by the court, he was also the trusted keeper of its institutional stamp. In order to check the financial situation of the institution, he could at any time pay unannounced visits to the court's cash desk, on which he needed to be joined by the jurist and the fee collector (Ügyrend az 1877: 661).

A second type of legislation which regulated the activity of the orphan court along with its presidents' power and range of responsibilities were the court's statutes. These statutes were fashioned in accordance with the current legislation – i.e., the 1877 law already discussed. In addition to this more general legal framework, the statutes also included a series of specific provisions. For instance, the president of the orphan court of Bistrița-Nășăud (hu. Beszterce-Naszód) was bound to visit each of the county's localities at least once every two years, and, if this were not possible, to delegate this task to a assessor. Over the course of these visits, the president was tasked with checking whether the provisions of law XX of 1877 had been upheld and with verifying several other issues. The president investigated whether the sentences pertaining to inheritance had been respected for minor heirs or those who had been placed under guardianship. He also enquired what the "personal and material status of each ward" was and whether "wards in financial difficulty"

were benefitting from adequate aid from their respective localities. Moreover, the president's duties included the need to monitor the wards' school attendance and whether "the edifices mortgaged for the loans of the cumulative cash desk" were appropriately ensured. What is more, under the president's purview also fell the matter of ensuring that orphans who had reached "the age at which they could support themselves" had been guided towards learning a particular trade, or, in the case of those with sufficient financial possibilities, towards institutions of higher learning. Those guardians or tutors who had been remiss in their reporting were to be cautioned by the president to submit their reports in a timely manner. Likewise, the local authorities alongside any guardians or tutors (including the public tutor and the mayor of the local commune) were to receive any necessary information pertaining to their charges from the president, who, should he notice malfeasance and lack of care, was supposed to draft a "protocol of indolence and negligence" for the locality in cause. All of these potential issues left paper trails which could be confronted with the documentation kept by the court at central level, and, if needed, corrections could be made by local authorities. The president was finally also tasked with hearing out and recording any "requests and complaints" he received over the course of his visit in a different protocol. (Szabály-Rendelet 1880: 39).

During his visit in the county's villages and municipalities, the president had the right to receive a daily stipend of 3 Florin, to which were added 20 Kreuzer for each kilometer traveled as well as an additional 6 Kreuzer for the servant who accompanied him (Szabály-Rendelet 1880: 40). These sums, meant for trips conducted in the interest of the orphan court, came as an addition to the president's monthly earnings, which amounted to some 1500 Florin<sup>2</sup>, of which 1200 were the presidents' wages proper and 300 were intended to cover the cost of his rent. According to law LVII of 1912, the president of the orphan court was a class VII civil servants in terms of wages, and, by virtue of this classification, could benefit from "additional wages" after ten years of employment in this position. This ten-year interval could be halved for those civil servants who had previously accumulated experience in the administration for over 25 years (Pál and Ferenczi 2020: 309; Statute 1895: 76).

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<sup>2</sup> In order to better understand the relative size of the income earned by the orphan court judges, we note that in 1877 Transylvania, the price of a kg of potatoes was 3.5 Kreuzer, and that of kg of white bread was 17 Kreuzer (Balog 2011: 76).

The income derived from this office placed the president of the orphan court into one of most well-paid public servants in the county-level administration, whose earnings were exceeded only by the vice-commissioner and equaled by the county chief county notary (Statute 1895: 76).

### ***A collective sketch of the presidents of the orphan courts***

In analyzing the target group – the presidents of the orphan courts in Transylvania between 1876 and 1914 – we have employed the prosopographic method. In a recent study, historian Ciaran O'Neill stated that „prosopography has become one standard way through which historians feel comfortable uniting grand theory with historical specificity”. Moreover, O'Neill argued that by emphasizing several biographies connected to each other, research can “anchor” studies that concern the ways in which the elites perpetuate themselves and grow, as well as elite mobility, „specific detail, relating to specific lives” (O'Neill 2020: 163-164). This method of analyzing elites is certainly not a novel one, as historians have been interested in this approach since the 1860s-1870s, when Lawrence Stone published one of the seminal studies in the field, wherein he defined prosopography as discerning „the common characteristics of a group of historical actors by means of a collective study of their lives” (Stone 1971). Thus, as a result of the advantages shown by this approach and its widescale employment in historical research, it has been deemed appropriate to use for the study of the presidents of the orphan courts as well, a well-defined elite segment. The results of the analysis have been validated by the following the specific stages of this method, as these were discussed by K.S.B. Keats-Rohan (Keats-Rohan 2007: 47-48): firstly, the identification and definition of the target group, the chronological and spatial boundaries of the research; secondly, the formulation of specific research questions from the field of history pertaining to target group; thirdly, data collection through a data-base like format; finally, the analysis of the data thus collected, by correlating and interpreting them framed by the wider historical context and the secondary literature.

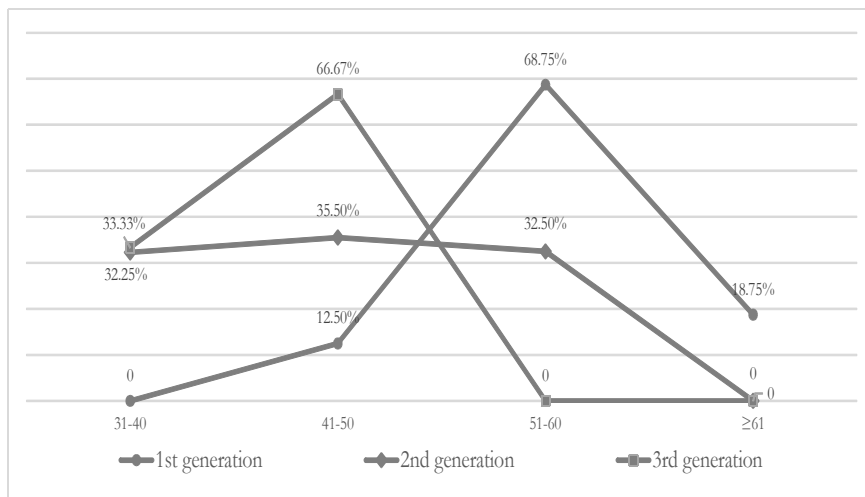
The target group under question consists of 59 presidents of orphan courts who were active as such in one of the 15 counties of Transylvania during Dualism, who were identified on the basis of schematisms and yearbooks published annually by the authorities in Budapest and Vienna (Magyarország tiszti 1880-1915; Hof- und Staatshandbuch 1877-1915).

These individuals were then distributed into one of three generation, according to their year of birth, an approach that has already been employed and justified in other studies pertaining to elites in Dualist Hungary (Onojescu,



Iudean, Popovici 2014: 221). Although for six of the members of the studied group no information concerning the birth year could be found, the remaining individuals for whom this piece of information was known comprised almost 90% of the group. Thus, a generational approach could be validated from this perspective. The first generation, comprising those individuals born before 1831, included 27% of the target group. During its formative period, this generation witnessed both the events of 1848-1849 and those that led to the 1867 *Ausgleich*. The second generation, comprising those born between 1831 and 1860, was the most numerous one in the sample group, amounting to over half (52.5%) of the individuals identified. The presidents who were part of this generation also played their part in implementing the reforms targeting the modernization of Dualist Hungary. The youngest generation, born after 1860, accounted for only 10% of the civil servants analyzed. These individuals were professionally active during the period of political crisis in Budapest in the mid-1890s as well during the First World War.

The ages at which these members of the administrative elite had reached the position of president of the orphan court are shown in *Figure 1*. Some differences between the three generations in this sense can be observed. For the first generation, reaching this step in the ladder of civil service occurred roughly towards the end of one's administrative career. Most of the individuals who were part of this generation occupied this significant county-level office only after having reached 50 years of age. The same generation also included the only three civil servants who had begun to work in this capacity after 60 years of age: János Boér, Antal Török and Franz Huttern. A balance between the different age groups as well as a tendency towards a lower age of election as president can be noted for the second generation. This tendency became most explicitly manifest in the case of the third generation, wherein all individuals had been younger than 51 when they were elected as presidents of their respective orphan courts. Nevertheless, an analysis focusing on the entire group, regardless of the generation an individual could be ascribed to, reveals that those who were nearing the peak of their administrative careers – between 51 and 60 years old – constituted the most numerous segment (35.5%). They were followed by the 41-50 years group, who accounted for almost 29% of the entire sample. On the opposite side of the spectrum, the youngest orphan court president during Dualism in Transylvania was Ioan Turcu (Turcu 2012: 9), who was elected in this office in 1881 in the county of Făgăraș at the age of 31. Turcu's situation was an exceptional one, as he was the son-in-law of Ioan Codru-Drăgușanu, who had held the same office prior to Turcu's election for a lengthy period.

*Figure 1. Age of accession to the position of presidents of the orphan courts by generation*

From the perspective of ethnicity, the analysis reveals that two-thirds of the civil servants in the target group were of Hungarian origin, with some 23.75% of Transylvanian Saxon background and only 10.25% of Romanian ethnicity. This ethnical distribution is in complete accordance with the statistical data provided by the Hungarian state authorities regarding the composition of the county-level corps of civil servants. The share of Hungarian civil servants exceeded two-thirds of the total number of individuals in this field, while the Romanians and Transylvanian Saxons found themselves in the minority, although less so in the latter case. This numerical status-quo did not reflect the demographic situation in Transylvania during Dualism, evidencing the state-supported practice of limiting the other ethnicities' access to the civil service (Chiorean 2002-2003: 50-51).

In the analysis of educational track-records, the legislative context instituted by the law XLII of 1870 should be considered, as, for the first time, it instituted a minimal set of criteria for occupying certain key positions in the civil service, among which that of president of the orphan court was also included. Thus, these clerks were bound to have pursued a higher education in the field of law and to have successfully passed the state examination. Law no. I of 1883 later extended the provisions of this piece of legislation to several other categories of civil servants, further specifying that in order to occupy the position on question, one needed to have completed at least four years of studies in law and administration, which could be finalized either by a state

examination or by a doctorate. This criterion was doubled by the requirement to have exhibited a morally irreproachable conduit. Both laws however contained an exception to the rule: for those who had amassed experience in the administration, the obligation to have studied law was eliminated (Pál 2020: 33).

This derogation would also produce controversies in the case of those who aspired to serve as presidents of orphan courts. In 1908, Ödön Balla, the former president of the court in the Mureş-Turda County (hu. Maros-Torda), accused the acting president Sándor Szentiványi of being in incompatibility according to law I of 1883, as he had not followed the necessary educational pathway. Balla and the chief county notary therefore lodged a complaint with the higher administrative tribunal in Budapest, where the court ruled in favor of Szentiványi. The legal justification for the sentence was rooted in the fact, while the accused had not studied law, he had nevertheless amassed a 28-year-long track record in the orphan court, where he had served as assessor. As a response to the accusation that legal studies were mandatory for civil servants in this office, the court further argued that in 1879, when Szentiványi had been elected, such an obligation did not exist. Although it had been clearly stated that Szentiványi's situation fell under the purview of the XX/1877 law, which provided that those with sufficient experience in the field could be excepted from having a law degree (Székely Ellenzék 1908: 4), the local press nevertheless regarded Szentiványi's reappointment as a political decision (Székely Lapok 1908: 3). This came at a time when Hungary was governed by a coalition of the former opposition parties, led by the Party of Independence and '48 (hu. Függetlenségi és 48-as Párt) (Katus 2008: 410-422), which had lent its support to the president of the orphan court.

Despite this case, the majority of the presidents of orphan courts in the sample analyzed could boast an education in the field of law. Both their belonging to different generations as well as the fact that all had been born before 1870 was also reflected in the palette of institutions where they had pursued a higher education. Because the only university in Transleithania prior to 1872 was the one in Budapest, the majority of those who had pursued an education in law had attended the courses of its faculty. Those who had opted for a law academy or for a gymnasium with courses in law had attended one of the more numerous such institutions in Hungary, such as those in Târgu Mureş (hu. Marosvásárhely), Sibiu (hu. Nagyszeben), Debrecen, Cluj (hu. Kolozsvár) or Zagreb. Additionally, part of the civil servants studied had had the possibility to study law outside of Hungary, at the university of Vienna or the law academy of Graz.

In a seminal article on the matter, Victor Karady (1991) noted that Dualist Hungary could rightly be characterized as “a nation of lawyers” owing to its “overproduction” individuals educated in this field, given that “legal studies occupied a disproportionate position in elite formation” in this area. The author goes on to argue the stereotype applied to the elites in the Kingdom of Hungary – “a nation of lawyers” – by invoking its two root causes: firstly, the excessive development of educational institutions where law was taught and secondly, the preference evidenced by the nobility toward the study of law. The considerable share of orphan court presidents (52.5%) for whom a noble background could be discerned comes to confirm Karady’s second line of argumentation.

Nevertheless, cases such as that already mentioned involving Sándor Szentiványi, that of Basil Moldovan, president of the orphan court in the Târnava Mică county (hu. Kis-Küküllő), who had pursued theological studies, or that of Gergely Lajos, the president of the orphan court in the Odorhei county (hu. Udvarhely), who had attended the military school in Olmütz, show that exceptions to this tendency existed. Moreover, such exceptions also suggest that significant experience in the administration worked as an advantage in being elected to this office, even supplementing the lack of academic training in the field of law.

The research has also focused on the main professional milestones reached by the presidents of the orphan courts prior to their election to this office. This type of information could be found only for some of the individuals who were part of the target group. For those individuals in the first generation, information concerning professional activity prior to 1848 was fragmented and limited. Some had actively participated in the 1848-1849 events, when at least seven individuals served as officers in the Honvéd army, as either lieutenants, captains, or majors, or in Avram Iancu’s legions, as was the case for Basiliu Moldovan (Moldovan 1895), a prefect of the 3<sup>rd</sup> legion, located in Cetatea de Baltă (hu. Küküllővár).

Focusing the research on professional pathways after the October Diploma of 1860 reveals an important share of officials who held the office of vice-commissioner or vice-captain. Ten of the members of the studied group would rise in the county and district-level administrative hierarchy until they reached this highly important position, six of whom were Hungarian and four Romanian. In all ten cases, the office of vice-commissioner or vice-captain was held in the same county where these individuals had been active as presidents of the orphan courts: Basiliu Duca (Popovici 2010: 75) and Antal Török (*Az Erdélyi* 1905: 60-63) in Alba de Jos (hu. Alsó-Fehér), Samu Mósa (*Ellenzék*

1888: 3) in Cluj (hu. Kolozs), Ion Codru-Drăgășanu (Sasu 2006: 364), Moriz Kapocsányi (Budapesti Hírlap 1905: 16) and Arthur Benedek (Kis Újság 1932: 7) in Făgăraș (hu. Fogaras), György Csáklány (Magyar Polgár 1872: 2) in Hunedoara (hu. Hunyad), Anca Petru (Adunarea 1862: 30) in Solnoc-Dăbâca (hu. Szolnok-Doboka), Károly Szoboszlóy (Magyar Polgár 1883: 4) in Târnava Mare (hu. Nagy-Küküllő), Basiliu Moldovan (Familia 1895: 11) in Târnava Mică (hu. Kis-Küküllő).

For other individuals in the target group, the professional pathway that preceded their election to the highest office of the orphan court had previously led them to other high-level positions in the county administration, such as that of chief county notary, but had also, in some cases, stagnated at the lower level of sheriff. A frequently encountered pathway led through the field of the administration of justice, with individuals having occupied positions such as that of prosecutor or royal judge.

However, many of the civil servants in the target group displayed a “*cursus honorum*” in the institution they would end up heading. 56% of the presidents of the orphan courts followed what could be termed a standard professional track record, which included a lengthy stint in the orphan court, where they occupied, in turn, offices such as that of public guardian, orphan notary and orphan assessor, prior to having reached the pinnacle of this staff list. One such example is the professional pathway displayed by Ferencz Barabási, the president of the orphan court of the Mureș-Turda County (hu. Maros-Torda), who retired in 1903 from this office after having worked in the county-level administration for 36 years. After having worked as county vice-notary for a while, Barabási then became a clerk of the orphan court, where he worked as notary until 1884, when he was elected to head this institution. When he requested retirement, after having reached the milestone-age of 61, the county pension commission voted to award him an annual pension of 3000 Crowns. This sum could have been even greater, equaling his salary as president of the orphan court, and attesting to his extensive activity in the civil service, in which capacity he had “served the county” for an extremely lengthy period, but was nevertheless limited to 3000 Crowns because the “pension fund found itself in dire straits” (Székely Lapok 1903: 1). As compensation for this limit to his pension, and in recognition of his merits over the course of his lengthy career in the administration, Barabási also received the cross of the Franz Joseph order in the year of his retirement (Székely Lapok 1903a: 2). One year later however, the Budapest press wrote about the case of chronic defrauding of funds managed by the orphan court in Mureș-Turda (hu. Maros-Torda). According to press sources of the *Pesti Hírlap* Budapest gazette, the

defrauding had begun in 1886, only two years after Barabási had become court president. Financial checks undertaken in 1904 would reveal that a gap of 53000 Crowns existed in the court's funds, while verifications would continue for another few months in order to reveal the true dimensions of the theft. The main suspect was the chief cash-desk official, Domokos Végh, who had passed away shortly prior to the outbreak of the scandal (*Pesti Hírlap* 1904: 13). The entire inquest would also involve the retired president Ferencz Barabási, who was subjected to a disciplinary investigation along with two other orphan court clerks (*Székely Lapok* 1904: 1). The investigation was however short-lived, as Barabási's passing, in 1907, "spared" him from having to pay back the sums which fell to him after the "defrauded accounts of the orphan court had been balanced" (*Maros-Torda Vármegyei Hivatalos Lap* 1909: 7).

Not all the individuals in the target group would retire after holding the office of president of orphan court. Although many did start retirement from this position, in certain cases former presidents would later become mayors: Karl Jacobi (*Magyarország tiszti* 1890: 84) served as mayor of Braşov (hu. Brassó), while Ödön Velits (*Magyar Polgár* 1903: 6) would lead the municipality of Turda (hu. Torda). In both cases, their activity as presidents of the orphan courts in the Braşov (hu. Brassó) and Turda-Arieş (hu. Torda-Aranyos) counties had been short-lived. The end of one's career could also take on tragic tones, as was the case for the president of the orphan court in the Trei Scaune (hu. Háromszék) county, Benedek Könczey. During the First World War, as the Romanian army was entering Transylvania, Könczey was one of those seeking to escape the area. In the train station of Küküllőszög in Blaj (hu. Balázsfalva), as three refugee trains were waiting for several military trains to pass in order to continue their travel, along with other refugees Könczey elected to step out of the train and wait out the delay. Having been rendered almost deaf due to an ear disease, he did not hear the whistle of a locomotive while crossing the railway line and ended up being run over. The orphan court of the Trei Scaune (hu. Háromszék) county would then remain vacant after his passing (*Székely Nép* 1917: 2).

***Political interferences and electoral influence***

Referring to the involvement of civil servants in the electoral process in Dualist Hungary, the historian András Gerő stated that the mechanism of public administration, led by the Lord Lieutenant, constituted „the chief electioneer” (Gerő 1997: 82). Gerő’s argumentation has proved to be a solid one, re-confirmed by a glimpse into the electoral activities undertaken by the presidents of the orphan courts and recounted in press stories.

The presidents of orphan courts, who occupied key positions in the county-level civil service, could make no exception to this rule by delimiting themselves from any electoral activity during the parliamentary elections. The analysis of the biographies of the target group reveals that for most of the orphan court presidents, there was no other electoral involvement apart from their activity during the campaigns. Only four of the civil servants in the group had also served as members of parliament themselves, and only for one, Moriz Kapocsányi, did the experience as deputy succeed that of president of the orphan court. Moreover, Kapocsányi was the only deputy in the Budapest Parliament who had been elected in the constituency of Arpaşul de Jos (hu. Alsóárpás), comitatul Făgăraş (hu. Fogaras), as a member of the Liberal Magyar Party (hu. Szabadelvű Párt) (Pál et alii 2018: 118). The other two orphan court presidents, Ioan Codru-Drăguşanu and Franz Trauschenfels, had served as deputies in the Sibiu diet of 1863-1864 (Retegan 1979) prior to their accession to the head of their respective orphan courts. The only civil servant in the group who was a member of the Higher Chamber of the Budapest Parliament, the House of Magnates, was János Boér (Pesti Hírlap 1898: 11).

Within this framework, although accession to the office of orphan court president happened by election and not by appointment, the central authorities in Budapest, through the intervention of the Lord Lieutenants, made sure that civil servants loyal to the government were elected in this position, so that they might serve as cogwheels in the electoral machine meant to ensure electoral success for the governing party at local level. One such case was that of Béla Hory, who thanked the Lord Lieutenant of the Cluj County (hu. Kolozs) for “the trust awarded in his election to office”, after having been elected to serve as orphan court president in the same county. Béla Hory had already had ample time to prove his loyalty to the government’s interests over the course of his 8-year-long activity as a clerk in the orphan courts of the Pest-Pilis-Solt-Kiskun and Cluj (hu. Kolozs) counties (Ellenzék 1884: 3).

While the support of the Lord Lieutenant was certainly a solid argument in favor of acceding to the office of president of the orphan court, there were also cases wherein the highest-placed civil servant in the county did

not intervene in the local-level scheming occasioned by these elections. This was for instance the case for election of the president of the orphan court of Hunedoara (hu. Hunyad) György Csáklány, who would work in this position for two decades. During the 1872 parliamentary elections, the political leadership of the Romanians in the county, such as the archpriest Ioan Papiu and the lawyer Lazăr Petco (Demşea 2007-2008) managed to reach a compromise with György Csáklány, who was then serving as county vice-commissioner. In exchange for the vice-commissioner's support for Romanian candidates in county-level civil service, the Romanian intelligentsia would guide local Romanian voters to support the government's candidates for parliamentary seats (Magyar Polgár 1872a: 2). The political-electoral compromise established between the leadership of the Romanians in Hunedoara and the vice-commissioner Csáklány would then materialize, at the level of the county elections, by the latter's election to the office of president of the orphan court. As the times' press would also note, his election to this office "had also pleased the Romanians" in Hunedoara (hu. Hunyad) (Magyar Polgár 1872b: 2).

Political interferences could however also cause serious problems for the orphan court presidents. This was also the case of Ödön Balla, who was noted earlier to have contested his successor, Sándor Szentiványi's, right to occupy the office of orphan court president in the county of Mureş-Turda (hu. Maros-Torda). In the autumn of 1907, the Minister for Internal Affairs, Gyula Andrássy, one of the leaders of the coalition which had taken over the government in Budapest, ordered that a disciplinary inquest against Ödön Balla be started, accusing him of negligence based on orphan case files wherein proper procedure had not been followed. (Szabadság 1907: 6). The complaint against Balla was submitted to the Ministry of Justice by the local court in Reghin (hu. Szászrégen), with the following argument: "because of the ill-management of the orphan matters and the unqualifiable negligence in this institution, the orphan estate management procedures have become a barrier to properly carrying out justice". The local court had already lodged numerous complaints against Balla with the vice-commissioner Jozsef Nagy, all of which had remained without effect. For this reason, the Minister of Internal Affairs decided to initiate an inquest prior to the disciplinary procedures, which would target both the orphan court president Balla, as well as the vice-commissioner Nagy, arguing that "it is not only justice, but also the interests of orphans that are endangered because Ödön Balla is neglecting his duties" (Szabadság 1907a: 3). As for the true motivation behind this disciplinary action, the *Székegy Lapok* gazette speculated that it was actually a political machination through which



the ruling party – the Party of Independence and '48 (hu. Függetlenségi és 48-as Párt) – was attempting to place its own supporters at the head of the county and thus had to remove those already in office to suit its purposes (Székely Lapok 1907: 2). Finally, after the election of the assessor Sándor Szentiványi – a supporter of the governing coalition – to the office of president, which occurred in the detriment of Ödön Balla (Szabadság 1907b: 1-2), the disciplinary commission of the Mureş-Turda County (hu. Maros-Torda) decided to halt the investigation opened against the former president (Ellenzék 1908: 6). After having lost his office, Balla's punishment for having mishandled the affairs of the orphan court was probably no longer a political issue. What is more, shortly after these events, Ödön Balla requested that he be allowed to retire, and thus ended his career in the civil service at only 50 years of age, when many of the individuals in the group were only starting their stints as presidents of orphan courts (Székely Ellenzék 1908a: 2).

### ***Conclusions***

The biographical analysis of the target group of 59 presidents of orphan courts from the counties of Transylvania between 1876 and 1914 suggests the fact that this office represented a significant position in the county-level administrative hierarchy. This fact was visible in two ways: on the one hand, the official occupying this position had a strong influence and were very well-placed in terms of earnings; on the other hand, they shouldered numerous professional tasks, specified both in central-level legislation as well as in local guidelines. Aiding most of the presidents in exerting their professional attributions was their vast experience in the civil service, given that the position at the head of the orphan court represented the pinnacle of one's career for the majority of those in the studied group. Certainly, one should also note those cases wherein holding this office was an ephemeral stage in one's professional track record, however exceptional they might have been compared to the standard pathway that led to this position in the administrative hierarchy.

While their work experience was accumulated in the administration, three specific professional pathways prior to election as president of an orphan court should be noted. The least frequented, but nevertheless present pathway led from the field of justice to the orphan court, as the presidents had previously served as either assessor or prosecutor. More frequently, the individuals occupying this office came from the county administration but had not served as clerks in the local orphan courts. The most often encountered pathway was that inside of the institution: presidents had previously worked as

notaries or orphan assessor in the same court they ended up heading. Moreover, in accordance with the legal framework and these professional pathways, most of the civil servants in the target group benefitted from a higher education in the field of law, either at a university or in another academic institution.

Once elected to the office of president of an orphan court, one's professional duties intertwined with those of a political-electoral nature, given that the interference of the political in accession to office was imminent. Although most assumed that this would be the case and acted accordingly, for some of the individuals in the target group, the political crisis in Budapest at the beginning of the 20<sup>th</sup> century would cost them their office. Even in these situations, the end of one's career generally meant the same thing for most presidents: a hefty pension, even if it came earlier than originally desired.

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*Annex.* Orphan court presidents in the counties of Transylvania (1876-1914)

Name	Period of activity	County
Duca Basiliul	1876-1879	Alba de Jos/Alsó-Fehér
Török Antal	1880-1883	
Tóth Miklós	1884-1907	
Jeney Elek	1908-1914	
Vacant	1876-8177	Bistrița-Năsăud/Beszterce-Naszód
Schuller Friedrich	1878-1901	
Alzner/Alsner Johann	1902-1914	
Jakobi Karl	1876-1877	Brașov/Brassó
Trauschenfels Franz	1878-1880	
Schullerus Eduard	1881-1908	
Hnidy Otto	1909-1914	
Tankó Ferenc	1876-1877	Ciuc
Böjthy Endre	1878-1907	
Birtha József	1908-1914	
Mósa Samu	1876-1883	Cluj/Kolozs
Hory Béla	1884-1907	
Rohonczy Lajos	1908-1914	
Kapocsányi Mór	1876-1877	Făgăraș/Fogaras
Codru-Drăgușanu Ioan	1878-1880	
Turcu Ioan	1881-1883	
Nagy Sándor	1884-1901	
Benedek Arthur	1902-1907	
Bocskor Ádám	1908-1913	
Vacant	1914	
Csáklány György	1876-1893	Hunedoara/Hunyad
Simionăș Ioan	1894-1904	
Borbáth Vilmos	1905-1914	
Toldalagi Mihály	1876-1877	Mureș-Turda/Maros-Torda
Gegö Károly	1878-1883	
Barabási Ferenc	1884-1902	
Balla Ödön	1903-1907	
Szentiványi Sándor	1908-1914	
Ferenczy Pál	1876-1880	

Gergely Lajos	1881-1893	
Ugron István	1894-1899	
Ferenczy Gyula	1900-1901	
Barabás András	1902-1914	
Huttern Franz	1889	Sibiu/Szeben
Herbert Ludwig	1876-1888	
Mangesius Karl	1890-1901	
Gottschling Karl	1902-1909	
Mangesius Hermann	1910-1914	
Anca Petru	1876-1889	Solnoc-Dăbâca/Szolnok-Doboka
Boér János	1890-1897	
Bokros Andor	1898-1914	
Nagy Elek	1900	Târnava Mare/Nagy-Küküllő
Szoboszlóy Károly	1876-1883	
Zikeli Gustav	1884-1899	
Mätz Johann	1901-1914	
Moldovan Basil	1876-1889	Târnava Mică/Kis-Küküllő
Bágya Ödön	1890-1901	
Pekry Gábor	1902-1911	
Bornemisza János	1912-1914	
Könczey Benedek	1914	Trei Scaune/Háromszék
Antal Zsigmond	1876-1881	
Séra Tamás	1882-1907	
Vajna István	1908-1913	
Velits Ödön	1876-1877	Turda-Arieș/Torda-Aranyos
Tarsoly Gábor	1878-1898	
Fosztó Géza	1899-1901	
Farkas Árpád	1902-1914	





# Hungary's Forgotten Foundlings: State Care for "Abandoned" Children at the Turn of the 20<sup>th</sup> Century

Friederike Kind-Kovács

*Hannah Arendt Institute for Totalitarianism Studies at TU Dresden, Helmholtzstraße 6, 01069 Dresden, Germany, [friederike.kind-kovacs@tu-dresden.de](mailto:friederike.kind-kovacs@tu-dresden.de)*

**Abstract.** This article focuses on the emerging institutional protection for Hungary's "abandoned" children around the turn of the 20<sup>th</sup> century. It engages with the shift from private philanthropic to state interventions on behalf of the so-called "illegitimate" children, meaning children who were born out of wedlock and/or had been abandoned. It scrutinizes the formulation of legislation targeting the protection of this particularly vulnerable group of children and the establishment of a specialized institutional infrastructure comprising child asylums and a foster system to provide care for these children.

**Keywords:** childhood, social welfare, orphans, Hungary, Central Europe

## *1. Introduction*

One of the first records of Hungarian child protection dates to a late eighteenth-century medical book, where the author praised Countess Ludmilla Ghimesi Forgách, "a Christian lady of the imperial aristocracy," whose Edelényi castle "provide[d] accommodation to many helpless children, orphans who had been deprived of their parents, to whom she brought doctors when diseases occurred, who [saw] to their healing and who [was] around them night and day, exhausting and tiring herself" (Keller 1926: 7). Countess Forgách was merely one of many aristocratic figures who personally involved themselves in the relief of orphans, taking on an active role in the matter. Until the late 19<sup>th</sup> century most relief was private and philanthropic, often provided by representatives of the better-off classes or religious institutions. Aristocratic or elite figures were mainly driven by religious considerations in attempting to provide protection to vulnerable groups of children by directly seeing to their welfare.

The situation changed as children became increasingly involved in the process of industrialization during the late 19<sup>th</sup> century. The concurrent processes of rapid modernization, industrialization, and urbanization had laid bare children's particular vulnerability. Compounding this tendency in the Hungarian part of the Dual Monarchy, and especially in its urban centers, much of the working population began to be confronted with the problem of the "incompatibility of employment and child raising" (Zimmermann 1997: 301). It became obvious that the state would need to help provide institutional protection and welfare for its children if the working class was expected to become fully engaged in the industrialization process.

At the turn of the century, religious and philanthropic organizations throughout Europe were responding to the growing visibility of children's increasing neglect and exploitation, which became strikingly manifest amongst families and children working in industry (Luddy 1996: 350–364). They called for better awareness of children's needs and their protection from physical and mental abuse and abandonment; in the process, it grew clear that children should be entitled to health protection, welfare, and exemption from labor. This specific focus on children was novel: it was in the late 19<sup>th</sup> century that the needs of impoverished children started to be regarded as distinct from the needs of the poor in general (Murdoch 2006: 42). Kindled by an increasing visibility of children's vulnerability, the need to ensure this group's welfare gradually established itself as a major social challenge, which the individual family could no longer solve. This prompted a shift from philanthropic towards government intervention targeting children's protection and welfare (Mahood 2009: 315). Traditional charitable action gave way to first steps towards more modern, professional notions and practices of child protection and child welfare (Cabanès 2014: 257).

In this context, the plight of the neglected and exploited child gained prominence, cast into the limelight of public attention, which in turn fostered much of the professionalization of child protection in imperial Hungary. Within this milieu, the emergence of child protection discourses and practices was closely linked to the debate about children at special risk, such as "abandoned" children or "foundlings" (Zimmermann 2011: 48). Many of these "abandoned" children had been born out of wedlock and were thus particularly defenseless. In 1913, a far higher mortality rate could still be observed among children born out of wedlock compared to legitimate offspring who had seen the light of day within the social system of the family. While the infant mortality rate among children born within marriage in Budapest in 1913 amounted to 19.3%, it more than doubled for the same age

group born out of wedlock, reaching a staggering 39% (“Gyermekhalálozá” 1913: 150). One reason behind this difference was the fact that many children born out of wedlock, especially from Budapest, were placed in villages as a means of state care, where many died due to a lack of care and support (“Gyermekhalálozá” 1913: 150).

Against this backdrop, the present article engages with the public discourse about Hungary’s “abandoned” – since illegitimate – children from the late 19<sup>th</sup> century to the early 20<sup>th</sup> century and the state’s response to this social challenge. Relying on contemporaneous newspaper articles and publications, it explores how the plight of this group of children brought about a professionalization and institutionalization of children’s state protection. It scrutinizes the formulation of legislation that was geared to provide protection to this particularly vulnerable group of children and the emerging institutional infrastructure that was established with specialized child asylums and a foster system to provide care for these children.

## ***2. Discovering the “Abandoned” Child***

While in the late 19<sup>th</sup> century many children were orphaned, abandoned, or neglected, most were taken in by relatives if parents could or would no longer provide their offspring with the necessary care. It was only when kin were unable to perform this role that philanthropic and religious organizations stepped in and provided relief to the “abandoned” child. To initiate this process, the child’s actual “abandonment” had to be officially attested. The so-called county guardianship authority (*árvaszék*), which had been established in 1877 and oversaw the fates of children who had been born out of wedlock and/or had been abandoned, could only then attest that a child had been abandoned once they had identified all of a potential ward’s relatives and had concluded either that no such individuals existed or that any living kin were “incapable of earning a living to such an extent that they cannot support the child without endangering their own subsistence.” Only then would a child’s “abandonment” be officially attested, prompting their entry and placement in the system of institutional state care (“*Állami gyermekvédelmünk szervezete* 1907: 171). Since 1877, Law XX §172 had empowered the Court of Wards in Budapest to charge the municipal districts to make decisions on child “abandonment” (Pettkó-Szandtner 1926: 7). “Inspecting authorities of juveniles” were to assess the state of abandonment of waifs brought to their attention, usually by means of an “examination on the spot” which included an “inspection of surroundings” (Pettkó-Szandtner 1926: 7). If a case was particularly difficult to decide, an “expert official” was to give a second

opinion (Pettkó-Szandtner 1926: 7). Once a child was classed as “abandoned,” “special machinery” was to be set in motion to provide appropriate care (Gunn 1922: 19). This approach to abandoned children and the social “machinery” that set in to offer care and protection for abandoned children would shape the care system for children for the decades that followed. As late as 1925 an order was issued by the Minister of Public Welfare and Labor stipulating that “any child shall be attested abandoned who is under 15 years of age and who, either because of being a foundling of unknown origin or by other reasons, possesses no such next of kin as are obliged and able to maintain and educate him, and has no charitable institutes or societies that might take care of him” (Pettkó-Szandtner 1926: 6).

The term “abandonment” embraced not only physical abandonment, but also “moral abandonment”, which described the situation when children were “exposed to the danger of moral destruction” (Pettkó-Szandtner 1926: 5). The state also sought to gain control over children who suffered from “neglected education,” were subjected to the “damaging influence” of their “surroundings” or had begun to go down the “road to moral depravity” (Pettkó-Szandtner 1926: 5). Apart from full parental abandonment, state care could also be called upon for so-called “short-term abandonment,” which applied when parents were unable to provide for their children due to hardship or other personal problems (Gál 2021a: 21). The committee of the Budapest Asylum was encouraged not to limit its work to children deemed officially abandoned, but rather to also help “alleviate the plight of children who are in need but who, because they are not abandoned, fall outside the scope of state child protection” (“Állami gyermekvédelmünk szervezete” 1907: 173). This broadening of the definition of “abandonment” laid the foundation for a more inclusive approach towards children’s protection. Providing temporary care for children whose families found themselves under difficult circumstances made the system of state care more flexible.

Toward the late 19<sup>th</sup> century, only § 145 of the 1886 *Law about the Municipalities* (1886. évi XXII. Törvénycikk a községekről) had made any stipulation that a community might be obliged “to care for its poor and abandoned children (‘1886. évi XXII. Törvénycikk a községekről’). If the community was warm-hearted and socially conscious, it would arrange for the placement of a poor child in a better-off family who would provide “lodging and food” for twenty-four hours. The unfortunate child would then have to move on to another family, and so on, day by day (Rottenbiller 1936: 5). Ten years earlier, Article XIV of the 1876 *Law on the Regulation of Public Health* (1876. évi XIV. Törvénycikk a közegészségügy rendezéséről), which placed “the care of children”

(*Gyermekre való felügyelet*) under public control, had formulated official measures for how to monitor children's public health (*Magyar Statisztikai Évkönyv I* (1894): 60). Women had to obtain a special permit to become an authorized wet nurse and breastfeed infants in cases where the mother could not<sup>1</sup>. According to Chapter III § 24, which discussed "measures for children and schools" (*Intézkedés a gyermekek és iskolák iránt*), a medical doctor was to check and determine whether the "health of the wet nurse and the premises in which the infant or young child" was to be placed were "satisfactory" ("1876. évi XIV. Törvénycikk a közegészségügy rendezéséről"). Such controls of living conditions became a widespread means not only of securing the safe upbringing of the placed children but also a way of exercising public control over certain sections of society, especially when it came to the prevention of epidemics and diseases that posed a risk to children's health and well-being. For instance, the Hungarian statistical yearbook from 1893 lists governmental inspections of families' living conditions in "crowded flats and cellar apartments" after epidemics of infectious disease, and their disinfection and cleansing once they had been evacuated (*Magyar Statisztikai Évkönyv I* (1894): 60).

When it came to foundlings, in 1888 a newspaper article still noted that "shelters to be set up for the protection of children born out of wedlock and unmarried mothers are ultimately opposed on the grounds of their destructive, demoralizing effect on public morals and the all-dominant question of money" (Ambro 1888: 9). Nevertheless, in the following years the protection of so-called "illegitimate" children witnessed significant improvement. One major motivation was the attempt to reduce the high mortality rate experienced by this group. In 1898 the *Law XXI on the Coverage of the Costs of Public Health Care* (1898. évi XXI. Törvénycikk a nyilvános betegápolás költségeinek fedezéséről) was passed, which stated that the state from now on was responsible "to provide for the care, maintenance and education of children above the age of 7 that were attested as abandoned by the authorities" ("1898. évi XXI. Törvénycikk a nyilvános betegápolás költségeinek fedezéséről"; Dickmann 2001: 4). At the same time, a State Healthcare Fund was set up. Thus "institutional healthcare for the poor and (in part) the care for 'abandoned' children was nationalized" (Zimmermann 2011 : 48). The Law of 1898 made child protection a distinct area of poor relief (Zimmermann 2011 : 302). To a certain extent, this had been foreshadowed when in 1889 an International Congress on Child Protection had taken place in Budapest. Public child protection and welfare

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<sup>1</sup>"Permission to serve as a wet-nurse" ("Engedély adatott kisedek dajkálására") and "Permission to breastfeed infants" ("Engedély adatott csecsemők szoptatására").

became institutionalized within the framework of further social welfare laws passed between 1901 and 1903: The *1901 Law VIII on State Children's Asylums* (1901. évi VIII. törvénycikk az állami gyermekmenhelyekről) and XXI (1901) with Statute 85,880/1901, then Statute 1/1903 (*Gyermekvédelmi szabályzat*). These measures created the legal foundation for the protection of abandoned and orphaned children (*Magyar Törvénytár* 1902: 53-55; Zimmermann and Melinz 1996: 64). The new legislation, as the Prime Minister Kálmán Széll argued in 1907, granted the abandoned child rights while authorizing the government to protect them (*Jelentés az Országos Gyermekvédő Liga 1906–7. évi működéséről*: 7)<sup>2</sup>. The abandoned child could call for state protection and care. Due to the new legislation, the child obtained “rights” vis-à-vis the state, which could result in concrete entitlements (“Szociális ügyek. Az állami gyermekvédelem rendszere” 1912: 5). “Morally degenerate” and “deviant” children were to be closely monitored and could be placed in corrective institutions for children (Zimmermann 2011: 49).

Dr. Sándor Karsai, the president of the National League for Child Protection (*Országos Gyermekvédő Liga*) praised Széll for these practical, simple, and inspired laws, noting in retrospect that they were so groundbreaking that foreign countries started to follow the Hungarian example. While Hungarian experts had once traveled abroad to learn about child protection from others, the situation had been reversed, and other countries were “studying our laws, our regulations and our Institute” (*Jelentés az Országos Gyermekvédő Liga 1906-7 évi működéséről* 1907: [9]). Emphasis was laid on the fact that the “great idea” of including child protection into Hungarian legislation was not a “foreign model” purportedly adopted from the West, but that it had originated “from the strength of the Hungarian people's spirit” and had been developed accordingly (“Az 50.000-ik gyermek” (1909): 3). The Italians were already taking the Hungarian state system of child protection as a model for their own legislation. People were reportedly talking about it at a congress in Berlin. The legislation made provisions for child protection institutions, sanatoria for children suffering from curable or incurable illnesses, and institutions for physically and mentally impaired children. Yet, Dr. Karsai felt, its real power lay in its reliance on the “joint initiative and labor force of Hungary's entire society”<sup>3</sup>.

The “system of public child protection” these laws enacted was, above all, intended to remedy the high infant mortality rate found in Hungary at the time, which stood among the highest in Europe (Zimmermann 1997: 306-307).

<sup>2</sup>Talk given by Kálmán Széll, at the annual assembly, November 28, 1907.

<sup>3</sup>Talk given by Dr. Sándor Karsai, at the annual assembly, November 28, 1907, [9]-[10].

Following the passing of 1901 Law no. VIII, practical implementation began (Kun 1911: 70). Eighteen children's asylums were established. Retrospectively, a 1926 report by A. Pettkó-Szandtner on "Child Protection by the Royal Hungarian State," published in Hungarian and English, extolled the Law of 1901, praising it as an expression of the all-conquering power of advanced humanism, with its realization that the "care of abandoned children was a duty of the state" (Pettkó-Szandtner 1926: 5). From 1901 onwards, child protection had become the "direct responsibility of the Ministry of the Interior" (Zimmermann 2011: 48-49). As a result of the Law, any "foundling or child attested by the authorities as abandoned" was entitled to claim admission to a state child asylum (*gyermekmenhely*) (Pettkó-Szandtner 1926: 5).

An article from 1908 describes how the 1901 law had resulted in the institutional care of 36,000 so-called "state children" (*állami gyermek*) in the state's children's homes ("A kerületi gyermekvédelmi bizottság" 1908: 32). While the law had originally been solely intended to enable the institutional care of those children who had been "abandoned" in the strict sense of the word – either fully or half-orphaned – the law had created a far greater stir than originally intended. It laid the foundation for the "right of the child to state care" ("Az 50.000-ik gyermek" (1909): 3). According to the law, not only the child was "abandoned" who was "deprived of food, clothing and a home," but also the child "who is exposed to the danger of moral decay in his environment, or who lives in an environment that is dangerous to his spiritual as well as physical health" ("Az 50.000-ik gyermek" (1909): 3). It facilitated the institutional care of "children at risk of moral degradation or abandonment" as a means of preventing juvenile delinquency ("A kerületi gyermekvédelmi bizottság" 1908: 32). An article from 1912 later distinguished between three types of "abandonment": a) children's material abandonment which included depriving children of the material conditions necessary for subsistence (housing, food, clothing, care); b) children's moral abandonment which referred to child neglect, either because of their inappropriate upbringing, his innate inclinations, or because of their surroundings, and c) children's partly material partly moral abandonment which was expressed in their persecution, torture, or exploitation ("Szocialis ügyek. Az állami gyermekvédelem rendszere" 1912: 5).

Child welfare workers and reformers started to lobby exclusively on behalf of the poor or orphaned child, relying on narrative patterns that discredited the children's social environments. While 19<sup>th</sup>-century philanthropy had employed narratives that concentrated "on the moral failings of individuals and families rather than on the structural, economic, and communal causes of

poverty” (Murdoch 2006: 42), the early 20<sup>th</sup> century witnessed an emerging awareness of and growing debate about the underlying causes of children’s vulnerability and neglect. At the same time, the discussion about the care for the “abandoned” child reflects well the ongoing conflict between these opposing sections of Hungarian society over the future outlook of the Hungarian state and its welfare system.

Beyond the fear of individual exploitation and neglect of formerly “abandoned” children who had entered the foster system, broader public fears about the long-term social repercussions of the state supporting “abandoned” children were also voiced. The public dreaded that the new system of “child protection”, implemented on September 1<sup>st</sup>, 1903, would “promote out-of-wedlock childbearing” and “loosen” or even “break” children’s “family ties” (Bosnyák 1910: 1). Yet, some contemporaneous articles used statistics to deconstruct such claims, arguing on this basis that “the number of births outside marriage does not increase with the rise in child protection” (Bosnyák 1910: 2). Complaining that child care offered help not only to the truly “abandoned” children but also to Hungary’s “bastards” (*törvénytelen ublicekek*), an article about “About the New Generation” (“*Új nemzedékről*”) from 1903 warned that the outcome of this new development would be disastrous. The author argued with alarm that not only would “a great multitude of physically weaker, ill-organized individuals form a large proportion of the future generation” as a result, but that the origin of many of these children was “not yet deeply rooted in the soil of the nation, the fatherland, the country” (“*Új nemzedékről*” 1903: 7). This argumentation was embedded in a deeply conservative notion of the family-based “old society” and its religiously founded morality that denied these children’s very right to exist. Instead, children who had been sired “outside the family bond” and were thus unloved by anyone and the “stepchildren [...] of society and the state”, were tolerated “to ascend to heaven at an innocent young age because of human sinful deeds and multiply the great host of angels there” (“*Új nemzedékről*” 1903: 7).

An article about Hungary’s “Illegitimate Children” (*Törvénytelen gyermekek*) from 1905 harshly criticized bourgeois society for its “depravity”, as it still called children born out of wedlock “illegitimate”. The author argued that “the very fact that children are called illegitimate proves that these unfortunate pariahs of society are outlawed, protected neither by law nor by public morality”. He pointed to the underlying social injustice due to which children born out of wedlock experienced no protection but were instead “persecuted from the cradle to the grave by the most unjust oppression,” having their lives made “intolerable, intolerable by the scorn, belittlement and



contempt”, as they were “disdained everywhere and by everyone”. Accusing better-off society of making the children’s lives miserable, the article confronted the reader with the question of “what moral law punishes the child for the fault of his parents?”, as the child himself had not sinned. Stressing children’s inherent innocence, the argument challenged the highly problematic “social morality” of better-off society towards children born out of wedlock. The author furthermore wished to draw attention to the fact that many of these children were the result of “the deepest, most profound union of hearts,” namely love, for which the children could not be held responsible. Instead of letting themselves be driven by “degeneration of the moral sentiment, which plunges the innocent infant into misery and damnation,” society should instead go after the real guilty, namely the “skirt heroes” (*szoknyahősök*), that is, the men who “by vile and wicked seduction, steal the virtue of women”. The author identified the major failure in the Hungarian legal system which protected the “immoral” men from taking responsibility for their “illegitimate” children, turning instead the innocent children into social outcasts (“Törvénytelen gyermekek” 1905: 3-4). Such public criticism of the situation and treatment of “abandoned” children was instrumental in denouncing the status quo of such vulnerable groups in imperial Hungary and in bringing about a state system of child protection. This development expressed itself in the founding of the National League for Child Protection (*Országos Gyermekvédő Liga*) by Count Gyula Andrássy, the Minister of the Interior, along with Dr. Sándor Karsai and Count Lipót Edelsheim-Gyulai in 1905. The League provided education and training to the so-called “state children” in its “more rigorous education and training centers”, provided they had not committed any offenses or crimes (“Állami gyermekvédelmünk szervezete” 1907: 176).

By the early 20<sup>th</sup> century, “abandoned” children also came to be seen as a means to increase Hungary’s population. Edina Gál has convincingly argued that in the multinational state of the Austro-Hungarian Empire, where Hungarians represented just half of the entire population, the Hungarian administration “seized the opportunity”, especially in regions with a low share of Hungarian population, “to raise the abandoned children to its benefit” (Gál 2021b: 330). An article from 1909 underlines how valuable the work of child protection was in terms of securing the survival of Hungary’s abandoned children. It individualizes the mass of abandoned children by stressing the fact that each rescued baby of Hungarian descent was a “a truly living baby, alive and moving, who was born on Hungarian land, who rejoices with a carefree soul in the warm rays of the sun” (“Az 50.000-ik gyermek” 1909: 3). However, the Hungarian state sought more than just to provide protection and care for

the children of Hungarian ethnicity; it also assumed responsibility for the care of abandoned foreign children on its territory and took over the costs. Nonetheless, if a child left Hungarian territory, any costs would need to be reimbursed by the foreign administration (“Állami gyermekvédelmünk szervezete” 1907: 177). Here we can see that the costly welfare and education of “abandoned” children was only then considered worth the effort and money for as long as the children remained in the country and belonged to the Hungarian state. The new valorization of children manifested itself in the Hungarian government’s efforts to repatriate children of Hungarian descent who had been abandoned and placed in foreign children’s homes. Requests were made for them to “be repatriated as soon as possible after birth or abandonment” and to be taken into Hungarian state care (“Állami gyermekvédelmünk szervezete” 1907: 177) Children of a different ethnic descent were, as Gál put it, “objectified and considered as human capital of would-be-patriots: they were not expected to be born Hungarian, but to become one” (Gál 2021b: 334).

### **3. Caring for the “State Children”**

Parallel to the legal and public discourse about the necessity of protecting foundlings in the Hungarian part of part of the Dual Monarchy since the late 19<sup>th</sup> century, the history of this group of vulnerable children can also be written through its physical institutions. Before the protection of “abandoned” children became a matter for the Hungarian state and administration, a number of philanthropic initiatives provided relief to children in need. The *First Child Asylum Association* (*Budapesti Első Gyermekmenhely Egylet*) was set up in 1870 (Kiss 1899; *A pesti első gyermek-menhely évkönyve* 1873). It operated in Budapest, in a rented building on Mária Street, where a few rooms were meant to accommodate the children taken in (Zimmermann and Melinz 1996: 34). It was in 1871 that a first, rudimentary child asylum was established in Budapest. The association then decided to establish a network of state orphanages to accommodate “sick, feeble and needy children” (Zimmermann 2011: 307). By 1893 this first child asylum was housing 350 children (*Magyar Statisztikai Évkönyv I* 1894: 319).

Parallel to the appearance of Budapest’s child asylums, a White Cross Association (*Fehér Kereszt Egyesület*) was founded in 1885,<sup>4</sup> which merged in 1895 with the National Foundling Association (*Országos Lelencház Alapító Egyesület*) and became the National White Cross Foundling Association (*Fehér*

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<sup>4</sup> For contemporary literature on the White Cross, see Szana (1902). *Gyermekvédelmi lap: havi folyóirat: Fehér Kereszt Országos Lelencház Egyesület [et al.] hivatalos közlönye* (1905–1930).

*Kereszt Országos Lelcház Egyesület*) (Kálmán 1929: 148). The White Cross Foundling Home opened the doors of its new building in Pest, Tűzoltó Street 9, on September 24, 1897. Its ground floor housed offices to register and keep records of “poor mothers and their children” from families that did not have the means “to secure their children’s nutrition and upbringing” (“A Fehér Kereszt Háza” 1897: 8). The first floor was set up “in the most professional way,” for treating and feeding the children; the second floor was envisaged as a sanitarium for children who were actually ill (“A Fehér Kereszt Háza” 1897: 8). The White Cross Foundling Home accommodated not only undernourished children, but often admitted their mothers as well. In this respect, it was well ahead of its time: instead of separating the child from its mother, which happened in most of the other foundling homes, the White cross “not only hoped to rescue the child for the mother,” but “equally the mother for the child”. Accordingly, it took care of “weakened mother[s]” along with the children. Engaging in such innovative child protection work, the White Cross Association knew that it was “surely not” opening “a conventional foundling home”: even in Vienna and Prague, things were not done in this way. Indeed, Vienna would send its chief physician to study the White Cross Hospital so that it could be used as a model for other such establishments (“A Budapesti hírlap Tárcája” 1897: 1-2).

By 1908 the White Cross Foundling Home had become the “White Cross Children’s Hospital” (*Fehér Kereszt Gyermekkórház*) (“Nem tudta eltartani gyermekét” 1908: 6). The change was mostly due to the opening, that year, of the Royal Hungarian State Children’s Home in Üllői Street, Budapest, which partly continued the work of its predecessor. A newspaper article published in December 1908 lamented the fact that the White Cross Foundling Home could not keep its children, and that after its surreptitious shift in function, some unfortunate woman might still go there, one evening, hoping “to pass her child to someone trustworthy,” and be disappointed (“Nem tudta eltartani gyermekét” 1908: 6). From then on, the White Cross Children’s Hospital was one of Budapest’s most important medical centres. Lajos Keller saw in the foundling hospitals of the White Cross the very “first traces of the institutionalization of Hungarian state child protection”: they laid the foundation for the child protection laws that were eventually enacted and the cornerstone of the Hungarian state child asylums (Keller 1926: 8). While the First World War and the dissolution of the empire also triggered the expansion and professionalization of public health care – especially for children – much of the infrastructure was already established before 1918 (Nagy 1994: 50).

While initially only a few rare facilities were opened, the network of homes for “abandoned” children became more complex. In 1893 the statistical yearbook already listed 72 orphanages in the Hungarian Empire, nine of which were located in Budapest. The number of children in their care (*Növendékek*) had increased from 553 in 1888 to 679 in 1891 (*Magyar Statisztikai Évkönyv I* 1894: 318). By 1907, the Minister of the Interior has divided the country into districts for the protection of children and had set up 18 state children’s asylums in Arad, Budapest, Debreczen, Gyula, Kassa, Kecskemét, Kolozsvár, Marosvásárhely, Munkács, Nagyszöllős, Nagyvárad, Pécs, Rimaszombat, Szabadka, Szeged, Szombathely, Temesvár, and Veszprém. Through these institutions the Hungarian State endeavored to take care of “all abandoned children up to the age of 15 (“Állami gyermekvédelmünk szervezete” 1907: 172).

The asylums themselves drew on the services of all “such institutes of municipalities, clerical orders, churches, and societies” that were willing to “undertake the care and education” of the abandoned, impoverished, or orphaned children (Pettkó-Szandtner 1926: 12). Apart from the main orphanages, as the statistical yearbook from 1893 mentions, an Institute for the Blind (*Vakok Intézete*), Institutes for the “Deaf and Dumb”, an Institute for “Mental Defectives” (*Hülyék Intézete*), alms houses and children’s shelters, along with “Corrective Institutes” (*Jávitóintézetek*) cared for children with special needs (*Magyar Statisztikai Évkönyv I* 1894: 319). There were also some institutes for children with mental or physical disabilities, such as the National Home for “Crippled Children”, and one that had a combined intake.<sup>5</sup> Infants were a special case. If they only temporarily found themselves in a precarious situation, they be jointly admitted to an asylum with their mothers. If this could not happen, they would be placed in a suitable foster family for as long as they were being breastfed. In exchange, the mother was required to provide nursing services to the State Asylum (Pettkó-Szandtner 1926: 12). For fully “abandoned” infants, the Hungarian state care system endeavored to find breastfeeding foster mothers who were willing to stop breastfeeding their own infants after six months and instead breastfeed the “abandoned” child. The problem was that foster mothers were rarely willing to stop breastfeeding their own infants after six months, which meant that “the age of the milk” was far higher; its content had adapted to the different needs of the older infants and possibly did not fulfil the needs of the younger foster infants. Another problem was that women’s wages had risen to such an extent that fewer and fewer women could be found who were willing to spend their working hours

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<sup>5</sup> The institute was set up in Mexikói Street 61–64. See Keller 1926: 12–13.

breastfeeding (Szana 1911: 627). Hence, fostering infants and securing their continuous nutrition was among the most challenging tasks the state faced.

*Figure 1.* The Royal Hungarian State Asylum, Budapest



*Source:* Pettko-Szandtner, *Child Protection by the State*, Annex.

The most prominent of the earlier mentioned 18 state asylums was the Royal Hungarian State Children's Home (*Magyar Királyi Állami Gyermekmenhely*),<sup>6</sup> shown in Figure 1, whose building in Pest was opened in 1908 as the last of the asylums.<sup>7</sup> These children's asylums were placed in the "service of the protection of the moral standing" of each child (Ferenc 1997: 16). They were not intended to offer permanent housing and care but rather served as transitory spaces from which children were to be "placed with suitable foster parents or some institute" (Pettkó-Szandtner 1926: 9). While most of Hungary's orphans and abandoned children passed through one of the state asylums, by 1909 over 50,000 children were reported to have entered into one of the institutions or a foster family supervised by the "family of state child

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<sup>6</sup>After World War II it became the Institute of the National League for Child Protection and was named after the children's doctor and university professor János Bókay.

<sup>7</sup> The Paul Heim Children's Hospital (*Pál Heim Gyermekkörház*) stands in the place of the former orphanage today. For one of the few studies on the Children's Home see Körmendiné Pók 2016: 576–642.

protection”. In various sources the newly emerging system of child protection was compared to a large family that replaced the many individual families of the children in question. Acknowledging that the massive collective institutionalization of hundreds of thousands of abandoned children in “the barrack system” of the available child asylums could cause great damage, the state aimed instead to set up a network of foster families to care for this vulnerable segment. This system was driven by the ideal notion that the “state child welfare service acquires for the child placed in its care an imitation family bond,” serving “as compensation for the family which the child never had, or if he had had one, lost”. An article from 1909 congratulates the individual for having apparently chosen the right time to be rescued by the state from abandonment and neglect, whereas ten years earlier the Hungarian state had only theoretically understood “that the most precious treasure of the state was human life” but had not yet acted accordingly (“Az 50.000-ik gyermek” 1909: 3). Many emerging initiatives aimed to meet children’s needs more efficiently, helping to place orphaned and abandoned children in institutional care. The general drift towards tackling social problems and the “novel efforts for social reform” undertaken, especially in Budapest, included new initiatives in child welfare (Zimmermann 2011: 47). Under the government of Sándor Wekerle between 1906 and 1910, new social reforms were introduced that were aimed at countering the harmful social consequences of industrialization; major concerns were the exploitation and neglect of children.

As children in the state asylums were primarily between the ages of 7 and 15 years, providing them with an education was deemed of utmost importance. The orphans’ education was mostly envisioned to “be directed mainly to getting them used to persistent work, so that their work and education might secure their breadwinning and their livelihood in the future” (“Állami gyermekvédelmünk szervezete” 1907: 176). This meant that many orphans, while still officially “state children,” were placed with foster parents, who were often also addressed as “guardians” (*gondviselők*) in the countryside, and who were either farmers or craftsmen who could teach the children a craft or trade. Fearing that these orphans could possibly be exploited as child laborers, it was determined that that the “state children”, as long as they were in the care of the state asylum and thus “under the protection of the state” would “not be considered as a laborer earning his bread by the work of his hands” (“Állami gyermekvédelmünk szervezete” 1907: 176). While in Hungary the “Industry Act” in 1884 had forbidden employment for children below the age of 10 (“1884. Évi XVII törvénycikk ipartörvény”), by 1909 children below the age of 12 were still found to be working as cheap laborers, for instance in iron

and lumber production or in the spinning and weaving industry (Chyzer 1909: 44). But as Hungary was a largely agricultural country, most child labor was still in agriculture. While some state control could be exercised in larger factories to prevent child labor, many abuses of child labor happened either in the agricultural sector or in domestic, commercial, and family settings (Chyzer 1909: 7).

Since the placement of orphans and abandoned children in the state asylums was not supposed to be permanent, the principal tactic was to board the children with foster families in the countryside. The Hungarian Royal State Asylum supervised the individual placement of children in foster families. The foster parents chosen were, by preference, relatives “by blood,” who received “nursing fees” for providing care to the child they took in (Pettkó-Szandtner 1926: 9). While in the pre-war period children were often placed with foster families with whom they shared no family ties, in the postwar period it had become standard to place children with relatives (Kun 1915: 4). Special areas were designated for this, where it could happen that “almost every family had at least one child who was sent by the State” (Gunn 1922: 19). Some infants were also sent to peasant families “as nurslings,” whose proper handling by the wet nurse was inspected by the local health officers (Gunn 1922: 19). The foster families received some reimbursement for boarding the children. Parents who wished to receive a child from the state’s children’s asylum were required to produce a certificate issued by their municipality and signed by the local doctor. To be eligible for the care of “state children,” this letter had to certify that the receiving parent was a) “married or widowed,” b) “healthy” and had “a family of his own”, c) has his/her “own accommodation consisting of one room and at least half a kitchen”, that “the home is not overcrowded and not harmful to the child’s health.” He/she furthermore had to indicate d) “how many children he/she had and how many children are alive,” (e) of what disease his/her last child, if not alive, had died, (f) that he/she was in “such financial circumstances” that he/she was “not dependent solely on the benefit of child support (preference is given to those who have at least one cow)”, (g) that the entire household consisted of “sober and morally unobjectionable” individuals, and finally (h) “if they have cared for a child of another person” and if so “with what results ” (“Állami gyermekvédelmünk szervezete” 1907: 173). As Edina Gál observes, “alongside bad treatment, incomplete feeding, keeping an untidy home, alcoholism, work exploitation” were among the “frequent causes to ban families from fostering” (Gál 2021a: 14).

Ideally, foster families lived in villages that were easy to reach by public transportation. An article from 1907 about the Royal Hungarian State Asylum in the southern city of Szeged explains that the orphanages mostly took care of children who had completed their schooling and were to choose a career, whereas children below the age of 12 were to be placed among foster families in villages near Szeged (“A szegedi gyermekmenhely” 1907: 2). An article about the organization of Hungarian child protection from 1907 stresses one of the new core principles of foster care at the time: foster parents were not to profit from the children’s labor. The foster parents were expected to “employ the child without any risk to his physical development and health”, acting precisely in the same way “as a careful father would do to ensure that his child gets used to work.” The foster parents were likewise not supposed to “give the child to work for others for the purpose of having the child earn money for him” (“Állami gyermekvédelmünk szervezete” 1907: 176).

Contemporary sources speak of the close emotional ties that could develop between the foster parents and their “foundlings” (*lelenc*). “Some families, especially those without children, love the children so much that they do not even want to let them go”. The converse also held true, as the fostered children were reported to have established emotional relationships with their caretakers: “the sons and daughters also love their caretakers as if they were their own dear father or mother”. In the farewell letter written by a foster child named Márta Sámson and printed in an article from 1907, the girl explained that she would rather take her own life than ever go to any orphanage. Although she had tried to drown herself in the well, from which she was then rescued by some neighbors, she still had to part from her foster parents. The state asylum’s director, Ferenc Fixmer, was reported to have kept this precious document as it perfectly illustrated how difficult it sometimes was to stick to the foster care regulations and force the children out of their foster families. The article’s author wondered why it was not possible to simply keep the children in the foster families if that was what they wished, instead of holding fast to the rule according to which children had to be transferred to a state institution (“A Szegedi Gyermekmenhely” 1907: 2-3). During the first General Assembly of the National Hungarian League for Child Protection in 1907, Dr. Karsai conceded that a community’s intention might be good when it offered this kind of temporary hospitality, but he wondered what being passed around in such a way would “actually mean” to the children themselves<sup>8</sup>. He asked his audience to imagine how these children must feel, and described how, even when they were taken in, the “better farmer” would “throw the leftovers to the

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<sup>8</sup>Talk given by Dr. Sándor Karsai.



begging child,” who then had to sleep “next to the stable” on a stack of straw before sweeping the floor at dawn<sup>9</sup>.

If larger groups of orphans were gathered in one village, they would form “child colonies” (*gyermek telep*), supervised by foster families. Such colonies were to be set up in municipalities or towns a) where there was a child asylum, b) which could be easily reached by public transportation and c) which had at least thirty families that could accommodate the “state children” (“Állami gyermekvédelmünk szervezete” 1907: 173). In contrast to the “child colonies,” so-called “family colonies” (*családi telep*) also existed that were established far less frequently. These “family colonies” were to accommodate ten to twenty children of the same sex aged between 7 and 15 in the same household and were to be headed by an “individual of good moral character” and a “certain degree of education” (“Állami gyermekvédelmünk szervezete” 1907: 174). The “family colonies” were often established to provide “excellent care and constant supervision” for abandoned children who were “suffering from permanent physical or mental illness” (“Az állami gyermekmenhelyek telepfelügyelőnőinek tudnivalója a nevelőszülőkről” 1912: 6). An important condition was the nearby presence of a doctor capable of providing the medical services required. Apart from attending school, children in family colonies were to be trained in a practical handicraft, through which they could become “useful” to society.

#### ***4. Scientifically Monitoring Children’s “State Care”***

Once the children were either placed in the state asylums, with foster parents or/and in family colonies, they fell under the jurisdiction of a system of social and medical control set up by the Hungarian administration and charged with overseeing their care. Whereas most healthy “foundlings” were placed with foster families in colonies, the state asylums generally hosted those children whose bodies were affected by disease or disability. “Only sick, underdeveloped children requiring special care and medical attention” were kept “within the walls of the state-run children’s asylums,” while healthy orphans were usually placed outside their confines (“Állami gyermekvédelmünk szervezete” 1907: 173). In 1907, it was noted that the Royal Hungarian State Asylum in Budapest resembled a “specialized hospital for children in state care” more than an orphanage (“Állami gyermekvédelmünk szervezete” 1907: 172).

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<sup>9</sup>Talk given by Dr. Sándor Karsai, [8].

Figure 2. The Royal Hungarian Child Asylum, Budapest



Source: Pettko-Szandtner, *Child Protection by the Royal Hungarian State*, Annex

A photograph published in 1926 (Figure 2) captures a scene in the courtyard of the Asylum in Budapest, where many children were sitting on the floor, which hints to the fact that many of them were unable to run or walk due to their disabilities. The asylum's architecture perfectly captured the medical character of this institution: constructed as a "new public building" with 200 beds, several utility rooms and accommodation for the doctors and nurses, the Budapest asylum consisted of an infirmary (*betegpavillon*), a mortuary (*ravatalozó épület*) and three pavilions, one dedicated to treating patients of internal medicine, ophthalmology, skin and ear diseases, another for patients requiring surgical treatment, and a third for patients with acute infectious diseases ("Állami gyermekvédelmünk szervezete" 1907: 172). Control over a child in state care was easy when the child resided in one of the state asylums. Medical control and treatment, depicted in Figure 3, was an essential part of the everyday care the children received there. The child asylums resembled hospitals in their equipment and fittings. The flagship Royal Hungarian State Asylum in Budapest possessed "surgical, internal optical and orthopedic departments and special laboratories" (Pettkó-Szandtner 1926: 11). The state asylums were run by "medical directors, ... field practitioners, supervising women, [and] social helpers," who organized the children's day-to-day lives. The ministry, public administration, local church representatives, local teachers, physicians, and midwives all had oversight (Ferenc 1997: 16).

Figure 3. Medical Department of The Royal Hungarian Child Asylum, Budapest



Source: Pettko-Szandtner, *Child Protection by the Royal Hungarian State*, Annex.

Though on a different scale, the physical condition and mental well-being of children in foster care was also supervised by the staff. As foster parents received monthly only 8–10 crowns per foster child, the danger that the children would be exploited was ever-present. Hence, the state wished to keep an eye on them (A szegedi gyermekmenhely 1907: 2). To ensure the well-being of the foster children, the state maintained a system of “central control”. A manual on how to exercise appropriate supervision over the foster children was published by the League for Child Protection in 1915 (*A Budapesti Állami Gyermekmenhely Által Családokhoz Gondozásba (Telepre) Kibehelyezett Gyermekek Központi Ellenőrzése* 1915). It laid down that a doctor and a nurse should supervise placements in foster care. Moreover, at least once a year, as official visitors, they had to inspect the living conditions of the families and the children. They also needed to ensure that children below the age of 12 were not being exploited for labor, and that older children were paid for work they did, while checking that school-aged children were getting their education. If children were of a different religious denomination from their foster parents, the doctor and nurse should consider placing them with a family of the same denomination. The official visitors also needed to pay attention to detail, for example, checking that the children’s shoes were properly repaired, as prescribed in the books. To assess the physical condition of the foster children, the placement nurse was required to “undress and examine the child”. If the

child looked too thin, she should inquire about the child's feeding. If the feeding was "too poor" the nurse should think about placing the child with a better-off family (*A Budapesti állami gyermekmenhely* 1915: 8–10).

Even more care was to be taken when the foster children were still in infancy. "Accommodation, care and nutrition" all had to be investigated thoroughly (*A Budapesti állami gyermekmenhely* 1915: 8-10). The nurse and doctor were to train the foster parents and evaluate whether they knew and followed the "ten commandments" of infant care, in which they had been instructed. They should question the parents to ascertain whether they knew how to feed the infant, how often to breastfeed and how much the infant should drink, how to get dairy milk and how to keep it fresh during the hot summer months, what kind of bottle to use, and so on. The inspectors were also tasked with checking that the infants were properly clothed. They needed to see the place where the infants slept and verify the cleanliness of the surroundings. They had to keep an especially close eye on the infants' physical and mental development, including their language ability (*A Budapesti állami gyermekmenhely* 1915: 8-14). The children also had to be regularly weighed. In bad weather and during the winter months parents were "not allowed to bring their child to the nurse"; she had to bring the scales to the infant's home (*A Budapesti állami gyermekmenhely* 1915: 8-12). The nurse was required to weigh the infant before and after breastfeeding to determine if the mother produced enough milk. If not, the infant was to have complementary feeding, for instance in the form of Nestlé milk powder (*A Budapesti állami gyermekmenhely* 1915: 12-13).

The manual also published a questionnaire, included in the "Placement Control Book" (*A telepviészgalati könyv*), in which all the necessary information on a child and the child's physical state was recorded. This questionnaire documented the social and economic situation of the foster parents, inquiring into how many children of their own they had, how much land they owned, whether they were owners or renters of their accommodation, how many rooms there were in their dwelling, and whether their economic situation could be described as "poor, well-off, bourgeois [or] peasant". It then had spaces to register the life story, physical condition and social situation of the fostered child. The questionnaire, as a tool of bureaucratic intervention, required information on a disturbing combination of social and economic aspects. The nurse or doctor could comment in one single word on the child's physical appearance, temperament and intelligence; his/her school attendance, his/her relationship to the foster parents and contact with the family of birth; and on the provision of clothing other than what had been provided by the State Asylum (*A Budapesti állami gyermekmenhely* 1915: 16-17). Finally, the doctor and

nurse should inquire about the child's social standing in the family: whether they were being nursed, getting free board and lodging, being adopted, having an apprenticeship or being employed as a house servant (*A Budapesti állami gyermekmenhely* 1915: 17). The manual spells out in detail how the nurse and doctor should proceed if problems arose between the children and their foster parents. Anything deviating from the norm was to be documented in writing in the Placement Control Book, accompanied by a written record of the measures taken to address the problems identified (*A Budapesti állami gyermekmenhely* 1915: 19). What becomes clear from this document is that continuous supervision and protection of the children grew to take on a position of prime importance in the work of the State Asylum's medical staff, the placement nurse and doctor. As it was far harder to oversee a child placed in a foster family than one in an orphanage, the manual insisted on precise record-keeping and bureaucratic control<sup>10</sup>. The written data collected on every foster child and family ensured not only the protection of the child but also appropriate handling by the adults.

The prescribed practices of examining, questioning, teaching the children and foster parents, and keeping a written record of the results, all mirror how modernity had invaded and overhauled the field of child protection.

This gathering of substantial and comparable knowledge on the physical, economic, and developmental state of the fostered child turned the medical staff into experts in this field of childcare. From their close encounters with every foster child, the medical staff could assess each individual's physical state and how their social upbringing was proceeding. By documenting the knowledge they gained on a wide variety of foster children, these new experts could compare data and identify norms and standards. In Foucauldian terms, the questionnaires and the regular visits by the medical staff were intended to discipline the foster parents in order to ensure the child's rights. The child could claim the right to attend school, receive regular food, have access to health care, have a private place to sleep, maintain contact with his/her birth family, and not be exploited for work in the household. It is likely that reality was not as rosy as these guidelines suggest, as foster families were not always in a position – or even willing – to stick to the regulations. Yet, such forms of individual and collective control over groups of underprivileged children paved the way for a more state-oriented, standardized system of child protection and care. An “environment was created in which all sorts of social participants ... [could] and must become organized social ‘actors’” (Drori and Meyer 2008:

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<sup>10</sup> For an innovative study on practices of social rationalization, see von Saldern 2002.

31). In the field of child protection and care, we can speak of a “scientization of the social,” as Dirk Schumann and his co-authors have named the adoption of modes and methods to conceptualize “social problems” and “solve them by means of statistical calculation, testing, surveying, counselling or other forms of therapy” (Brückweh, Schumann, Wetzel, and Ziemann 2012: 2; Lutz 1996: 165–193).

The family colonies were often also established for the purpose of “providing abandoned children suffering from permanent physical or mental illness with excellent care and constant supervision” (“Állami gyermekvédelmünk szervezete” 1907: 176). A committee was set up for every colony and tasked with ensuring the protection of children by the state in that colony. In addition, these committees were also instructed to visit the foster parents in the same territory, making sure that the children were treated well, received enough food and clothing, were clean and received an education and were properly accommodated (“Állami gyermekvédelmünk szervezete” 1907: 175).

Health officers checked on the children regularly and made special arrangements if they became ill. Foster children, regardless of whether they had been placed in a family colony or in a private home, were regularly visited by a physician. This doctor would make unannounced appearances to examine the children’s physical state and “control the health of the foster parents and that of their families as well as their lodgings, their personal circumstances, cleanliness and food supply” (Pettkó-Szandtner 1926: 10-11).

Nevertheless, despite the increasing professionalization and improvement of the care for “abandoned” children, be it in the state asylums, foster families and/or family colonies, many “abandoned” children still slipped through the net of state care. An article on “Children’s Protection” (*Gyermekevédelem*) from 1906 complained that the child protective “measures” of the state were “not yet fully developed” and still “inadequate”, a fact evidenced by the “thousands of abandoned sick children whose bloodless little hands [...] [were] forced to work” and whose developing bodies suffered from the labor thrust upon them. Observing that “the carefree smiles of childhood are gone from their lips”, the author drew attention to the fact that this type of life made childhood vanish from the children’s lives. He argued that it was not just money that was needed, but rather that the “conscience of society should be awakened” and that “these children must be cared for and protected with the warmth of love, alongside material care” (“Gyermekevédelem” 1906: 74).

### 5. Conclusion

Initially, the emerging system of Hungarian state care around the turn of the 20<sup>th</sup> century was solely meant to provide care for Hungary's "abandoned" children. While at the onset, state care was envisioned to offer state protection to those children who had been born out of wedlock and who had been abandoned by their mothers and families, the understanding of children's "abandonment" grew increasingly fluid and flexible. This shift came to both enable and oblige the state to also start caring for children who were "morally abandoned", physically exploited in the labor market, whose needs as children were neglected, and who were thus mistreated. Through this widening interpretation of how children could be "abandoned" by their parents, their surrounding society or social environment we can see how a notion of children's proper upbringing and children's ideal place in society came to crystalize. At the same time, the discourse over the role and treatment of Hungary's morally abandoned children uncovers the battle over the future outlook of the Hungarian state and its people. The new shift towards state intervention on behalf of Hungary's "abandoned" children triggered a heated debate and fierce struggle between reforming and conservative currents in Hungary as to which children were considered worth protecting and being cared for. It perfectly illustrates how central a common notion of a proper childhood and of children's place in society can be when it comes to a society's understanding of its own identity and what powerful role children, or in this case "abandoned" children, can play in rendering it visible.

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# “Children of the Nation”. An Overview of Aid and Benefits Paid to WWI Orphans as Reflected in Data from the Official Gazette of the Kingdom of Romania (1918-1939)

Elena Crinela Holom

*Babeş-Bolyai University, Centre for Population Studies, Cluj-Napoca, Romania, elena.holom@ubbcluj.ro*

**Abstract.** The present article is an overview of the main legislation, decisions, and guidelines included in the *Official Gazette (Monitorul Oficial)* of the Kingdom of Romania between 1918 and 1939 to support war orphans. As descendants of parents who had fallen on the battlefield, war orphans, called, after the French model, “wards of the nation,” became a responsibility of the state. Adopted in September 1920, the *Law for the establishment of the National Office for war invalids, orphans, and widows* enshrined the role of the state in coordinating all legislation and measures in areas such as health services, welfare, and education. In time, the state assumed roles in the control over and administration of all bodies, services, institutions, and offices created for the protection of those who suffered in the aftermath of the wars. However, the data in the Kingdom of Romania’s *Official Gazette* show that the implementation of state programs for the protection of war orphans was often problematic and patchy. War orphans remained a highly vulnerable social group, especially in times of instability such as the economic crisis of 1929-1933.

**Keywords:** war orphans, WWI, the *Official Gazette (Monitorul Oficial)*, the Kingdom of Romania, legislation, pensions, welfare, interwar period

## ***1. Introduction***

WWI was an event that left a tragic imprint on societies on an unprecedented scale: there were over 10 million casualties on the battlefield topped by more millions who lost their lives to starvation and epidemics. Moreover, the conflict left behind over 20 million invalids, around 3 million widows, and 6 million orphans (Holom 2020: 18; Little 2014).

Statistics show that there were 1,192,000 war orphans in Germany, 760,000 in France, 345,000 in Italy (Whalen 2014; Demiaux 2014; Ferraro 2014), and over 100,000 in Hungary (Kind-Kovács 2021: 187). In Romania, including the territories incorporated after the war, there were nearly 350,000 war orphans in 1920 (Hariton 2014: 127).

Whereas prior to WWI aid for the underprivileged was largely the remit of philanthropic and charitable organizations, the scale of human loss caused by the war meant that states had to intervene and coordinate such services. There were moral imperatives, too: societies wanted to show their gratitude and respect for those who sacrificed their life or health in the conflict, as well as for the descendants of the dead and missing: the widows and the orphans (Kind-Kovács 2021: 190). These were the reasons why state initiatives across Europe, including Romania, considered these three categories together in their support programs.

The present study is a survey of the main legislation, state decisions and normative acts adopted by the Romanian state to help those who suffered in the aftermath of the war, as illustrated in the *Official Gazette (Monitorul Oficial*, hereafter referenced as MO) in the period 1918 to 1939. The focus is on the aid granted to war orphans, called, after the French model, “wards of the nation” (*pupilles de la nation*) (Pironti 2017; Pironti 2020: 198; Hariton 2014: 129).

For the interwar period I covered the entire collection of the Romanian kingdom’s official publication. The data show that the Romanian society as a whole was actively involved in supporting those affected by the fallout from the war. The first section of the article looks at charitable initiatives coming from private individuals and public personalities, but also from institutional bodies. Later, the *Law for the establishment of the National Office for war invalids, orphans, and widows*, adopted on 2 September 1920, laid the foundations of a more decisive approach with legislation enshrining the direct role of the state in protecting WWI victims. Reflecting the nation’s moral debt to war orphans, a series of laws, regulations, and decisions established the financial benefits to be paid to them, but also programs for their support in terms of welfare, juridical measures, upbringing, and education. The last section of the study discusses evidence showing that, despite state efforts, orphans remained an extremely vulnerable social category, especially in periods of instability such as the economic crisis of 1929-1933.

## ***2. Aid to War Orphans Prior to the Law for the Establishment of the National Office for War Invalids, Orphans, and Widows (1920)***

The data on war orphans from the *Official Gazette* show that a series of measures, including financial and material aid, were taken by individuals such as army officers and high state officials, as well as by military units, associations, and major state bodies. For example, to mark the 25<sup>th</sup> anniversary of King Ferdinand's wedding to Queen Marie and the New Year's celebrations, Lieutenant-Colonel Mihai Dobruneanu made a donation of 2,000 *lei*; the collection for orphans initiated by the 68th and 36th infantry regiments totaled 2,149.35 *lei*. In Iași on the same occasion, young ladies from the Jewish community collected 1,540 *lei* for the benefit of war orphans (MO 1918 (240) (10/23 January): 2646-2647). Lieutenant-Colonel Florescu donated a sum of 500 *lei* in aid to war orphans (MO 1918 (247) (18/31 January): 2740). Likewise, Gheorghe Buzdugan, a magistrate at the High Military Court of Justice, waived his fees, totaling 1000 *lei*, in aid of war orphans (MO 1918 (16) (19 April/2 May): 203). Romania's National Bank generously donated 220,000 *lei* in support of orphans in 1917 (MO 1918 (267) (9/22 February): 3127). The following year the bank donated 100,000 *lei* in aid to Transylvania's war orphans (MO 1919 (252) 8/21 February: 5182).

The initiatives designed to support children bereft of one or both parents as a result of wars were wide-ranging and involved a large number of individuals. Their magnanimous gestures did not go unrecognized: data from the *Official Gazette* (MO) show that many received awards for their charitable activities, one of the most prestigious of which was the Queen Marie Order of the Cross. For instance, Colonel Toader Nicolau, commander of the 45<sup>th</sup> infantry regiment, received the award for his efforts in funding orphanages and providing aid to war orphans, as did Lieutenant-Colonel Ioan Râmnicéanu, commander of the 68<sup>th</sup> infantry regiment (MO 1918 (54) 2/15 June: 760). The *Official Gazette* also published details of the award, in June 1919, of the Queen Marie Cross, Ist Class, to William Nelson Cromwell, "a citizen of the United States, for his unsparing efforts and large philanthropic donations made for the benefit of the war wounded, orphans, and invalids in Romania" (MO 1919 (73) (18 July): 3941).

The example of Queen Marie was followed by many Romanian women who became actively involved in support programs for war orphans and were honored for their efforts. One such case is that of a Mrs. Hasnaș S. and a Mrs. Pohl M., who both received the Queen Marie Cross for their "devoted work and care for war orphans at the Red Cross Orphanage at Bârzești" (MO 1919 (254) (10/23 February): 5252). The order was conferred especially as a reward

to women who ran regional branches of the Society for War Orphans. One of them was Olga Volenti, who, in July 1919, received the Queen Marie Cross, 1st class, in her role as chairperson of the regional branch of the society for war orphans in Vaslui (MO 1919 (75) (20 July): 4035).

The *Official Gazette* also published cases of individuals with roles in public bodies and the local administration in various areas of the Kingdom of Romania who were deemed to have failed in their duties to war orphans. These officials were reprimanded or were even suspended from their functions because they did not fulfil their roles or committed abuses that harmed children orphaned during the war. One such case was that of the deputy mayor of the commune Șendrești, who faced disciplinary action following a report by the prefect of the county of Tutova. The official was dismissed because he “failed in his duty of care to the war orphans in his commune and did not hand out food on time, although he was notified that the district administrator in person would be present on 14 May of this year to supervise the distribution of provisions to those in need; he did not attend at the village hall under pretext that he was ill (MO 1918 (73) (23 June/6 July): 1048). Likewise, the entire local council of the commune Uricani, in Iași county, was dissolved and replaced with a temporary panel, because they had failed to offer aid to the war widows and orphans in their care (MO 1919 (237) (18/31 January): 4631).

The mayor of the commune Borșani, in Putna county, was relieved of his functions because, rather than prioritizing the needs of war widows and orphans, he distributed the food provisions to his relatives and associates (MO (1919) 39 (6 June): 2189-2190). The mayor of the commune Sârbeni in Vlașca county, was found guilty of appropriating some of the flour to be distributed to the population and of selling it to war widows, orphans, and invalids at a higher price (MO (1919) 44 (13 June): 2546).

### ***3. Towards Concerted Aid Programs for War Orphans***

Created on 5 May 1917, the *Society for the Protection of War Orphans* was to become, starting with the summer of 1919, the only state-recognized organization of this type and as such took over control of all programs meant to support this special category of children. All fund-raising had to be conducted according to specific procedures controlled and authorized by the society and all sums collected had to be paid into its account. Moreover, it was mandatory that “no action concerning war orphans should be undertaken outside the society” (MO (1918) 75 (26 June/9 July): 1088).

Although in time there were changes to the society’s statutes, its rules remained largely the same and its paramount objective remained that of

“securing shelter, maintenance funds and overseeing the physical and moral education of war orphans.” In order to carry out its program, the society commissioned a statistic of all war orphans across the country, irrespective of ethnicity, nationality, religious affiliation, or economic status. The society also assumed roles in the management of guardianship for the orphans, as well as in the creation of orphanages, hostels, kindergartens, schools, correction facilities, hospitals, and infirmaries. The society’s programs also included the supervision of the orphans’ education and acquisition of vocational skills. Not least, it also worked towards ensuring legal aid for the protection of orphans’ rights, for securing jobs, and for the hospitalization of those with chronic conditions or disabilities, as well as offering financial support to orphaned girls upon their marriage (MO (1919) 19 (10 May): 1046-1049).

To enable it to carry out its nationwide program, the society had a Central Council, but opted for devolution at regional and local levels (Iliev 2014: 184). Initially, there were six regional sections with headquarters in Iași, Bucharest, Craiova, Kishinev, Cernăuți, and Sibiu. In addition, there were county and communal committees, operating under rules established by the Central Council (MO (1919) 19 (May 10): 1046-1049).

Making payouts to those who suffered from the war was a priority. To facilitate and speed up the process the War Ministry issued decision no. 75 on 28 February 1919 for the establishment of a special service called the *Office for lower-grade pensions* (*Serviciul pensiilor grade inferioare*). Those entitled to receive a pension no longer had to travel to Bucharest, but could apply at mayoral offices in their communes. Subsequently, recruitment centers, created at the same time, helped with collecting all the documentation required for the processing of the pension applications. The document stipulated that war orphans “formed a category of young people to whom the army and the nation owed all the support in establishing their rights to a pension, because their parents have paid the ultimate price on the battlefield.” Moreover, given that the number of applicants was large and the process lengthy, a decision was made to make interim payments of allowances: 30 *lei* for one orphan, 35 *lei* for two orphans, and 40 *lei* for three or more orphans (MO 1919 (260) 17 February/2 March: 5460-5461; (274) 6/19 March: 6120).

To speed up the application process, a later ministerial decision, no. 392 of 14 August 1919, provided for a devolution of the entire system. Thus, whereas previously only the *Office for lower-grade pensions* was allowed to coordinate the process, the new decision of the War Ministry created special pension offices operating under every territorial military authority. The task of these offices was to accelerate the activities of the recruitment centers: the

target was to make at least 100 comprehensive grants of aid to applicants up to the date of 1 July 1920 (MO (1919) 97 (17 August): 5371-5372).

While the entire grant-making process, whether stemming from the *Society for the Protection of War Orphans* or from the War Ministry, was controlled by the central authorities, it is worth noting that the later adoption of devolution illustrated a concerted program across various state and societal bodies meant to increase the efficiency of measures taken to support war orphans.

Data from the *Official Gazette* (MO) show that state authorities constantly looked out for those who suffered from the fallout of war. On 30 December 1918, in his response to the king's message, Nicolae Iorga, the chairman of the Chamber of Deputies, mentioned the ongoing concern of the Senate and the government over the fate of the descendants of those fallen on the battlefields. In July 1920, in the same capacity, it was Duiliu Zamfirescu who spoke explicitly of the need "to promote legislation aimed at protecting and making life easier for war invalids and orphans as a way of paying the nation's debt to them" (MO (1919) 205 (31 December): 10912; MO (1920) 98 (4 August): 3454). This statement was practically a preamble to the law that established the National Office for war invalids, orphans, and widows.

#### ***4. The Establishment of the National Office for War Invalids, Orphans, and Widows and its Aid Program***

The *Law for the establishment of the National Office for war invalids, orphans, and widows* was published in the *Official Gazette* on 2 September 1920. It had ten main chapters and a total of fifty-eight articles. The main objective of this body was defined from its inception as identifying the rights of those who suffered in the aftermath of war and issuing the papers and certificates supporting their entitlement to benefits and support. The office was also in charge of supervising the material and moral welfare of all these social categories as well as of processing their claims or complaints. Regarding the latter group, one key task established by the law envisaged the offices' duties for "the upbringing, education, and instruction of war orphans, defined as *Wards of the Nation*, to be educated in environments that were as close as possible to their original social background." (MO (1920) 119 (September 2): 4143). One basic principle enshrined by law in the office's statutes was a requirement to educate for and by work: orphans, too, had to be able to perform a lucrative activity according to their abilities and skills.



Article 3 of the law included a definition of a war orphan as one who was going to benefit from the protection of the National Office. This category was to include: “all persons who were orphaned as a result of the war or of war-related causes.” (MO (1920) 119 (September 2): 4143).

The institution had a fairly centralized structure, comprising a central office with headquarters in Bucharest and a network of county offices. It is worth noting that a number of charitable societies, such as for example, the aforementioned *Society for the Protection of War Orphans*, became subsidiary bodies and their budgets had to be approved by the central office. Moreover, all those who in the future would have wished to create societies for the protection of orphans, orphanages, hostels, and other similar establishments had to seek the authorization of the National Office. Not least, the task of coordinating the activities of county offices and aid institutions was entrusted to a central committee under the patronage of Romania’s queen.

Chapter VIII of the Law covered the special provisions made for the three social groups. Article 39, for example, stipulated explicitly that pensions had to be paid out on a monthly basis and as a priority. Orphans had a 75% discount on all train, fluvial, and maritime transport across the Romanian state’s territory. If they traveled to deal with their pension application, they were exempt from paying the fare. They had a 50% concession on tickets to state-subsidized shows and reservations on 5% of the seats at national celebrations. Not least, war orphans had the right to be granted property, tax exemptions in all state schools, as well as a series of allocations and benefits in sanatoria and spas (MO (1920) 119 (September 2): 4143-4151).

Summing up, the *Law for the establishment of the National Office for war invalids, orphans, and widows* granted the state the main role in the coordination of all welfare, juridical, and health care aid, as well as all educational and training activities meant to support orphans who lost one or both parents in WWI (Hariton 2014: 129).

The *Statutes for the application of the Law on the establishment of the National Office for war invalids, orphans, and widows* were published in the *Official Gazette* (MO) on 31 December 1920 and included 404 articles. It was an extended variant of the Law of 2 September 1920 that established in detail the scope, structure, and roles of the office.

In terms of structure, the organization consisted of a Central Office, comprising the Central Committee and General Directorate, and of county offices, comprising county committees and directorates. All these bodies were under the control of the War Ministry and were directly accountable to the minister and his deputies (MO (1920) 217 (December 31): 9019).

Article 5 of the statutes summarizes much more precisely than the law the general program of the National Office, which aimed at “overseeing constantly the moral and material welfare of war invalids, orphans, and widows.” Moreover, compared to the legislative text, the statutes indicated that the state meant to take a more decisive stance: the verb “to watch over” used in the article of the law was replaced with “to oversee” the interests of war orphans in the statutes (MO (1920) 217 (December 31): 9019).

The statutes also included an entry on special benefits allocated to war orphans: alongside fee waivers in state schools, they were to benefit from priority admission to public and private schools of agriculture, industry, and trades. In addition, admission and treatment in state hospitals were to be free and priority was offered to war orphans in establishments that provided treatment for tuberculosis, or for hearing, speech, and sight impediments. War orphans were also given priority for admission to orphanages, hostels, and military establishments at national, county and commune level (MO (1920) 217 (December 31): 9024-9025).

A very important principle, spelled out in the text of the Law for the establishment of the National Office and later in the regulations for the law’s application, was the notion of assistance through work. Specifically, this meant that all those affected by war, but fit to work, had to be guided towards performing lucrative jobs to sustain their daily living. War orphans were to receive tools, materials, and financial aid at the start of a new trade and be rewarded with bonuses and awards for their work. Others were to be offered employment at commercial or manufacturing firms. Orphaned girls were to be given financial support upon marriage. Orphans with academic aptitudes were to be supported to start courses in various schools (MO (1920) 217 (December 31): 9024-9025).

The activities of all subsidiary societies, including the Society for the Protection of War Orphans, were placed under the permanent control of the National Office for war invalids, orphans, and widows. The Office was to monitor their finances, checking and authorizing their general budgets. In addition, deputies of the War Minister were to sit in the regional committees of the Society.

As mentioned earlier, both the law and the statutes of the National Office mentioned the requirement for all those who wished to create associations of support for those affected by war to obtain central authorization. The statutes went even further than the law in specifying the circumstances in which such organizations had to be dissolved: for example, when violations of the statutes and regulations occurred, when they avoided

the checks and controls of the Office and the authorities, or when funds were channeled towards personal gain or objectives for which they had not been earmarked. There were also measures in place to preempt the abuse of persons in the society's care or the use of their labor for personal gain, as well as the use of the premises and buildings for corrupt or illegal practices. Not least, the society was not to organize activities that contravened the interests of the state, of the monarchy, or of the existing political order (MO (1920) 217 (December 31): 9033).

The Society's statutes reprised the definition of those deemed to be war orphans with a few added details. An orphan could be bereft of one or both parents as a direct result of military operations (firearm incidents, artillery and aerial bombardments, disease, toxic gas attacks, accidents during military service or forced labor, etc.) or of negative consequences of warfare (epidemics, famine, migration, evacuations, etc.).

The statutes stipulated that protection was to be granted equally to legitimate children and to those later recognized as legitimate, and normally lasted until these children came of age. The Society's support could cease earlier if the orphan was adopted, got married, or was in a position to support himself or herself through work (MO (1920) 217 (December 31): 9033-9034). The statutes also listed the duties of orphans: they had to perform the jobs and services allocated to them by the Office, act as good citizens, and accept the aid and protection offered to them. Begging, soliciting, thieving, and other reprehensible acts were to be penalized and those found guilty sent to correction facilities (MO (1920) 217 (December 31): 9034).

The statutes of the Office for war invalids, orphans, and widows also established a range of directorates: the directorate for lower-grade pensions, for welfare, for health care, for conflict resolution and legal aid, for technical services, and one for bursarship and provisioning.

The directorate for lower-grade pensions continued the work of the service for lower-grade pensions created in 1919: it issued pensions and benefits for several categories of persons affected by the war, including war orphans or dependents of those missing in the war.

The scope of the directorate for welfare included arranging residential assistance for all orphans across the national territory, securing work placements in workshops and factories, apprenticeship contracts, and other employment schemes for all those able to work. The directorate also liaised with the subsidiaries, with private protection agencies, and charities when orphans needed emergency help. It was also within its remit to seek cheap accommodation and sort out adoption procedures for war orphans.

The directorate for welfare also had a role in compiling a nationwide census and maintaining records of war orphans. This was done in cooperation with a bureau for general statistics, which was tasked with compiling the so-called “Statistical Register no. 3 of War Orphans.” The register was to include, by county and commune: the surname and name of the orphan, home address, age, military status of the father, the mother’s situation, the start date of guardianship, the guardian’s name, data on members of the family committee, on the orphan’s fitness for work, and other information.

The directorate for health care monitored the activities of medical establishments catering for war orphans, medical and sanitary services at home, and controlled the level of care offered to war orphans by doctors and other medical practitioners (MO (1920) 217 (December 31): 9045). Doctors were expected to perform health checks and offer free medical assistance to orphans placed under the guardianship of families or in the care of the Society for the Protection of War Orphans; those found to suffer from serious conditions had to be admitted into hospitals. They were also to benefit from free prescriptions and medical equipment as issued by medics appointed by the Office (MO (1920) 217 (December 31): 9046).

The directorate for conflict resolution and legal aid had to offer juridical assistance on all matters related to the rights, pensions, and allowances due to war orphans, to oversee the guardianship arranged for wealthier orphans, remove abusive guardians, and replace members of family committees. A novelty introduced by the society’s statutes was the notion that the directorate for conflict resolution could depart from the principles of the civil code and allow women to be members of family committees or to become guardians (MO (1920) 217 (December 31): 9047).

The directorate for technical services dealt with improvements, refurbishments, and repairs at hostels, orphanages, and correctional facilities, as well as with the general maintenance of the buildings and organizing auctions. The directorate also contracted work done exclusively for the benefit of war orphans, with the participation of a deputy of the director general of the National Office for war invalids, orphans, and widows. (MO (1920) 217 (December 31): 9048).

The bursar and the directorate for provisioning were tasked with providing food, fuel, clothing, and other essential goods to those who suffered from the war or to the establishments for war orphans. The distribution of these supplies was organized on the basis of vouchers issued by the directorate for welfare (MO (1920) 217 (December 31): 9048).

The actions to be taken for the social, juridical, and medical care of children and for the upbringing and education of war orphans were officially prescribed by the Law for the establishment of the National Office for war invalids, orphans, and widows, but it was the statutes that specified such programs in greater detail. Moreover, the statutes created specialized directorates with clear-cut roles in the assistance of children left without parental support after the war. The general principles of the regulations remained in force; a few articles on organizational structure and coordination strategies were changed in the *Law for the modification of the law on the establishment of the National Office for war invalids, orphans, and widows* (*Legea pentru modificarea unor articole din legea Oficiului Național al invalizilor, văduvelor și orfanilor de război*), published in the Official Gazette of 14 April 1922. The most important changes were: 1. the transfer of the office from the control of the War Ministry to that of the Ministry for public health, work, and welfare, and 2. placing the Service for lower-grade pensions under the authority of the War Ministry (MO 1922 (11) April 14: 498-499). These changes were subsequently incorporated in the *Regulation for the functioning of the National Office for war invalids, orphans, and widows, and for the development of national programs of social assistance* (*Regulamentul pentru funcționarea oficiului național invalizi, orfani și văduve de război și pentru organizarea și dezvoltarea operelor de asistență națională*), published in the Official Gazette on 29 April 1922 (MO (1922) 20 (April 29): 874-894). New legislation was published five years later in the Official Gazette of 5 May 1927: the *Law for the modification of the law for the establishment of the National Office for war invalids, orphans, and widows of 14 April 1922 and of articles for the organization on the Ministry for Health and Welfare of 23 March 1926* (*Legea pentru modificarea legii pentru înființarea Oficiului național al invalizilor, orfanilor și văduvelor de război din 14 aprilie 1922 și a unor articole pentru organizarea Ministerului Sănătății și Ocrotirilor sociale din 23 martie 1926*) returned the National Office to the authority of the War Ministry (MO (1927) 97 (May 5): 6189-6199). It was to remain under its jurisdiction until 20 January 1928, when it reverted to the Ministry for Health and Welfare.

The state's involvement in supporting social groups that suffered in the aftermath of war was evident. The law of 1920, the statutes, and their subsequent modifications laid the foundations for a system of control over charitable organizations, which became subsidiary support bodies. Moreover, the state assumed direct and absolute control via legislation such as: the *Law for the organization of the General Department for War Invalids, Widows, and Orphans, for former combatants and all members of organizations covered by the law on pensions for invalids, orphans, and widows* (*Legea pentru organizarea Eforiei Generale a Invalizilor, Văduvelor și Orfanilor de Război, a foștilor luptători, precum și a membrilor tuturor*

*organizațiilor prevăzute în legea de pensionare a invalizilor, orfanilor și văduvelor*), published in the *Official Gazette* of 6 March 1937) and the *Regulation for the application of the Law of 6 March 1937 for the organization of the General Department for War Invalids, Widows, and Orphans, for former combatants and all members of organizations covered by the law on pensions for invalids, orphans, and widows* (*Regulamentul de aplicare a legii din 6 martie 1937, pentru organizarea Eforiei Generale a Invalizilor, Văduvelor și Orfanilor de Război, a foștilor luptători, precum și a membrilor tuturor organizațiilor prevăzute în legea de pensionare a invalizilor, orfanilor și văduvelor*), published in the *Official Gazette* on 12 July 1937. The outcome of this series of laws was the dissolution of the National Office for war invalids, orphans, and widows and the transfer of all bodies, services, establishments, and county offices for invalids, orphans, and widows to the authority and management of the General Department (*Eforia Generală*). Essentially, the General Department became the sole organization “that exercised direct control across the country’s territory over all activities of assistance, guidance, management, control, and monitoring of protection programs for war invalids, widows, and orphans.” The Department was accountable to the Ministry for work, health, and welfare (MO 1937 (54) March 6: 2006-2008; (157) July 12: 6253-6259).

### **5. Establishing the Financial Rights of War Orphans**

Alongside the *Law for the establishment of the National Office for war invalids, orphans, and widows*, on 2 September 1920 the *Official Gazette* also published the *Law on the ratification of decree No. 70/918 and on the introduction of modifications and additions to the law on the revision of lower-grade pensions decreed under No. 3244/916* (*Legea relativă la ratificarea decretului No. 70/918 și introducerea unor modificări și adăugiri în legea privitoare la reformarea și pensionarea gradelor inferioare decretată sub No. 3244/916*). This law specified the circumstances under which the widows and children of soldiers who had died or were missing in action could be considered for financial compensation. For example, according to article 27 and the data in the table in article 5, if the deceased soldier had been married, leaving behind one or two children, benefits to his descendants amounted to 75 lei; if he left three or more children, the benefits allocated were 100 lei (MO 1920 (119) September 2: 4152-4153). Also on 2 September 1920, the *Official Gazette* published the *Law on the ratification of decrees Nos. 4017/919, 4856 bis/919 and on changes and additions to the pension allocations for those who took part in the war for national unification* (*Legea relativă la ratificarea decretelor No. 4017/919, 4856 bis/919 și la introducerea unor modificări și adăugiri în acele decrete privitoare la pensiunile celor care au luat parte la războiul pentru întregirea neamului*). This comprised 53 articles that prescribed important norms for pensions to be allocated to war

orphans. For example, according to article 11, a widow was to receive a full pension until her youngest child, irrespective of gender, came of age. If there were more than three minor orphans, they were to receive the entire pension due to their deceased father. Orphaned daughters were to receive an allowance until they married. Minor children adopted by the deceased father were to enjoy the same rights as legitimate children (MO 1920 (119) September 2: 4158). Article 41 of the law established that, if a man missing during combat or events related to the war did not resurface six months after mobilization, he was to be deemed deceased and his descendants were entitled to a pension. During the mobilization period and for six months after demobilization, the family of the missing man was to receive a quota of his soldier's pay (MO 1920 (119) September 2: 4161). The Ministerial Decision no. 619 of 14 October 1920, published in the *Official Gazette* on 15 October, stipulated that all norms for lower-grade pensions were also to be applied to military personnel who served in foreign armies but subsequently became Romanian nationals. This group included military staff who, either before or after the reintegration of Bukovina, Bessarabia, Transylvania, Banat, and other Hungarian-controlled territories, were readmitted or not into the ranks of the Romanian army. Their rights were to be granted to their descendants as well, including orphans.

That same ministerial decision created bureaus for lower-grade pensions to be allocated to individuals in the reintegrated territories: one bureau was headquartered in Cluj, and a second one in Sibiu. They were tasked with processing the applications for pensions by descendants of the deceased and with the translations of documents from Hungarian and German into Romanian. Similar bureaus were set up in Bukovina with headquarters at Cernăuți (Chernowitz), and in Bessarabia, with headquarters at Chișinău (Kishinev). Both were placed under the direct supervision of the National Office for war invalids, orphans, and widows (MO 1920 (154) October 15: 5454).

The *Regulation on the law for revised lower-grade pensions of 1916 and additional modifications* (*Regulamentul legii privitoare la reformarea și pensionarea gradelor inferioare din 1916 cu modificările ulterioare*) was published in the *Official Gazette* on 4 January 1921 and comprised 85 articles. It was an expanded variant of the Law of 21 December 1916 and its subsequent modifications and established in detail the criteria for allocating pensions and the sums due to wounded or invalided soldiers as well as to the descendants of those who died in the war.

The category of descendants included, among others, legitimate widowed wives, with legitimate orphaned children under eighteen years of age,

as well as legitimate orphans of the deceased soldiers, under eighteen years, unmarried, and placed in guardianship.

Article 45 of the law established the quota of payments due to the descendants of the deceased soldier: 75 *lei* when he left a widow with one or two children, and he had the rank of private or corporal; 90 *lei* if he was a sergeant. A widow with three or more children was to receive a pension of 100 *lei* if her husband had been a private or corporal and 120 *lei* if he had been a sergeant.

If the deceased soldier left behind one or two orphans, placed under legal guardianship, the sum they were to receive was 75 *lei* if the father had been a private or corporal. If he had been a sergeant, the amount was 90 *lei*. If the deceased father had been a private or corporal and left behind three or more orphans and they were under guardianship the pension was to amount to 100 *lei*, or 120 *lei* if the father had been a sergeant (MO 1921 (220) January 4: 9196).

The *Regulation* also stipulated in detail the documents needed for the application for pensions of lower-rank military who died in the war. A widow with children had to submit a transcript of her deceased husband's records showing the date when he was mobilized, the rank at death, as well as the date when he went missing or died. Also required was an extract of the military's death certificate transcribed from the civil registers in the location where the deceased man had his last residence. In cases where the circumstances of the soldier's death were not explicit (on the battlefield, in combat near specific localities, hit by a bullet, as a result of wounds sustained in combat, or of diseases such as typhus), additional evidence was required. These included reports from the military authorities, circulars from the army commanders of units where the deceased had served, notifications from the Red Cross, statistics of the War Ministry, and other papers that documented the death of the soldier in question. Not least, the dossier had to include a substitute certificate detailing marital status and the legitimacy of the marriage, the births of minor children, the fact that the marriage had not been dissolved prior to the soldier's death, as well as proof that the widow and children lived together at the specified address. The same evidence had to be provided for orphans whose fathers had died in the war and whose mother was also deceased: in such cases, a copy of the mother's death certificate and a legalized copy of the guardianship arrangements had to be submitted as well (MO 1921 (220) January 4: 9196-9197).



The *Regulation* also established rules for the transmission of pensions, as well as for changes in the amounts paid out or their cessation. For example, if the widow died before she was allocated a pension, her minor and unmarried children were to be placed under guardianship and were to receive the entire amount of the financial allocation due to the parent. Likewise, when the widow died, her rights were transferred in their entirety to her children, now treated as orphans. When the children of the deceased soldier were placed under the guardianship of persons other than their widowed mother, the 30% of the quota due to her was terminated and the rest, 70%, was distributed equally among the orphans.

Pensions allocated to underage orphans and administered by their guardian ceased when they came of age, married, or died. In such cases, certificates of marriage or death were added to the dossier and the pensions were terminated (MO 1921 (220) January 4: 9198-9197). The regulation also established living allowances for war orphans for whom guardianship was not legally set up early enough. Article 67 specified that the pensions, financial support and living allowances were to be tax-exempt (MO 1921 (220) January 4: 9199-9200).

The *Statutes of the law for the pensions of those who took part in the war for national integration* (*Regulamentul legii privitoare la pensile celor care au luat parte în războiul pentru întregirea neamului*), published in the *Official Gazette* on 5 February 1921, comprised 53 articles, like the law itself. The entry “documents required for the orphans’ pension application” further defined the criteria for an individual’s inclusion in this category and made further specifications that were not present in the text of the law itself.

This regulation included a paragraph listing the documents required for the pension application of children “whose father died in the war or as a result of disabilities incurred during the war, as well as underage children, or unmarried girls, whose mother died.” For the application to be processed the required documentation included: an extract of the death certificate issued by the civil officer; an extract of the parents’ marriage certificate; a statement from the civil officer that the parents’ marriage had not ended in divorce; copies of the birth certificates of all minors; a report issued by the war ministry on the circumstances and causes of the father’s death; a copy of the mother’s death certificate. For adopted children a document was required showing that the adoption decision had been made before the father died or went missing. In the case of orphaned girls, the statutes required the addition of a statement from three neighbors, certified by the local council, attesting that the girls were not married (MO 1921 (242) February 5: 10436-10437).

There was a category of persons whose financial support was set up some time later, through the *Law for the pension rights of invalidated former volunteers from Transylvania, Banat, Bukovina, and Macedonia and of their widows and orphans* (*Legea pentru reglarea drepturilor la pensie a invalizilor foști voluntari ardeleni, bănățeni, bucovineni, macedoneni și a văduvelor și orfanilor urmași de foști voluntari*), published in the *Official Gazette* of 28 April 1933. This normative document set up the rules whereby ultimately the former volunteers and their descendants who had been affected by the war were to enjoy the same rights as the military who had served in the Romanian army (MO 1933 (97) April 28: 3044).

### **6. War Orphans: Welfare, Health Care, Property Rights, Education**

The analysis of data from the *Official Gazette* (MO) after the creation of the National Office for war invalids, orphans, and widows, shows that after that date support for those affected by the war continued apace and even intensified. The efforts of the individuals involved did not go unrewarded. For example, Mrs. Alexandrina Istrati, the chairperson of the Bessarabian section for the protection of war orphans, received the Queen Marie Cross, 1st class, for her devoted work on behalf of war orphans (MO 1920 (200) December 11: 7973). The industrialist Grigore Alexandrescu was awarded the Queen Marie Cross, 2nd class, “for his activity and donations made for the benefit of war orphans” (MO 1921 (193) December 27: 8166). John Roebing, an industry magnate from New York, received the Queen Marie Cross, 1st class, “for his intense activity and the philanthropic work for the benefit of Romania’s war orphans.” The same distinction was awarded to Mrs. Fenton Benedict Turk, a member of the Romanian Relief Committee, for her “devoted efforts in collecting funds for the support of Romanian war orphans” (MO 1924 (49) March 5: 2373).

On the other hand, there were employees of state institutions who were reprimanded and penalized for failing to act in support of the war orphans. For example, the report of the prefect of Roman county showed that members of the communal council of Chilizii had not offered any aid to war orphans and as a result that local council had been dissolved (MO 1921 (220) January 4: 9184). Other individuals working in the local administration had been removed from their posts or were arrested for having appropriated the pensions of war orphans (MO 1928 (281) December 16: 10603), or for having allocated to other persons goods that were meant for the exclusive use of orphans (MO 1928 (262) November 23: 13387).

In accordance with the principles of the law for the establishment of the National Office for war invalids, orphans, and widows, the best practice in the work for children lacking parental support as a result of the war included the creation of orphanages, hostels, and sanatoria, the distribution of funds and supplies, fee waivers, and preferential prices for essential goods. For example, the Society for the Protection of War Orphans, as a subsidiary of the National Office, had been granted many buildings that were to be repurposed as orphanages. One example was the donation of a building in Bucharest by the late Sofia D. Zottu for the benefit of orphans of former combatants at Mărășești (MO 1922 (252) February 8: 10925). Likewise, the Society was donated a building in the village Fâstâci, in Vaslui county, also for the purpose of creating an orphanage (MO 1922 (234) January 17: 10195). A rather high number of war orphans suffered from TB. A ministerial decision was taken to turn donated buildings and plots of land in the locality șanțuri, in Brașov county, into a sanatorium (MO 1922 (121) September 3: 5642-5643).

The *Official Gazette* cites cases when war orphans were allocated firewood for heating and for work if they lacked sufficient financial resources. In its session of 18 April 1921, the council of ministers approved the donation or sale at discounted prices of wood from state woodland for the war orphans (MO 1921 (32) May 14: 1074). This initiative continued in subsequent years (MO 1936 (241) October 15: 8536; 1937 (72) March 27: 3080).

Health care programs for the war orphans included a series of measures, for example contracting the services of physicians specialized in the treatment of epidemics such as granular conjunctivitis and trychophytia, which both spread in the orphanages of the Society for the Protection of War Orphans (MO 1922 (179) November 16: 8264). Other doctors were appointed to offer specialist care to war invalids, orphans, and widows: one of them was Doctor Ioan Blidariu, confirmed as consultant for the prefecture of Timiș-Torontal county (MO 1923 (18) April 26: 734).

The *Law for the organization of the ministry of health, social protection and for the modification to articles in the health act, to the National Office for invalids, orphans, and widows, and to the welfare system* (*Legea pentru organizarea ministerului sănătății și ocrotirilor sociale și pentru modificarea unor articole din legea sanitară, a oficiului național invalizi, orfani și văduve și asistenței sociale*) created in Bucharest a health center, which seven years later was transformed into a central hospital dedicated to the care of social categories created by the war, including orphans (MO 1926 (68) March 23: 3977; MO 1933 (87) April 13: 2501). These groups were also to benefit from admission to military hospitals upon recommendation from the National Office, which had to cover the cost of their meals during

hospitalization (MO 1930 (42) February 21: 1484). The *Health and Welfare Act* (*Legea sanitară și de ocrotire*), published in the Official Gazette of 14 July 1930, led to the creation of a fund one of the objectives of which was to cover some of the health care costs of war orphans (MO 1930 (154) July 14: 5391). Subsequently, through Decision 298 of 17 June 1933 of the Ministry of Defense, war orphans were to benefit from free treatment in military hospitals and sanatoria for health checks, surgery, radiology, lab tests, etc. They were, however, responsible for covering the costs of materials used for their treatment (MO 1933 (141) June 23: 4196).

War orphans were granted the use of facilities in some health spa centers, for example the spa at Pucioasa, in Dâmbovița county, where they did not have to pay for treatment (MO 1923 (148) October 5: 7403). At the “Carmen Sylva” military sanatorium at Techirghiol, in Constanța county, war orphans were offered mud treatment at reduced prices (MO 1936 (197) August 26: 7169).

The law that established the National Office for war invalids, orphans, and widows and the subsequent legislation established and reiterated the right of war orphans to acquire and own property. The *Official Gazette* chronicled many instances of the application of this norm. One such example is the decision to turn a portion of the land allocated for the town of Craiova’s weekly market into plots to be distributed to war orphans (MO 1924 (246) November 7: 12289). Plans to turn acreages in the towns of Dorohoi, Roman, Călărași, Botoșani, etc., into building plots had the same objective (MO 1925 (62) March 18: 2897; (152) July 14: 8329; (153) July 15: 8397; (179) August 18: 9410). Moreover, the *Law on the preferment to property ownership for war invalids, widows, and orphans* (*Legea pentru preferința acordată invalizilor, văduvelor și orfanilor de război la împroprietărire*), published in the *Official Gazette* on 7 July 1930, and of the Regulations on the application of the law of preferment to property ownership for war invalids, widows, and orphans (*Regulamentul privitor la aplicarea legii pentru preferința acordată invalizilor, văduvelor și orfanilor de război la împroprietărire*), published in the *Official Gazette* on 28 August 1930, stipulated that priority in the allocation of land was to be given to social groups affected and created by the war (MO 1930 (148) July 7: 5157; (192) August 28: 7254-7255).

In terms of education and instruction programs, the war orphans had full or partial fee waivers for courses, priority admission to courses and degrees if their grades allowed it, bursaries, and allocation of a quota of study grants. All these measures were adopted in accordance with the principle of assistance

through work and culminated in 1936 with a law ensuring work placements for war invalids, orphans, and widows.

War orphans had fee waivers for enrolling in military schools and were granted scholarships for the duration of their studies. If their grades matched admission criteria, war orphans had priority over the other candidates (MO 1925 (50) March 4: 2250; MO 1929 (152) July 13: 5224; MO 1930 (210) September 19: 7816). Girls orphaned in the war had priority for admission at schools for girls such as the “Ecaterina Teodoroiu” Institute for Girls in Târgu-Jiu (MO 1921 (83) July 19: 3112). The *Law for the foundation of the school of infant and primary school educators in the capital (Legea pentru înființarea școlii de puericultură și educatoare din capitală)*, published in the *Official Gazette* of 14 November 1925, stipulated that three quarters of places for those admitted to class 1 of the first cycle should be allocated to orphaned girls, preferably war orphans (MO 1925 (252) November 14: 12753).

The schools also offered scholarships to war orphans: for example, the seminary for war orphans in Câmpulung, in Argeș county, those left without parents after the war received 32 scholarships (MO 1925 (172) August 8: 9104). The *Law for secondary education (Legea pentru învățământul secundar)*, published in the *Official Gazette* on 15 May 1928, stipulated that 10% of scholarships had to be allocated to war orphans and the children of war invalids (MO 1928 (105) May 15: 4263).

Article 1 of the Law for the work placement of war invalids, orphans, and widows (*Legea pentru plasarea invalizilor, orfanilor și văduvelor de război în funcții și locuri de muncă*), published in the *Official Gazette* on 25 April 1936, stipulated that 10% of vacant posts in counties, municipalities, towns, and communes had to go to these social groups. The war orphans who continued studying for a degree above the age of 21, enjoyed the right to occupy such positions up to the age of 26 (MO 1936 (95) April 25: 3579). The *Regulations for the law for the work placement of war invalids, orphans, and widows (Regulamentul legii pentru plasarea invalizilor, orfanilor și văduvelor de război în funcții și locuri de muncă)*, published in the *Official Gazette* of 2 April 1937, mentioned the documentation required from those who wished to occupy these positions. War orphans had to supply the following documents in their applications: an extract from their birth certificate; a certified copy of their entitlement to a pension, even if no longer active; a certificate from the communal local authorities indicating their assets and livelihood; a certificate of nationality showing their ethnicity; certified copies of studies, degrees, or professional training; proof of completion of military service for those of legal age; a health certificate and one for good

conduct, issued by their residential local authorities (MO 1937 (77) April 2: 3426).

The *Official Gazette* listed a series of vacant positions specifying the 10% quota reserved for war orphans: such was the case, for instance, with a call for positions to be filled from the Chamber of work in the circumscription of Brăila, or the advert for seven posts of assistant accountant at the railways services in Bucharest (MO (1938) 165 (July 21): 3472-3473; (1939) 146 (June 28): 4103-4104).

### ***7. The Difficult Situation of War Orphans***

Despite all the normative initiatives taken for the support of war invalids, orphans, and widows, putting such measures into practice was an onerous and lengthy process. For example, a report compiled eighteen months after the creation of the National Office showed that a census of these social categories had not been completed yet and that the numbers of war orphans were only available from the statistics of the Society for War Orphans. Moreover, more than 60% of them had not yet received their allocated pensions and very few had enjoyed the special allowances of discounts on railway fares, fee waivers, property ownership rights, or treatment at spas (MO 1922 (20) April 29: 896-897).

The major economic crisis of 1929-1933 also had a negative impact on the war orphans, a fact that did not go unnoticed by the country's leaders. For example, in January 1933 Florian Fărcaș, deputy for Arad, issued a petition which decried the precarious situation of the war orphans and asked for interventions in their favor (MO 1933 (30) February 7: 897). Many of them were still without proprietary rights: such was the case of orphans in Târnava Mare county and in Bucovina (MO 1933 (56) March 14: 1742; (72) April 12: 2656).

The *Official Gazette* included alerts regarding delays in the payment of pensions to war orphans: the deputy V. Prelipceanu addressed an interpellation to the ministers for work and the treasury notifying them that these allowances had not been duly paid for three quarters of 1931 and three quarters of 1932 (MO 1933 (35) February 16: 1029). Likewise, the deputy Teodor Roznovan addressed an interpellation to the minister of the treasury, in which he stated that war orphans had suffered delays of up to nine months in the payment of their pensions. The deputy was aware of the general national crisis, but he also stated that "it is the government's duty to order payments for at least one or two quarters, given that because of the crisis and the hardship endured by the

entire country, the suffering of these groups of citizens was indeed considerable” (MO 1933 (56) March 14: 1742).

Along similar lines, in March 1933 the deputy G. Zandec outlined an even more distressing situation of the war orphans in the town of Bolgrad, in Ismail country, who had not received their pensions since 1926. Another deputy, Dr. I. Constantinescu, mentioned daily complaints he received from war orphans in the county of Neamț, who had not received their pensions. His recommendation to the minister of the treasury was “to make an effort so that those who were sacrificed for our nation should receive the sum due to them, albeit a small one, and should not have to wait for three months for its payment” (MO 1933 (63) March 27: 2035). The situation appears to have improved only three years later, when the treasury instructed that the pensions due to war orphans should be paid as a priority and in their entirety (MO 1936 (148) June 29: 5586).

### **8. Conclusions**

Having to face a multitude of difficulties and negative consequences of WWI, many states had to intervene to protect those affected by the conflict through loss of health, of life partners, and of parents. The number of those affected in the Kingdom of Romania surpassed 350,000 and the Romanian state, too, adopted norms and measures for the support of war invalids, widows, and orphans.

Deemed to be descendants of parents who had paid the ultimate price on the battlefields, war orphans were defined, on the French model, as “wards of the nations” and as deserving a grateful nation’s protection. Whereas in the immediate aftermath of the war financial and material aid came mainly from associations, high state officials, and some institutions of the Romanian state, after September 1920, it was the newly created National Office for war invalids, orphans, and widows that took over the coordination of programs for social, juridical, medical, and educational assistance. In time, the state took on roles in monitoring the work of all bodies, services, establishments, and county offices dealing with assistance to war invalids, orphans, and widows. Starting with the fourth decade of the 20<sup>th</sup> century, all were placed under the authority of a General Department (*Eforia Generală*).

The analysis of data selected from the *Official Gazette (Monitorul Oficial)*, the official state publication of the Kingdom of Romania, shows that there was an array of legislation, regulations, and decisions taken to support war orphans, but that these sometimes were difficult to implement. Therefore, the war orphans remained a fairly underprivileged category, prone to poverty,

especially in times of economic crises such as the 1929-1933 period. Nevertheless, there is still plenty of published and archival material to be studied: the further study of applications for pensions and support, claims and statements, will in the future offer a more accurate picture of the issues and difficulties faced by the war orphans.

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## BOOK REVIEW

*Orphans and Abandoned Children in European History. Sixteenth to Twentieth Centuries* (2018). Nicoleta Roman (Ed.). Routledge: Abingdon, Oxon, New York, 302 p. ISBN 978-03-673-4887-8.

Over the course of history orphans have had an ambiguous status; while they have been stigmatized by the act of abandonment itself, which was a sign of an illegitimate sexual encounter that often times turned them into the „fruit of vice and immorality”, they have also been placed under the state’s protection, becoming children of the commune, of the nation or of the state. With no paternity to claim as their own they have been included into a larger national community that urban and state authorities needed to take care of and find ways to integrate within the lower social strata.

The volume coordinated by Nicoleta Roman, researcher at the „Nicolae Iorga” History Institute in Bucharest, was, as the editor mentions in the introductory note, the result of an international workshop on *Orphans and abandoned children* organised in Bucharest, in the Fall of 2013. The studies included in the volume unveil the variety of perspectives the authors analysing the abandonment phenomenon and orphans adopted. Even though they represented a constant social reality of the early modern European history until the 20<sup>th</sup> century, which made orphans’ and abandoned children’s experience similar in isolation and stigma, they were cared for in different institutions, organized by different types of political power. It is precisely this diversity that the studies included in the volume manage to capture, painting a much broader image of marginality, misery but also at times, against all odds, of successful life stories.

Regardless of time frames and geographical position most central authorities around Europe were faced with significant numbers of children abandoned by their mothers either for financial reasons, or for social constraints. Their parents were impossible to be traced so foundlings would be placed with wet nurses, in an attempt to save their lives. However, as was the case with the children of former slaves kidnapped in their early childhood from Africa and brought to the city of Cadiz, in Spain, it was the colour of their skin that would add a new layer of stigma to these foundlings. Their future was therefore determined by the degree of metissage displayed on their skin.

Their parents, orphans such as themselves, would work as domestic servants before being able to become free people; however, their solitude caused by marginalisation was reflected by the people appointed to become legatees of their testaments, who were usually part of the former master's family or the Church.

During the 17<sup>th</sup> and the 18<sup>th</sup> centuries, illegitimacy ran high among the children these former slaves had as they had to fight the master's opposition in order to get legally married to a person with a similar status. However, despite such hardships, it was still possible for some mothers to free their children out of slavery so they could live life as free, independent individuals. (Alessandro Stella, *Orphaned, abandoned, without a family: the establishment and consequences of the institution of slavery*).

Christianity has defined European social assistance as many institutions attending to the needs of the poor have been organised by the Church. Therefore, baptism was regarded as the first measure such institutions would take when dealing with newborn foundlings. Still, as the study of Vincent Gourdon (*Should abandoned children be baptised? The French case, the sixteenth to the early twentieth century*) has shown, the political evolution of a country such as France has been reflected directly into the way the sacrament of baptism was performed. After centuries when administering baptism to an orphan child was considered part of the effort to save him, both physically and spiritually, it was the French Revolution and the turmoil it generated that changed perspectives. The mandatory baptism of foundlings started being challenged during the 19<sup>th</sup> century by civil officers who did not find it appropriate to baptise children at all costs anymore. Even though at the beginning of the 19<sup>th</sup> century baptism was the primary way to bestow an individual identity and civil existence on a new-born, the 1905 Law on the separation of the Church and State made the presentation of a birth certificate optional.

However, not all countries witnessed the same process of dechristianization that France went through; for the Romanian Principalities baptism remained a mark of social integration during the first half of the 19<sup>th</sup> century, with modest people from the lower social strata acting as god parents, or even the Prince himself, who could organize collective baptisms on special religious occasions, such as the Epiphany. Regardless of the person who would become godparent, the real work with the foundlings was left to the wet nurses, women of modest means but respectable, with children of their own and a spotless reputation. In return for a modest pay they were expected to serve as mother figure for the children. As Nicoleta Roman's study has shown (*Constructing a social identity: State, abandoned children and family in mid-nineteenth-*

century Bucharest), abandoned children in Bucharest and the surrounding areas were placed with families within the city, in the artisan quarters, unlike those in western countries, who were sent to the countryside.

Even more so in the Southern France, as was the case with Basses Alpes department at the turn of the 19<sup>th</sup> century, abandoned children were placed in foster families who would use them as a labour force. It was only the 1882 Ferry law which made primary education mandatory that disrupted this cycle, as children who were not allowed to attend school were placed with different families. Still, in the eyes of the officials in charge of their protection, abandoned boys were destined for agricultural labour or to become shepherds, and their attempts to become apprentices for any other job were discouraged and denied. At the same time girls would be guided towards domestic work, being part of the household staff for middle-class families, as a larger group of liberal professionals were experiencing higher living standards that were allowing them to employ young girls. As was the case with the boys placed in foster care, girls also wanted to work in towns since the pay was better. Their professional paths were drawn by those responsible for their care, and consequently were defined by prejudice and stigma that was caused neither by their skin colour, nor by their social origin, but by the very act of abandonment. They were therefore expected to obey the needs and expectations of a public administration that needed labour force for rural areas, deeply affected by an exodus of local farmers towards the industrialised cities. They did not have a say in shaping their future or in choosing their professions, since they were destined for manual, agricultural and service jobs. Similar evolutions were also noticeable in the Republic of Dubrovnik (Rina Kralj-Brassard, *The children of the commune: care of the abandoned children in early modern Dubrovnik*), around the same time, during the turn of the 19<sup>th</sup> century. The majority of foundlings were taken in by peasants in order to work the field and would remain in the family, who would treat them as servants, but sometimes also as adopted children, with inheritance rights. Despite some successful cases of integration, such children were the ones doing the most difficult physical jobs and were consequently placed at the bottom of the social ladder.

However, as Bárbara A. Revuelta-Eugercios has proved in her extensive study on the foundling hospital La Inclusa de Madrid (*Who should be placed in the countryside? Changing practices of rural placement for abandoned infants in La Inclusa de Madrid, 1890-1935*) not placing children with wet nurses in the rural areas turned out to be a cause for even higher mortality rates, as during the 19<sup>th</sup> century exclusively bottle fed children would rarely survive. In the end it

was wet nurses who helped such children stay alive, poor women with no other prospect other than using their body as an income source. Depicted as greedy and ignorant at times, only to later be pitied for their lack of any useful information regarding hygienic methods of rearing small children by doctors who would lead the institution, wet nurses ended up being blamed for the dysfunctional management. At the beginning of the 20<sup>th</sup> century however a shift was noticeable at the hospital, as doctors decided to keep the infants for longer periods of time inside the institution, with only more robust and generally illegitimate boys being placed sooner. As for the girls, they were sent to the neighbouring orphanage and were expected to be a part the future personnel for the hospital. In 1927, the hospital *La Inclusa de Madrid* was renamed *Instituto Provincial de Puericultura*, which meant a clear reorientation towards a highly medicalised institution. By then foundlings' chances of survival would have risen considerably due to a proper medical assistance.

The studies included in the volume cover a wide geographical area, from the Mediterranean countries or cities, such as Italy, Spain, France and Dubrovnik to the Ottoman Empire. Central European regions such as Bohemia and Austria are also represented, as are the Romanian Principalities that paint a picture on the social evolutions in the Balkan Peninsula. This transnational approach to analysing the institutions and social services designed to care and accommodate orphans and abandoned children is fruitful as it allows a longitudinal scrutiny of such organisations. Placing them in the context of the *longue durée* while also highlighting changes in mentality has allowed researchers to make important connections between regions, political regimes and different time frames. Even though the result of the research made by specialists working in social sciences, the book is not destined for peers only, as it could easily capture the interest of readers willing to discover life stories of the ones less fortunate, whose trajectories have been made visible by such studies.

Reviewed by: Camelia Zavarache  
„Nicolae Iorga” History Institute  
Aviatorilor Bulevard 1, București, Romania  
[mariacameliapopescu@yahoo.com](mailto:mariacameliapopescu@yahoo.com)

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### **Centre for Population Studies**

Avram Iancu St, No. 68, 3rd floor

400083 Cluj-Napoca, Romania

[rjps@ubbcluj.ro](mailto:rjps@ubbcluj.ro)