

## LES ENLUMINURES, LTD

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ANONYMOUS, *Stadtrecht* [Urban Customary Law for the City of Brno]  
In Latin and German, manuscript on paper  
Bohemia-Moravia, Brno c. 1450-1460

[1] + 235 folios, on paper (watermarks close to Briquet no. 11888: Trois monts inscrits dans un cercle surmonté du trait en croix: Hongrie (1433-1468), no. 2469: Balance dans un cartouche: Hongrie, 1445-1465), mostly in quires of 12, lacking last folio numbered 236 [contemporary page numbering stops at 235 with bottom pastedown numbered 237] (collation i<sup>9</sup> [12-3]; ii<sup>12</sup>; iii<sup>12</sup>; iv<sup>12</sup>; v<sup>12</sup>; vi<sup>12</sup>; vii<sup>12</sup>; viii<sup>12</sup>; ix<sup>12</sup>; x<sup>12</sup>; xi<sup>12</sup>; xii<sup>12</sup>; xiii<sup>12</sup>; xiv<sup>12</sup>; xv<sup>12</sup>; xvi<sup>12</sup>; xvii<sup>12</sup>; xviii<sup>12</sup>; xix<sup>12</sup>; xx<sup>12</sup>; xxi<sup>11</sup> [12-1] [lacking last folio numbered 236]), written in a regular bastard secretarial script in dark brown ink, copied on up to 33 long lines (justification 100 x 160 mm), by at least three different scribes, ruled in light plummet, quire signatures, some catchwords, initials in red, some initials traced in ink for rubricator (in some cases planned initials in red left wanting), rubrics in bright red, numerous marginal corrections or addenda; some amusing drawings in initials (e.g., human faces, f. 221) or in the margin (hanged person, f. 147), some worming on boards and first folios, never hindering legibility. Bound in contemporary pigskin over wooden boards, back sewn on four thongs, traces of original brass corner pieces at four corners (single corner piece still in place in left corner of bottom board), central quadrifoil brass piece, brass clasps (lacking first strap) Dimensions 145 x 215 mm.

In its original binding, this manuscript contains customary law for the city of Brno dated before 1460. The survival of urban customs is rare, and this one, mostly in Latin, testifies to the transformation of local customs in German territories from the vernacular into a more "official" international language. Organized alphabetically, the present customary is of special interest for its section on the laws concerning the Jewish community in Brno, which was not only one of the oldest but culturally and economically one of the most important of the period.

### PROVENANCE

1. Annotations on upper and bottom pastedowns in a contemporary hand, perhaps the same as the core manuscript, dated 1460 [upper pastedown]: "1460 - Per Johannem Sigismundi de Brno. Pro itinere. In Cancro Gemini Iter fac urna sagitta. Pro laxativis.

Can[cro] Scor[pio] Aquarius, Libra...". These include mostly astrological observations, although scribe also records the birth of his daughter: [bottom pastedown] "Jhesus Christus Maria...Item filia mea Agata n[atus] est [...] M. CCCC. LXI... [1461 ?]." Contemporary annotations in German, copied on bottom pastedown: "Die masse einer rechten deworzen meyle / Das ist die mase..."

2. Nineteenth century annotations on first flyleaf, in German [?], dated 1836.
3. Ownership plate pasted on first flyleaf: "Ex-libris Serrigny". Typed note on letterhead, addressed to the owner, Général Serrigny, and signed by the curator B. Faÿ, dated 22 May, 1943: "Bibliothèque nationale / L'administrateur général". Reads as follows: "Mon Général / Votre manuscrit est un coutumier du XIVe-XVe siècle, concernant les territoires impériaux (Autriche, Moravie, Hongrie, mais plus spécialement Moravie). Nous Avons à la Bibliothèque nationale un bon nombre de Coutumiers, mais nous n'en avons pas de cette région et par conséquent, si vous vouliez nous en faire don, nous serions pénétrés de gratitude. Le cas échéant, je pourrais même vous l'acheter./ Si vous voulez reprendre votre volume, il est à votre disposition à mon bureau. / Veuillez agréer, mon Général, l'assurance de mon dévouement le plus profond. / B. Faÿ."

## TEXT

ff. 1-218, Customary Law for Moravia, organized alphabetically "actor" to "vulneribus"; rubric, *Utrum actori et reo cedat totus dies*; incipit, "[A]nno domini Mo trecentesimo xliiio 3o [1343]. Summa prima reus rustici de Schibnicz petuerit sed super casu sub scripto...Qui rustici de Schibnicz per juratos Brunenses [Brno] taliter sunt informati..."; last heading (not rubricated), *Quod wulneribus homicidys mortificationibus furtis spolys et [...] violationibus domorum invasionibus virginum educationibus et alys causis terminalibus ex per sumptionibus quandoque judicantur...*;

Amongst the topics raised in alphabetical order in the text, there is a sequence of entries detailing the status of the Bohemia-Moravian Jewish community, as follows:

f. 124, rubric: *De judeis utrum in agenda et [...] judeus possit dici probus vir [...]*; f. 124v, rubric: *Item ad idem de judeis quantum ad furta et causas criminales*; f. 126, rubric: *De judeis quantum ad accusacionum et defensorum*; *De judeis quantum ad debita soluta et testimonio juratorum contracta [...]*; f. 126v, rubric: *De judeis quantum ad forma jurandi*; *De judeis racione vulnerum [...]*;

ff. 218-235v, Privileges, liberties, and tax exemptions for the city of Brno ; f. 218, heading, *Cives Brunenses [Brno, Moravia] liberi sunt a theloneo per Bohemiam et Moraviam...*; [theloneus - in French: *tonlieu* (This concerns the tax levied on merchandise, generally at the entrance of a village or city for a local market or a fair); incipit, "[P]ost occisionem..."; f. 219v, heading: "Quod cives Brunenses non debent [...] de heredibus"; f. 224, heading: "Quod judei perparatione muri et fossati civitati debent contribuere quantam partem";

In law, custom or customary law consists of established patterns of behavior that can be objectively verified within a particular social setting. The modern codification of civil law developed out of the customs or *coutumes* of the Middle Ages, expressions of law that evolved in particular communities and were slowly collected and written down by local jurists. Such customs acquired the force of law when they became the undisputed rule by which certain entitlements or obligations were regulated between members of a community.

The present customary includes the customs for town of Brno in Moravia, which is the former capital of this region, now included in the Czech Republic. With its passages in German (ff. 61v-63v), it reflects the German colonization of Moravia, begun under Henry Wladislaw, greatly increased under his successors Henry Wladislaw II and Premysl, as the invasions of the Mongols in 1241 and the Cumans in 1252 had swept away numbers of the inhabitants into captivity. This immigration of Germans led to the formation of German townships, the development of which was encouraged by the Premysl family, especially by Ottakar II. The privileges, accorded to these towns in Moravia, were based generally on those of Magdeburg and Nuremberg. The inclusion of passages of this Customary in German, while the core of the manuscript is in Latin, reflects the transformation of legal documents in the German territories (especially Bohemia and Poland) studied by Bardarch and Sojka-Zielinska. They note that not only in Brno but in Krakow and Wroclaw German was considered as the language for legal acts until the middle of the fifteenth century when law books began systematically to be translated into Latin (in "Le droit coutumier dans les pays du Nord-Est européen," *La coutume. Deuxième partie, Europe occidentale médiévale et moderne*. Société Jean Bodin pour l'histoire comparative des institutions, Congrès 22, Bruxelles, 1984 [Bruxelles, De Boeck Université, 1990], p. 11).

The inclusion of the section on the Jewish community is interesting in the context of the history of the Jews in Bohemia. Their history is one of the oldest in Europe: the chronicler Cosmas mentions from 1091 the presence of Jewish merchants in Prague, who sold jewels, rare textiles, salt and spices, and who formed a cultural and economic entity already in this early period. Although the Jews in Bohemia experienced pogroms in the Middle Ages, discrimination against them was less frequent than elsewhere. In fact, from 1254, King Premysl Otakar II formulated a statute of toleration of the Jews, at the same time that their situation in the rest of Europe had deteriorated following the Lateran Council of 1215. According to the statute in effect in Bohemia, the Jews could freely practice their religion, and it was further stipulated that any attack on a Jew constituted an attack against the royalty! Thus, from the thirteenth to the eighteenth century, the Czech territories served as an important refuge for Jews banished from other western European countries.

## LITERATURE

Gilissen, L. *La Coutume* (Typologie des sources du Moyen Age Occidental), Fascicule 41, Turnhout, Brepols, 1982.

Munzel, D. "Posener Rechtsbuch," in *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 3, Berlin, 1984.

Peterka, O. *Rechtsgeschichte der böhmischen Länder*, vol. 1, Reichenberg, 1923.

Van Dievoet, Guido. *Les coutumiers, les styles, les formulaires et les "artes notariae"* (Typologie des sources du Moyen Age Occidental), Fascicule 48, Turnhout, Brepols, 1986.

[Colloquium]. *La coutume. Deuxième partie, Europe occidentale médiévale et moderne*. Société Jean Bodin pour l'histoire comparative des institutions, Congrès 22, Bruxelles, 1984 [Bruxelles, De Boeck Université, 1990].

[Colloquium]. *La coutume. Troisième partie, Europe orientale, Asie et Islam*. Société Jean Bodin pour l'histoire comparative des institutions, Congrès 22, Bruxelles, 1984 [Bruxelles, De Boeck Université, 1992].

## ONLINE RESOURCES

Excellent overview on medieval law

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