

Jews in Medieval Christendom

“Slay Them Not”

Edited by

Kristine T. Utterback
Merrall Llewelyn Price



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CODIFYING JEWS: JEWS IN AUSTRIAN TOWN CHARTERS OF THE THIRTEENTH AND FOURTEENTH CENTURIES*

Birgit Wiedl

Jewish settlement took place rather late in the region of today's Austria, compared to other parts of the German-speaking area, namely the cities along the Rhine.¹ Until the late twelfth century, Jews appear only as merchants who are passing through the country.² Although the number of Jews dwelling in the countryside should not be underestimated, it was the (few) urban centers that attracted the majority of Jewish settlers. Full-fledged Jewish communities developed from the early thirteenth century onwards mainly in the cities in the eastern part of today's Austria; however, the positioning of the Jewish inhabitants within the Christian surroundings, particularly with regard to their legal standing, was to be defined in a lengthy process that had only just begun. This was partly due to the equally late development of the Austrian cities and their peculiarities in terms of rulership.

Unlike many of their neighboring cities in today's Germany, medieval Austrian towns never managed to liberate themselves from the strong grip of their rulers. Despite the existence of urban centers in the early Middle Ages, it was not until the early thirteenth century that Austrian

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¹ From the vast literature on the three main Jewish communities (*Kehillot Shum*: Speyer, Worms, Mainz), see the summary by Rainer Barzen, "Jewish Regional Organization in the Rhineland: the *Kehillot Shum* around 1300," in *The Jews of Europe in the Middle Ages (Tenth to Fifteenth Centuries): Proceedings of the International Symposium Held at Speyer, 20–25 October 2002*, Christoph Cluse, ed. (Turnhout: Brepols, 2004), 233–43.

² The article appeared in a slightly altered version in German; see Birgit Wiedl, "Juden in österreichischen Stadtrechten des Mittelalters" in *Österreichisches Archiv für Recht & Religion* 57.2 (2010), 257–73. The first mention of Jews on today's Austrian territory is the Raffelstettener Zollordnung, a toll regulation from between 903–906 that referred to *iudei et ceteri mercatores*, Jews and other merchants; see Eveline Brugger and Birgit Wiedl, *Regesten zur Geschichte der Juden in Österreich im Mittelalter. Vol. 1: Von den Anfängen bis 1338* (Innsbruck: StudienVerlag, 2005), 15, nr. 1 (the whole book is downloadable as a pdf-file at: http://www.injoest.ac.at/projekte/laufend/mittelalterliche_judenurkunden/index.php?lang=EN, last accessed: 2 July, 2012). See also Eveline Brugger, "Von der Ansiedlung bis zur Vertreibung—Juden in Österreich im Mittelalter" in *Geschichte der Juden in Österreich*, Eveline Brugger et al., ed. (Vienna: Ueberreuter, 2006), 123–228 (123–24).

towns were officially granted town privileges³ which, although addressing the constitution of a city council, show a clear dominance of economic issues.⁴ Furthermore, the Austrian duke who issued these early charters strengthened his position by keeping firm control over the composition of the city councils; later on, the rulers in the territories of today's Austria would prefer to hand over the control of administrative offices than to relinquish control of legislation. Even in Vienna, which had rapidly gained in importance from the mid-twelfth century on due to the interest the ruling Babenberg family had taken in the city,⁵ and although the flourishing of the city was based on the swift rise of individual members of the citizenry, this entailed only a reluctant expansion of legal liberties in comparison to the liberties enjoyed by other cities in the German-speaking area at that time.

This applies even more to the many smaller towns within the realms of what makes up today's Austria, which were under the authority of a great variety of rulers. Despite the ongoing consolidation of territories during the late Middle Ages, many regions remained scattered in terms of rule. Especially in the duchies of Styria and Carinthia, a considerable number of towns were under the rule of a sovereign that was different from the one governing the surrounding area—for example, the enclaves of the Archbishops of Salzburg in Friesach (Carinthia) and Pettau (Lower Styria, today's Ptuj/Slovenia), St. Pölten in Lower Austria, which was not only in the diocese but also under the secular rule of the Bishops of Passau, or the Carinthian towns of Wolfsberg and Villach under the rule of the Bishops of Bamberg,⁶ to name but a few.⁷

³ Enns in 1212, Vienna in 1221. *Die Rechtsquellen der Stadt Wien*, ed. by Peter Csendes. *Fontes Rerum Austriacarum III: Fontes Iuris 9* (Vienna: Böhlau, 1986), 30–39.

⁴ Ferdinand Opll, "Geschichte Wiens im Mittelalter—vom frühen 13. bis zum Ende des 14. Jahrhunderts" in *Wien: Geschichte einer Stadt, Vol. 1: Von den Anfängen bis zur Ersten Türkenbelagerung 1529*, Peter Csendes and Ferdinand Opll, ed. (Vienna: Böhlau, 2001), 95–144 (101–02).

⁵ Ferdinand Opll, "Wien—nach Köln eine der bedeutendsten Städte des Regnum Theutonicum. Ein Städtevergleich," in *Mitteuropäisches Städtewesen in Mittelalter und Frühneuzeit*, Wilhelm Janssen and Margret Wensky, ed. (Cologne: Böhlau, 1999) 63–90 (see 80–81 for the—rather brief—comparison of the two Jewish quarters of Vienna and Cologne); Opll, *Geschichte Wiens im Mittelalter*, 96–98.

⁶ Irma Koller-Neumann, *Die Lehen des Bistums Bamberg in Kärnten bis 1400*. Das Kärntner Landesarchiv 7 (Klagenfurt: Verlag des Kärntner Landesarchivs, 1982).

⁷ For more detailed insight into the sovereignties in Carinthia and their relationships with the Jews, see Wilhelm Wadl, *Geschichte der Juden in Kärnten im Mittelalter. Mit einem Ausblick bis zum Jahre 1867*, 3rd Ed. Das Kärntner Landesarchiv 9 (Klagenfurt: Verlag des

However, neither the most important towns nor towns outside the geographical boundaries of the “mainland” and thus remote from the center of authority managed truly to liberate themselves from the grip of their respective rulers. Therefore, the legal position of Jews⁸ in Austrian towns was first and foremost defined and assigned by the ruler.⁹ Legal provisions dealing with Jews and their living conditions in Austrian towns appeared in three different types of documents, all of which were issued by the ruler even if some of these were merely confirming an already existing common law.

Town charters sometimes included regulations concerning the Jews that lived within the boundaries of the town, whereas *general privileges* for the Jews (following the model of the all-encompassing imperial claim)¹⁰ applied to all Jews living under the governance of the respective ruler, be they urban or rural dwellers.¹¹ The third type of document consists of a single exception, an *imperial privilege* for the Jews of Vienna¹² which had been granted to them due to the ongoing power struggle between

Kärntner Landesarchiv 2009), 158–74 (Bishops of Bamberg), 175–225 (Archbishops of Salzburg), 226–28 (Bishops of Gurk), 229–34 (Counts of Gorizia).

⁸ Still essential is Herbert Fischer (later Ayre Maimon), *Die verfassungsrechtliche Stellung der Juden in den deutschen Städten während des dreizehnten Jahrhunderts*. Untersuchungen zur Deutschen Staats- und Rechtsgeschichte 140 (Breslau: M.&H. Marcus, 1931). Further see Michael Toch, *Die Juden im mittelalterlichen Reich*, 2nd Ed. Enzyklopädie deutscher Geschichte 44 (Munich: Oldenbourg, 2003), 106–07; Alfred Haverkamp, “Die Juden im Erzstift Trier,” in *Die Juden in ihrer mittelalterlichen Umwelt*, Alfred Ebenbauer and Klaus Zatloukal, ed. (Vienna: Böhlau, 1991), 67–89; Klaus Lohrmann, *Judenrecht und Judenpolitik im mittelalterlichen Österreich* (Vienna: Böhlau, 1990), 146–66. For a general summary of Jews and towns, see Alfred Haverkamp, “Jews and Urban Life: Bonds and Relationships” in *Jews of Europe*, 55–69.

⁹ For a more differentiated view on imperial/regal rights and their relation to the imperial cities, see *Germania Judaica* [further: GJ], Vol. III: 1350–1519, part 3: *Gebietsartikel, Einleitungsartikel, Indices*, Ayre Maimon, Mordechai Breuer, and Yacov Guggenheim ed. (Tübingen: J.C.B. Mohr, 2003), 2167.

¹⁰ Generally, the legal relationship between the rulers within the Holy Roman Empire and their Jews remained a more “personal” than “territorial” one in comparison to other groups; see *GJ III/3*, 2171.

¹¹ See the summary for ecclesiastical and secular legislation on Austrian territory by Eveline Brugger and Birgit Wiedl, “...und ander frume leute genuch, paide christen und juden.’ Quellen zur christlich-jüdischen Interaktion im Spätmittelalter am Beispiel Österreichs,” in *Räume und Wege. Jüdische Geschichte im Alten Reich 1300–1800*, Rolf Kießling et al., ed. *Colloquia Augustana* 25 (Berlin: Akademie Verlag, 2007), 285–306 (286–89).

¹² For the most recent edition, see Brugger and Wiedl, *Regesten I*, 31–32, nr. 20.

Emperor Frederick II and his competitor of the same name, the Austrian duke and last male descendant of the Babenberg family, Frederick II.¹³

The aforementioned power struggle between the two Fredericks sheds light on both the political potential and the usage that was made of towns and Jews by the emperor and the regional ruler. In a remarkably autonomous act,¹⁴ the city of Vienna sided with the emperor; and in return, Emperor Frederick II granted the city a rather wide-ranging privilege while taking up residence in Vienna for a few months in 1237, putting the city under his direct rule.¹⁵ The privilege imposed a ban against Jews holding offices,¹⁶ a regulation stemming from ecclesiastical legislation.¹⁷ Although vast activity of Jews in public offices was rather unlikely,¹⁸ the ban seemed

¹³ An outline of the conflict between emperor and duke (though taking the side of the duke a bit too obviously) can be found in Karl Lechner, *Die Babenberger. Markgrafen und Herzoge von Österreich*, 6th Ed. Veröffentlichungen des Instituts für österreichische Geschichtsforschung 23 (Vienna: Böhlau, 1996), 275–80; with regard to the city of Vienna, see Opll, *Geschichte Wiens im Mittelalter*, 103–05.

¹⁴ Opll, *Geschichte Wiens im Mittelalter*, 103–04.

¹⁵ Most recent edition by Csendes, *Rechtsquellen Wien*, 39–43, nr. 5 (Latin), 43–47, nr. 6 (German).

¹⁶ With respect to this paragraph, see Brugger and Wiedl, *Regesten 1*, 28–29, nr. 17. Whether the wording of the regulation was indeed dictated by the citizenry, and whether the included theological reasoning really can be seen as a justification of the emperor towards the Jews is at least questionable; see *1000 Jahre österreichisches Judentum*, Klaus Lohrmann, ed., *Studia Judaica Austriaca 9* (Eisenstadt: Edition Roetzer, 1982), 290, nr. 10.

¹⁷ The prohibition goes back to canon 69 of the Fourth Lateran Council which in turn referred to canon 14 of the Third *Concilium Toletanum* of 589. It is, however, the only regulation from the Lateran IV that had made its way into secular legislation. From the vast literature on the topic see Heinz Schreckenberg, *Die christlichen Adversus-Judaeos-Texte (11.-13. Jahrhundert): Mit einer Ikonographie des Judenthemas bis zum 4. Laterankonzil*, 2nd Ed. Europäische Hochschulschriften: Series XXIII Theologie 335 (Frankfurt a.M.: Peter Lang, 1991), 423–24.

¹⁸ In the territory of today's Austria, only three Jews can be proven as having held offices: the brothers Lublin and Nekelo appear as *comites camere* (tax farmers) of the Austrian Duke Přemysl Otakar in 1257 (Brugger and Wiedl, *Regesten 1*, 50–51, nr. 38). Their main area of activity, however, was the Kingdom of Hungary, their father Henel being a tax farmer of King Bela IV; see Nora Berend, *At the Gate of Christendom. Jews, Muslims and 'Pagans' in Medieval Hungary, c. 1000–c. 1300* (Cambridge: Cambridge University Press, 2001), 127, and Tibor Horváth and Lajos Huszár, "Kamaragrófok a középkorban" in *Numizmatikai Közlöny 54/55* (1955/56), 21–33 (22). In 1283, the Jew Isak from the Salzburg town of Friesach in Carinthia is mentioned participating in the collecting and turning in of tithes (in the course of the execution of the articles of the Second Council of Lyon). Although it is not possible to define his position clearly from the scarce mentions, his close contact to the *Vizedomamt* of Friesach (the representative of the Archbishop of Salzburg in Friesach) is obvious; see Wadl, *Juden Kärnten*, 182–83; *Gj*, vol. II: *Von 1238 bis zur Mitte des 14. Jahrhunderts, part I: Aachen—Luzern*, Zvi Avneri, ed. (Tübingen: J.C.B. Mohr 1968), 265; Adolf Altmann, *Geschichte der Juden in Stadt und Land Salzburg von den frühesten Zeiten bis auf die Gegenwart*. (Reprint of the 1913 edition and continued until 1988 by Günter Fellner and Helga Embacher), (Salzburg: Otto Müller Verlag, 1990), 58.

to be of considerable importance to the towns since it was not only reconfirmed for Vienna in 1247¹⁹ (by Emperor Frederick II) and 1278²⁰ (by King Rudolf I) but was also included in the privilege for the (then Styrian) town of Wiener Neustadt, which allegedly predates the Viennese charter but is in fact a forgery from the last third of the thirteenth century.²¹

The citizenry of Vienna, however, was not the only group that was of interest to the emperor. In August 1238, Emperor Frederick II granted the Jews of Vienna a privilege²² by which he not only put the Viennese Jews under his and the empire's protection but also, and arguably primarily, emphasised the imperial claim to the Jews²³ by basing the text of the charter on the general imperial privilege for the Jews of the Holy Roman Empire from 1236.²⁴ By issuing the 1238 diploma, Emperor Frederick explicitly stressed his entitlement to the Viennese Jews as part of his treasure (*servi camere nostre*), counteracting the already ongoing acquisition of these rights by the Austrian duke.²⁵

Due to the political developments of the following years, however, the imperial lordship over the Austrian Jews weakened, as it was the case in many parts of the Holy Roman Empire in the course of the transition of imperial rights to the regional rulers, the "right to the Jews" (*Judenregal*)

¹⁹ Brugger and Wiedl, *Regesten I*, 40, nr. 29.

²⁰ Brugger and Wiedl, *Regesten I*, 76, nr. 60.

²¹ For the most recent edition of the paragraphs concerning Jews, see Brugger and Wiedl, *Regesten I*, 22–23, nr. 9. For the whole complex of the Wiener Neustädter forgeries, see Peter Csendes, "Die Wiener Neustädter Stadtrechtsfälschungen," in *Fälschungen im Mittelalter 3: Diplomatische Fälschungen (I)* Monumenta Germaniae Historica, Schriften, 33/3 (Hanover: Hahnsche Buchhandlung, 1988), 637–52 (646–47).

²² Most recent edition by Brugger and Wiedl, *Regesten I*, 31–32, nr. 20. See Peter Csendes, "Studien zum Urkundenwesen Friedrichs II.," *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 88 (1980) 113–130 (126).

²³ For the vast, and mostly older, literature on that topic, see the stringent articles by Alexander Patschowsky, "Das Rechtsverhältnis der Juden zum deutschen König (9.–14. Jahrhundert). Ein europäischer Vergleich," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung* 110 (1993), 331–71 (335–36), and Dietmar Willoweit, "Vom Königsschutz zur Kammerknechtschaft. Anmerkungen zum Rechtsstatus der Juden im Hochmittelalter," in *Geschichte und Kultur des Judentums*, Karlheinz Müller and Klaus Wittstadt, ed., Quellen und Forschungen zur Geschichte des Bistums und Hochstifts Würzburg 38 (Würzburg: Schöningh, 1988) 71–89.

²⁴ *Constitutiones et acta publica imperatorum et regum. Vol. 2: 1198–1272*, Ludwig Weiland, ed., Monumenta Germaniae Historica Leges IV: Constitutiones 2 (Hanover: Hahnsche Buchhandlung, 1896), 274–76, nr. 204 (the MGH editions are online at www.dmgd.de, last accessed: 2 July, 2012).

²⁵ See recently David Abulafia, "The King and the Jews—the Jews in the Ruler's Service" in *Jews of Europe*, 43–54, with respect to (Alsatian) towns Gerd Mentgen, *Studien zur Geschichte der Juden im mittelalterlichen Elsaß* (Hanover: Hahnsche Buchhandlung, 1995), 310–20.

being but one among them.²⁶ Upon his return to power, Duke Frederick II (re)consolidated his authority over the Austrian Jews by defining their legal status in 1244.²⁷ His quite comprehensive regulations remained the basis for further legislation within the duchy of Austria²⁸ and also served as a model to other rulers.²⁹ The rather detailed economic issues, mostly in favor of the Jews, and the quite wide-ranging protection suggest that Frederick aimed at providing an incentive for Jews to settle down in Austria³⁰—as part of his, and no longer the emperor's, treasure. With regard to the towns, this also means that the ruler was determined not to lose his grip on what he had just acquired and regarded as his immediate property.

The mid-thirteenth-century regulations addressed, among other things, two concerns that became the two main conflict issues between ruler and towns in the course of the fourteenth century: the question of control over

²⁶ Generally see *GJ III/3*, 217–18; Toch, *Juden im mittelalterlichen Reich*, 48–49. In 1331, Emperor Louis IV officially enfeoffed the Austrian dukes with the right to the Jews (*Judenregal*), Brugger, “Ansiedlung,” 143–44.

²⁷ Most recent edition by Brugger and Wiedl, *Regesten I*, 35–38, nr. 25. For an English translation, see <http://www.fordham.edu/halsall/jewish/1244-jews-austria.html>, last accessed: 2 July, 2012, which is based on the (somewhat problematic) translation by Jacob R. Marcus, *The Jew in the Medieval World: A Sourcebook, 315–1791*, (New York: JPS, 1938), 28–33.

²⁸ Re-issued first by Frederick's successor, the Austrian and Styrian Duke and Bohemian King Přemysl Otakar II (in 1255, 1262, and 1268), and in 1277 *ad imitationem clare memorie quondam Friderici ducis Austrie et Stirie* by King Rudolf I (Brugger and Wiedl, *Regesten I*, 45–48, nr. 35; 51–54, nr. 39; 62–65, nr. 47; 71–73, nr. 56). The explicit reference to Duke Frederick II conveys a clear meaning—Rudolf's rival Přemysl Otakar, the (then outlawed) Duke of Austria, was being blatantly ignored, while by reverting to the ducal privilege of 1244 (and not the imperial one) he stressed his family's (and not the empire's) claim on the duchies of Austria and Styria.

²⁹ Hungary: Bela IV, 1251 (*Monumenta Hungariae Judaica Vol. 1: 1092–1539*, Ármin Friss and Mór Weisz, ed. (Budapest: Magyar Izraeliták Országos, 1903), 23–30, nr. 22); Bohemia, Moravia: Přemysl Otakar II 1255, 1262 und 1268 (see Brugger and Wiedl, *Regesten I*, 45–48; nr. 34; 51–54, nr. 39; and 62–65, nr. 47, the first including Austria, the latter two Austria and Styria); Poland: Duke Boleslav, 1264 (*Juden in Europa. Ihre Geschichte in Quellen. Vol. 1: Von den Anfängen bis zum späten Mittelalter*, Julius Schoeps and Hiltrud Wallenborn, ed. (Darmstadt: Wissenschaftliche Buchgesellschaft, 2001) 139–43, nr. 65); Bamberg: Bishops Henry II and Wulfing, between 1304 to 1328 (Brugger and Wiedl, *Regesten I*, 255–57, nr. 302).

³⁰ The Jewish immigration into the middle Danube area had already increased during the first half of the thirteenth century; at least for Vienna, an existing community can be proven for around 1200 (first mention of the Viennese Synagogue in 1204; see Brugger and Wiedl, *Regesten I*, 18–19, nr. 5), thus Frederick might also have reacted to the newly arisen need of regulating the Jewish life that had begun to flourish.

the economic activities of the Jews³¹ (particularly the question of interest rates³² and pledges³³) and the jurisdiction. The privilege of 1244 put the Jews under the jurisdiction of the ducal court as far as conflicts between Jews were concerned, explicitly excluding the municipal court.³⁴ Conflicts that arose between Jews and Christians were subject to the competence of the Christian *iudex iudeorum*, an office quite unique to the eastern parts of today's Austria³⁵ and usually held by a member of a high-ranking family of the town. The execution of these articles triggered a struggle for judicial competence between the duke and his representatives on one side and the towns on the other side. This conflict went on during the second half of the thirteenth and the whole of the fourteenth centuries, most notably since it was explicitly forbidden for the *iudex iudeorum* to take up cases between Jews—this was, and should remain, the sole competence of the ducal representative, or even the duke himself.

Apart from witnessing and sealing business deeds, which makes up the majority of the appearances in the sources, the *iudex iudeorum* had limited rights of control over the selling of unredeemed pledges and was entitled to a number of fines from both Jews and Christians, thus participating at least marginally in the revenues of the ducal protection of the

³¹ *GJ III/3*, 2184–85. Generally see Michael Toch, “Geldleiher und sonst nichts? Zur wirtschaftlichen Tätigkeit der Juden im deutschen Sprachraum des Spätmittelalters,” in *Tel Aviver Jahrbuch für deutsche Geschichte* 22 (1993), 117–26, Toch, *Juden im mittelalterlichen Reich*, 96–100.

³² On Jewish interest rates and “usury,” see *GJ III/3*, 2157–60; Hans-Jörg Gilomen, “Wucher und Wirtschaft im Mittelalter,” in *Historische Zeitschrift* 250 (1990), 265–301.

³³ For the internal Jewish viewpoint on pawnbroking, see Haym Soloveitchik, “Pawnbroking: A Study in *Ribbit* and of the Halakah in Exile,” in *Proceedings of the American Academy for Jewish Research* 38–39 (1970–71), 203–68.

³⁴ *Iudex civitatis nostre nullam sibi iurisdictionem vendicet in eosdem* [the disputing Jews]. Yet it has to remain open to interpretation as to whether the duke intended the internal Jewish court to be passed over, too; lawsuits against Jews, however, were only to be conducted at the synagogue as long as the duke did not summon the case before himself (Brugger and Wiedl, *Regesten I*, 35–36, nr. 25, § 8, § 30).

³⁵ The first *iudex iudeorum* is mentioned in the Lower Austrian town in 1264 of Krems (Brugger and Wiedl, *Regesten I*, 56–57, Nr. 42.). It was to become a rather common office in both Austria and Styria, partly also in the Styrian and Carinthian enclaves of Salzburg, but was never introduced into other parts of the Holy Roman Empire save Bohemia and Moravia, where the 1244 privilege was introduced by King Přemysl Otakar II. For the few appearances outside these territories, see *GJ III/3*, 2190.

Jews.³⁶ Despite the strong ties to the ruler the *iudex iudeorum* could have,³⁷ the towns were generally interested in strengthening his position as well as expanding his competences, gradually transforming the office into an at least partly municipal one.

As for the economic issues, it was the “preferential” treatment given to the Jews,³⁸ in the eyes of their Christian neighbours, in the 1244 privilege that gave rise to resentment among the Austrian citizenry, particularly with regard to the question of taking in pawn and subsequently reselling potentially stolen goods. In the tradition of the imperial regulations from the late eleventh century,³⁹ the Austrian Jews were allowed to clear themselves of the suspicion of having accepted stolen goods as pledges by taking an oath, an “undue preference” given to the Jews that stayed in the minds of the citizens for a long time.⁴⁰ Even the author of the Viennese *Stadtrechtsbuch* (a compendium of legal regulations from the end of the fourteenth century) still complained polemically about the “cursed Jews” having a better legal position against the Christians than the Christians against the Jews, directly referring to the 1244 regulations and blatantly ignoring the everyday reality that had long changed to the clear disadvantage of the Jews.⁴¹

³⁶ In some towns, the fines went to the town judge, even if a *iudex iudeorum* was in office, e.g. Villach in Carinthia (Brugger and Wiedl, *Regesten 1*, 255–57, nr. 302).

³⁷ E.g., all of the *iudicis iudeorum* of today's Upper Austria's capital of Linz were also caretakers of the castle of Linz, the residence of the ducal steward (Lohrmann, *Judenrecht*, 159). None of the legal documents refers to how the *iudex iudeorum* was to be appointed/elected; thus, an appointment by the ruler is at least possible, if not likely (at least as far as “weaker” towns are concerned).

³⁸ The ample attention the economic sector was given (twelve out of the altogether 31 articles of the privilege deal with money lending and/or pawning) clearly indicates clearly indicates that establishing the Jews as the ones engaged in monetary business was the duke's main reason for the interest he took in them.

³⁹ Both the imperial privilege for the Jews of Vienna from 1238 and the ducal privilege from 1244 repeat this right that was first mentioned in the 1090 privilege of Emperor Henry IV for the Jews of Speyer and Worms (Toch, *Juden im mittelalterlichen Reich*, 46–47; Brugger and Wiedl, *Regesten 1*, 31, nr. 20, § 2; 35, nr. 25, § 6, for a detailed analysis of the 1238 privilege, see also Heinz Schreckenber, *Die christlichen Adversus-Judaeos-Texte und ihr literarisches und historisches Umfeld (13.–20. Jahrhundert)*, Europäische Hochschulschriften, Reihe XXIII Theologie 497 (Frankfurt a. M.: Peter Lang, 1994), 154–60.

⁴⁰ It long outlived the Middle Ages and has been utilized polemically as “rights of dealers in stolen goods” until recently. Concerning the—debated—talmudic roots of what is today referred to as “Marktschutzrecht” see Friedrich Lotter, “Talmudisches Recht in den Judenprivilegien Heinrichs IV.? Zu Ausbildung und Entwicklung des Marktschutzrechts im frühen und hohen Mittelalter”, *Archiv für Kulturgeschichte* 71 (1989) 55–92; Toch, *Juden im mittelalterlichen Reich*, 109–10.

⁴¹ Christine Magin, “Wie es umb der iuden recht stet”. Der Status der Juden in spätmittelalterlichen deutschen Rechtsbüchern, (Göttingen: Wallenstein-Verlag 1999), 103; Heinrich

The policies of Austrian towns in the fourteenth century were therefore aimed at undermining or mitigating the regulations of the 1244 privilege—or, at least, at benefiting in some way from the existing Jewish community within the boundaries of the town. Therefore, the additional regulations appearing in town charters in the late thirteenth and during the fourteenth centuries mainly focus on economic regulations and restrictions, whereas the ban from public offices still present in 1238, completely disappeared at the beginning of the fourteenth century. Furthermore, the attempts of towns at modifying the common regulations to their benefit remained limited to altering single articles. Among those, the limitation of interest rates and pawning continued to be the most important ones—or at least those they thought the ruler would concede. It is remarkable that the issues of penalties and fines for hurting and killing Jews, for devastating cemeteries and synagogues, and for rape, are hardly ever touched by the towns.⁴² Even jurisdictional competences that were granted to the town judge or the *iudex iudeorum*, like fines for minor offences that were investigated and fined by authority of either or both, were barely thematized in the legislation of the towns.

A forged town charter from the Styrian town of Wiener Neustadt is quite revealing as far as the wishes of the citizenry are concerned.⁴³ According to the dating, the charter was issued by Duke Leopold VI between 1221 and 1230, thus predating the 1244 privilege by at least fourteen years. The document is yet in fact a product of the late 1270s;⁴⁴ therefore, its articles reflect the ideas and concepts of the citizenry *after*

Maria Schuster, *Das Wiener Stadtrechts- und Weichbildbuch*, (Wien: Manz, 1973), 130–31; Lohrmann, *Judenrecht*, 161; Klaus Lohrmann, *Die Wiener Juden im Mittelalter* (Berlin: Philo, 2000), 36–37.

⁴² An exception is the *Stadtrechtsbuch* of Feldkirch (Vorarlberg) from before 1360 that lists a few regulations concerning bodily injuries of and by Jews, see Gerda Leipold-Schneider, “Das mittelalterliche Stadtrecht von Feldkirch. Überlieferung und Edition” (unpublished doctoral dissertation, University of Innsbruck, 2001), 236.

⁴³ The whole text is edited in: *Urkundenbuch zur Geschichte der Babenberger in Österreich, Vol. 2: Die Siegelurkunden der Babenberger und ihrer Nachkommen von 1216 bis 1279*, Heinrich Fichtenau and Erich Zöllner, ed. Publikationen des Instituts für Österreichische Geschichtsforschung 3/2 (Vienna: Verlag Adolf Holzhausens Nachfolger, 1955), 36–52, nr. 232; Brugger and Wiedl, *Regesten* 1, 22–23, nr. 9 (paragraphs with reference to Jews); Lohrmann, *Judenrecht*, 147–53.

⁴⁴ The town of Wiener Neustadt had several town charters forged around 1277; apart from the abovementioned ducal privilege, a privilege by—allegedly—Emperor Frederick II (and the confirmation by Přemysl Otakar II) which was modelled after the (genuine) Viennese privilege (Brugger and Wiedl, *Regesten* 1, 40–42, nrr. 30f.).

the 1244 privilege had come into effect.⁴⁵ As far as juridical issues are concerned, both the execution of a lawsuit and the place of jurisdiction were altered to the advantage of the Christian citizenry. According to the 1244 privilege, the sole place of jurisdiction for Jews was the synagogue⁴⁶ (unless the duke himself summoned the parties before his own court), whereas the citizenry of Wiener Neustadt claimed a partial competence or at least the participation of the town judge, especially when a Jew was accused of having committed a capital crime—a clear tendency to exercise jurisdictional control over the Jews by the town itself.⁴⁷ Furthermore, the regulations concerning testimony before court were changed in favor of the citizens: to prove their claim, Christians usually had to produce one Christian and one Jewish witness, whereas according to the forged charter, they were allowed to replace the latter with two members of the town council who would have been, of course, Christians.

This very early example already set the standards for most of the demands of Austrian towns in the fourteenth century as far as jurisdictional issues are concerned. The catalogue of rights, which the citizenry of the Carinthian town of St. Veit presented to the successors of the recently deceased Carinthian duke at the end of the thirteenth century,⁴⁸ covers rather similar ideas: among many other regulations, the citizenry aimed at gaining greater influence on the municipal jurisdiction over the Jews and at weakening the position of Jews before court, which was—similar to the forgery of Wiener Neustadt from about the same time—achieved by exchanging Jewish with Christian witnesses: when disputes about

⁴⁵ The legal force of the 1244 regulations had been extended to Styria by the Bohemian King Přemysl Otakar II who was also duke of Austria and Styria since 1251 and 1261 respectively, and the source findings strongly suggest that the Styrian legislation concerning Jews, although never officially confirmed, greatly resembled the Austrian. The text of the first Styrian (and Carinthian) privilege for the Jews from 1377 is lost (Lohrmann, *Judenrecht*, 200–05).

⁴⁶ For the synagogue as the place of the internal Jewish court, see *Gf III/3*, 2087, and Martha Keil, “Bet haKnesset, Judenschul. Die mittelalterliche Synagoge als Gotteshaus, Amtsraum und Brennpunkt sozialen Lebens,” in *Wiener Jahrbuch für jüdische Geschichte* 4 (1999/2000), 71–89.

⁴⁷ This development is by no means unique to Austrian towns; see Hans-Jörg Gilomen, *Juden in den spätmittelalterlichen Städten des Reichs: Normen—Fakten—Hypothesen*. Kleine Schriften des Arye Maimon-Instituts II (Trier: Eigenverlag des Instituts, 2009), 24–26.

⁴⁸ The citizens of St. Veit claim that these rights date back to the first half of the century; a Jewish settlement in St. Veit is however not verifiable before the end of the century; see Brugger, “Ansiedlung,” 186–87.

monetary issues occurred, a Christian had to produce another Christian and a Jew, a Jew two Christians as witnesses.⁴⁹

The St. Veit catalog and its confirmation by Duke Frederick in 1308 can be used as a model example in many regards. Economic regulations were given more room than the jurisdictional issues, which can be observed in most of the documents examined here; furthermore, these two sectors were closely intertwined as can be seen in the aforementioned article on witnesses that took effect only in connection with monetary transactions. However briefly, the catalog addresses, among other things,⁵⁰ the main issues that remained predominant throughout the first half of the fourteenth century: limiting interest rates, excluding Jews from specific professions, and regulating pawning. Compared to similar documents of the same timeframe, it is striking *how* unfavourable for the Jews these regulations were: e.g., the common practice of Jews taking an oath⁵¹ when under suspicion of reselling stolen goods was not merely mitigated to the favor of the Christians but “turned upside down” by forbidding the Jews to accept any even only potentially stolen goods (*underchantez phant*, “unrecognised” pledges) in pawn at all. The customary regulation merely forbade the Jews to take items in pawn that were bloodstained or soaked⁵² (thus clearly recognisable as unlawfully appropriated), to which some of the towns added specific items mostly of ecclesiastical or economic/agricultural provenance,⁵³ a common practice throughout the Holy Roman

⁴⁹ Brugger and Wiedl, *Regesten I*, 99–100, nr. 96; 162–63, nr. 157 (re-issuance by Duke Frederick in 1308), Lohrmann, *Judenrecht*, 153–56.

⁵⁰ Unique to the St. Veit catalog is that the Jews were banned from raising livestock as well as denied to partake in the use of the municipal common.

⁵¹ There are only a few oath formulae for Jews of Austrian towns transmitted, neither of which contains the otherwise common curses the Jews had to put on themselves (see Guido Kisch, *Jewry-Law in Medieval Germany. Laws and Court Decisions Concerning Jews*, American Academy for Jewish Research: Texts and Studies 3 (New York: Martinus Nijhoff, 1949), 61–63). Oaths for Vienna, Krems (Hans Voltelini, “Der Wiener und Kremser Judeneid” in *Mitteilungen des Vereins für Geschichte der Stadt Wien* 12 (1932), 64–70) and Feldkirch (Leipold-Schneider, *Stadtrecht von Feldkirch*, 272) can be found in legal writing, yet no individual case of a Jew taking an oath is documented (Brugger, “Ansiedlung,” 150–51).

⁵² Brugger and Wiedl, *Regesten I*, 35, nr. 25, § 5.

⁵³ Villach (presumably valid for all the Bamberg possessions in Carinthia), 1304–1328: bloodstained, soaked, and pierced items, chalices, tunicles (Brugger and Wiedl, *Regesten I*, 255, nr. 302); town charter of St. Pölten, 1338: tunicles, unground corn, houses, bloodstained clothes (Brugger and Wiedl, *Regesten I*, 341, nr. 444; *GJ, Vol. II, part 2: Maastricht—Zwolle*, Zvi Avneri, ed. (Tübingen: J.C.B. Mohr 1968), 736); Feldkirch, between 1344 and 1359: broken chalices, bloodstained clothes, soaked hides (Leipold-Schneider, *Stadtrecht von Feldkirch*, 266); Pettau, 1376: ecclesiastical treasures, bloodstained clothes, unprocessed yarn and cloth, unground corn (*GJ III, part 2: Ortschaftsartikel Mährisch-Budwitz—Zwolle*,

Empire.⁵⁴ Yet according to the wishes of the St. Veit citizenry, the Jews were furthermore forbidden to take anything in pawn from a person unknown to them, a regulation that must have proven extremely harmful to everyday business, cutting down heavily the potential clientele of Jewish money-lenders and pawnshop owners who at least partially made a living from business with walk-in customers.

The citizenry of St. Veit was able to put through this—generally rather wide-ranging—privilege due to the political situation in 1308, making it a prime example for the policy towards Jews in the light of the tensions between rulers and towns during the first decades of the fourteenth century. The conflict in question was, however, again primarily a power struggle between two rulers, the Carinthian Duke Henry VI and the Austrian Duke Frederick I,⁵⁵ the latter of which had, in the course of his struggle for the Bohemian crown, managed to gain control over the towns subjected to the Carinthian duke. Despite the fact that both the towns and the Jews remained mere tools in this conflict, St. Veit, a flourishing town and ducal residence, was yet important enough to the Austrian duke that he deemed it worthy to pander to the citizens' wishes. Maybe a surplus benefit tipped the scales—since Henry was highly indebted to his Carinthian Jews, weakening them meant also weakening Henry and thus was in the interest of the Austrian duke. Thirty years later, after a firm Habsburg rule had been established in Carinthia, the then ruling Duke Albrecht II saw little point in further currying favor with the town and replaced these regulations with the “common rights his Jews have in his towns,” referring to the regulations of the 1244 privilege which were a lot more beneficial to the Jews.⁵⁶

Duke Frederick's readiness to acquiesce to the citizens' demands in 1308 reveals the amount of effort he was willing to put into surpassing

Ayre Maimon, Mordechai Breuer, and Yacov Guggenheim, ed. (Tübingen: J.C.B. Mohr, 1995), 1097), Markus Wenninger, “Zur Geschichte der Juden in Salzburg” in *Geschichte Salzburgs Stadt und Land, Vol. 1/2: Mittelalter*, Heinz Dopsch and Hans Spatzenegger, ed. (Salzburg: Pustet, 1983), 747–56 (753). On the problem of stolen goods, see Jörg R. Müller, “Gestolen und ainem juden versetzt’. Jüdische Pfandleiher zwischen legaler Geschäftspraxis und Hehlereivorwurf,” in *Jüdisches Geldgeschäft im Mittelalter*. Aschkenas. Zeitschrift für Geschichte und Kultur der Juden 20/2, Eveline Brugger and Birgit Wiedl, ed. (Berlin and Boston: deGruyter, 2012), 439–478.

⁵⁴ For a list of examples of both towns and banned items, see *GJ III/3*, 2184.

⁵⁵ Despite the existence of two Babenberg dukes of the same name preceding him, he was counted as Duke Frederick I of Austria; as the antiking to Louis IV, he was Frederick III (1314–1330). Although it stems from sixteenth century historiography, most scholarly works about Frederick use his nickname “the Fair” to avoid confusion.

⁵⁶ Joseph Babad, “The Jews in Medieval Carinthia” in *Historia Judaica* 7 (1945) 13–28 and 193–204 (23), *GJ II/2*, 738.

his rival, thus contradicting the general political attitude of the Austrian dukes towards Jews in the first half of the fourteenth century. In cases of conflicts between Jews and towns, the Austrian dukes still tended to be protective of their Jews and to consider any acts against Jews as a direct challenge to their authority and an attack against their treasure. The complete dependence on ducal protection, however, left the Jews in a precarious situation should immediate need of this protection arise,⁵⁷ most notably so during the local persecutions that sprung up in the realm of today's Lower Austria in the first half of the fourteenth century.⁵⁸

Apart from pawning, the limitation of the interest rate taken by Jews was the core issue. The maximum rate of eight pennies per pound per week⁵⁹ that had been set by the 1244 charter was already being undermined by late thirteenth century efforts: the forged town charter of Wiener Neustadt cut down the interest rate to three or four pennies and combined this with additional improvements for the debtor (loss of right to demand interest upon failure to appear, no compound interest during the first month after the deadline). Various other towns went along the same lines,⁶⁰ whereas in contrast, the rulers tried to keep the taking of interest as unlimited as possible, since they too profited from a prospering Jewish community.⁶¹ The most dramatic example of limiting interest rates occurred in the wake of one of the aforementioned persecutions, the persecution that followed an accusation of host desecration in the Lower Austrian town of Pulkau in 1338.⁶² Recognising the danger the Jews were

⁵⁷ See for examples from the Holy Roman Empire most recently Jörg R. Müller, "Erez gezerah—'Land of Persecution': Pogroms against the Jews in the *regnum Teutonicum* from c. 1280 to 1350," in *Jews of Europe*, 245–260 (254–256).

⁵⁸ See the article by Eveline Brugger in this volume.

⁵⁹ It is important to stress that this rate is the rate for default interest. Apart from very few exceptions, only the total amount of loan and interest that is to be paid on the fixed date is stated in the charters; the interest rate that is mentioned is the rate for the default interest should the debtor fail to pay (or reach a new agreement, like pawning additional objects). See also Michael Toch, "Jüdische Geldleihe im Mittelalter," in *Geschichte und Kultur der Juden in Bayern*, ed. Manfred Treml and Josef Kirmeier (Munich: K.G. Saur, 1988), 85–94; *GJ III/3*, 2142–43.

⁶⁰ The loss of compound interest in the first month after the deadline is e.g. also to be found in the rights of the Jews of Villach in Carinthia, a town under the rule of the Bishops of Bamberg. These rights were taken down between 1304 and 1328 (following the 1244 charter to a large extent, and presumably defining the legal position of the Jews in the Bamberg properties in Carinthia), and are an interesting mixture between matching the town's and the ruler's interests (Brugger and Wiedl, *Regesten I*, 255–57, nr. 302; *GJ II/2*, 852).

⁶¹ See footnote above—the rights of the Jews of Villach do not include any limitations of the interest rate at all. Lohrmann, *Judenrecht*, 189–94, Wadl, *Juden Kärnten*, 159–60).

⁶² See the contribution of Eveline Brugger in this volume.

in, the city of Vienna seized the chance to make use of the persecution to its own advantage by forcing the Jewish community to agree to a severe reduction of interest rates on loans to Viennese citizens—from the until then common eight pennies per pound per week to a mere three pennies—in return for protection. Both the Jewish community and the Austrian dukes had to consent to the reduction.⁶³ Business documents from the mid-fourteenth century suggest that the interest rates had, in fact, decreased notably, yet this is true for both transactions in urban and rural areas, correlating with the weakening of the ducal protection.

Along with their efforts to gain control over legal status and credit business, towns strove to generally restrict the economic activities of their Jews. Whereas it was not uncommon for Jews to own land and be involved in wine-growing and winetrade,⁶⁴ the range of professions they could make a living on within the town's realms was limited.⁶⁵ Apart from the ban from public offices, which had vanished by late thirteenth century, it was for the most part professions concerned with food that were black-listed, among which the butchering and selling of meat turned out to be the most disputed one, an issue that can be found in both ecclesiastical and secular legislation in many European regions.⁶⁶ In 1267, the synods

⁶³ Brugger and Wiedl, *Regesten I*, 336–338, nrr. 439–40; Brugger, “Ansiedlung,” 158, 171, 218; ead., “*Minem herren dem hertzogen sein juden*: Die Beziehung der Habsburger zu “ihren” Juden im Österreich des 14. Jahrhunderts,” in 25. *Österreichischer Historikertag, St. Pölten 2008* (St. Pölten: Verlag des Instituts für Niederösterreichische Landeskunde, 2010), 742–749 (746).

⁶⁴ See Haym Soloveitchik, “*Halakhah*, Taboo and the Origin of Jewish Moneylending in Germany,” in *Jews of Europe*, 305–317, who examines Jewish wine growing, trading, and viticultural credits. For Austrian Jews, see Martha Keil, “*Veltliner, Ausstich, Tribuswinkler*: Zum Weingenuss österreichischer Juden im Mittelalter” in “*Und wenn schon, dann Bischof oder Abt*: Im Gedenken an Günther Hödl (1941–2005), eds. Christian Domenig et al. (Klagenfurt: Kärntner Druck- und Verlagses, 2006), 53–72.

⁶⁵ For the range of professions Jews pursued, see Michael Toch, “Geldleiher und sonst nichts?,” 117–26; id., “Economic Activities of German Jews in the Middle Ages,” in *Wirtschaftsgeschichte der mittelalterlichen Juden. Fragen und Einschätzungen*, ed. Michael Toch, Schriften des Historischen Kollegs, Kolloquien 71 (Munich: R. Oldenbourg Verlag, 2008), 181–210 (204–210).

⁶⁶ See, e.g., for a general survey and for Germany Christine Magin, “*Wie es umb der iuden recht stet*”. *Der Status der Juden in spätmittelalterlichen deutschen Rechtsbüchern*. Göttinger Philosophische Dissertation D 7 (Göttingen: Wallstein Verlag, 1999), 332–352 (medicine, meat, and wine), for France Sara Lipton, *Images of Intolerance: the Representation of Jews and Judaism in the Bible moralisée* (Berkeley, Los Angeles, and London: California University Press, 1999), 68–69; for Aragon David Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton: Princeton University Press, 1996), 169–72; for Austria Birgit Wiedl, “Jews and the City. Parameters of Jewish Urban Life in Late Medieval Austria” in *Urban Space in the Middle Ages and the Early Modern Age*, Albrecht Classen, ed.

of Wrocław and Vienna warned the Christians against buying meat and other food products from Jews since those, as the Christians' enemies, would always seek to poison them.⁶⁷ In the same year, the butchers' guild of the Lower Austrian town of Tulln put additional charges on the fatstock that was bought by Jews, yet since the sale itself was not prohibited, this regulation served presumably more as a "fine" for the loss of income the craftsmen suffered (since the Jews butchered the animals themselves) than reflecting the ecclesiastical ban on "Jewish food".⁶⁸ This concern that the Jews sold those parts of the animals they would not eat themselves, and by selling them to Christians enter the domain of the crafts guilds, remained at the core of the regulations throughout the fourteenth and fifteenth centuries. Most commonly, the Jews were banned from public sales altogether, either having to butcher and sell their meat at home,⁶⁹ or sell it via separate stalls and tag it clearly as meat butchered by Jews.

These specific stalls Jews had to sell their meat at were usually under municipal control or even run by the city (*fleischbank*) and were also used for the sale of "bad" meat—which meant foul meat as well as meat from sick or injured animals. This practise was quite common in the Bavarian region where the oldest regulations can be found,⁷⁰ including those of today's Upper Austrian town of Schärding (1316).⁷¹ Since this type of stall was usually located at the fringe of or outside the market place,⁷² assigning the Jews to these stalls might be interpreted as placing them at a mere

Fundamentals of Medieval and Early Modern Culture 4 (Berlin: Walter de Gruyter, 2009), 273–308 (297–99) and ead., "Juden in österreichischen Stadtrechten," 264–66.

⁶⁷ Brugger and Wiedl, *Regesten I*, 59–61, nr. 45.

⁶⁸ Brugger and Wiedl, *Regesten I*, 61, nr. 46, English translation (incorrectly dated 1237): <http://www.fordham.edu/halsall/source/1237butchers-tulln.html>, last accessed: 2 July, 2012. *Gj*, Vol. I: *Von den ältesten Zeiten bis 1238*, I. Elbogen, A. Freimann, and H. Tykocinski, ed. (Tübingen: J.C.B. Mohr, 1963), 388–89.

⁶⁹ St. Veit, late thirteenth century, Brugger and Wiedl, *Regesten I*, 99, nr. 96, § 13.

⁷⁰ Wiedl, "Jews and the City," p. 298 (Bavarian and today's Austrian towns); *Gj II/2*, 557 and *Gj III/2*, 902 (Munich), 1500 (Ulm). The regulation was also known in Zurich, *Gj II/2*, 946; see also Hans-Jörg Gilomen, "Kooperation und Konfrontation: Juden und Christen in den spätmittelalterlichen Städten im Gebiet der heutigen Schweiz," in *Juden in ihrer Umwelt. Akkulturation des Judentums in Antike und Mittelalter*, Matthias Konrad and Rainer Christoph Schwinges, ed. (Basel: Schwabe, 2009), 157–227 (177).

⁷¹ Brugger and Wiedl, *Regesten I*, 194, nr. 202. The article, however, is the only indication of a Jewish settlement in the (rather small) town of Schärding at all, so it may as well be interpreted as a preventive measure; Wiedl, "Jews and the City," 298, with further examples.

⁷² E.g. in the fifteenth-century regulations of Salzburg and Judenburg (Styria): "outside the gate" and "at the sides" the regulations state 1420 and 1467, respectively, see Wiedl, "Jews and the City," 298.

economic disadvantage, yet the additional association of Jews with the “rotten” and “foul” also is quite obvious. This connotation was stressed even more when not only the “Jewish meat” was deemed unfit, or at least questionable, for Christian consumption but *any* meat that had merely been touched by Jews was declared to fall into the same category.⁷³ Some of these regulations like these were even more far-reaching: in addition to meat, also the touching of fish, livestock in general, or—all-encompassing—any goods was prohibited; a wide-ranging control that extended far beyond the economic issues and intruding into fields such as the control of behavior.⁷⁴

Other professions forbidden to or limited for Jews were the brewing of beer,⁷⁵ the trading and selling of cloth,⁷⁶ and the trading of wine as well as serving wine at a bar,⁷⁷ although in many parts of Lower Austria, vineyards remained one of the most common pledges, which, if not redeemed in time, fell to the Jews and were henceforth cultivated by them. These regulations remained largely unopposed by the rulers, or were even actively introduced by them, since they did not affect the main interest the rulers had in the Jews. However, these regulations remain too isolated to draw any general conclusions from them.

Until the mid-fourteenth century, the Austrian cities had generally achieved a level of higher importance to the rulers who by then acknowledged their political and economic significance, thus enabling the cities to “move up” from being nothing but tools to joining the ranks of the political players. From that time on, towns therefore aimed at a broader

⁷³ Most of these regulations stem from the fifteenth century (Munich, Ulm, but also towns in France); see Johann Egid Scherer, *Die Rechtsverhältnisse der Juden in den deutsch-österreichischen Ländern: Mit einer Einleitung über die Principien der Judengesetzgebung in Europa während des Mittelalters, Beiträge zur Geschichte des Judenrechtes im Mittelalter 1* (Leipzig: Duncker & Humblot, 1901), 577–78, the late-fourteenth-century dating of the regulations of Bolzano (South Tyrol, today's Alto Adige, Italy) is questionable; see GJ II/1, 99.

⁷⁴ Wiedl, “Jews and the City,” 299.

⁷⁵ St. Veit 1297/1308, Brugger and Wiedl, *Regesten 1*, 99, nr. 96, § 13.

⁷⁶ Wiener Neustadt 1316, Brugger and Wiedl, *Regesten 1*, 195–96, nr. 205. It is not quite clear whether the regulation refers to cloth trade or tailoring. For Jews as craftsmen, see Toch, “Jüdische Geldleihe,” 85–86, id., “Geldleiher und sonst nichts?”; Mentgen, *Juden im mittelalterlichen Elsaß*, 579–85, GJ III/3, 2139–46.

⁷⁷ Pettau 1376. Ferdinand Bischoff, “Das Pettau Stadtrecht von 1376”, *Sitzungsberichte der Akademie der Wissenschaften, phil.-hist. Klasse*, 113 (1886), 695–744. The article (§ 18), however, refers only to the retail trade within the city; the Jews of Pettau were long-distance traders on a big scale, especially with wine and goods from Venetia; see Wenninger, “Juden Salzburg,” 753.

control than just selectively interfering in Jewish business and life; the focus of their attention shifted from merely regulating the “how” to monitoring the “who, with whom and when,” and, of course, “how much.” It does not come as a surprise that the first attempts at a more comprehensive control started shortly after the persecutions of 1338. Most commonly, it was the offices of the town judge and the *iudex iudeorum* that were utilized by the cities to supervise the business activities of the Jews. In September of that year, only a few months after the disastrous events, Bishop Albrecht II of Passau granted his town of St. Pölten a privilege that not only listed several items Jews were not allowed to accept as pawns (with the quite unique inclusion of houses) unless they could produce a concession from the town judge, but moreover, Jews were also put under a stricter and more general control: they had to report to the town judge thrice yearly to have their business documents and pawns certified, otherwise these would lose validity should the debtor die within the year.⁷⁸ These regulations are all the more peculiar since from 1338 onwards, no Jewish settlement is documented for St. Pölten.⁷⁹ In other towns, the competences were divided up between the town judge and the *iudex iudeorum*; the Jews of Pettau for example had to produce the debt instruments to the town judge annually, whereas the pledges had to be shown, or at least reported, to the *iudex iudeorum*.⁸⁰ At the end of the century, several Styrian towns even expanded the control by demanding that any debt instruments were to be sealed not by either but both the town judge and the *iudex iudeorum*.⁸¹ The *iudex iudeorum*'s responsibility for the Jews also made him the person to turn to when establishing (semi-)official contact to the Jews was required; for example, the *iudex iudeorum* of the Lower Stryian city of Marburg (Maribor, Slovenia) was asked by a messenger of the Counts of Pfannberg to accompany him to the synagogue to inquire after obligations of the noble family.⁸²

In the second half of the fourteenth century, cities tried to be more systematic when it came to keeping an eye on the Jews and their business transactions. The increasing decline of the ducal protection offered considerable leeway for the towns to shift competences to their favour, allowing

⁷⁸ Brugger and Wiedl, *Regesten I*, 341, nr. 444, § 67.

⁷⁹ Lohrmann, *Judenrecht*, 156–57, who assumes that the articles have merely been copied from other texts.

⁸⁰ Scherer, *Rechtsverhältnisse*, 549–50; Wadl, *Juden Kärnten*, 176–77.

⁸¹ Lohrmann, *Judenrecht*, 160.

⁸² Haus-, Hof- und Staatsarchiv Wien (State Archives of Austria, Vienna), AUR 1354 XI 4; Wiedl, “Jews and the City,” 285–86.

them to tighten their grip on the Jews perceptibly. Their aim of controlling and monitoring loans and pledges no longer merely encompassed the aforementioned producing, and certifying of business documents but was extended to the many transactions concerning smaller amounts, most of which had not heretofore been documented in writing at all. To establish this control, many towns set up what is known as *Judenbücher* ("codices for the Jews") which were in common use already by the last decades of the fourteenth century,⁸³ developing in the course of a general increase of written administration. Laid out in the typical style of *Satzbücher* (a mixture of mortgage and land registers), and sometimes even included in the general *Satzbuch* of the respective town,⁸⁴ the *Judenbuch* was usually administered by the *iudex iudeorum*. All business transactions conducted by and with Jews had to be registered in there, which also meant a rather far-reaching expansion of both the duties and rights of the *iudex iudeorum*. Despite the fact that these endeavors proved highly effective, a considerable competence remained in the hands of the ruler. In many towns, the high municipal offices were of "mixed" constitution, with the right to appoint the judges being a particular privilege of the ruler.⁸⁵ In some

⁸³ The setting up of *Judenbücher* was not exclusive to the cities—rulers as well as noble families and from the fifteenth century onwards, also the Estates of Styria and Carinthia tried to keep track of their debts by establishing *Judenbücher*; see Wiedl, "Jews and the City," 291–92. Most of the *Judenbücher* were lost during the persecutions of 1420/21 that ended Jewish settlement in Lower Austria (Brugger, "Ansiedlung," 161–62). As far as the general scholarly discussion on *Judenbücher* is concerned, see latest Thomas Peter, "Judenbücher als Quellengattung und die Znaimer Judenbücher: Typologie und Forschungsstand" in *Räume und Wege*, 307–34.

⁸⁴ The best documented examples within Austria, however, are the "Judenbuch der Scheffstrasse" and the *Liber Judeorum* of Wiener Neustadt. The Scheffstrasse, a small community right outside the Vienna city walls that was subject to the duchess of Austria, had its own register, kept by both ducal officers and representatives of the city of Vienna, which was a cadastral register as well as a book of loans. Whereas the second part was dedicated to loans among Christians, the third part is the *Judenbuch*, entries of loans granted by Jews (Viennese as well as Lower Austrian and Bohemian Jews) to inhabitants of the Scheffstrasse. Since the majority of the inhabitants were small-scale craftsmen, most of the sums (a considerable number of which were granted by Jewesses) were rather small. Artur Goldmann, *Das Judenbuch der Scheffstrasse zu Wien (1389–1420)*, Quellen und Forschungen zur Geschichte der Juden in Deutsch-Österreich 1 (Vienna: Wilhelm Braumüller, 1908). An older *Judenbuch* of the city of Vienna has been lost; see Artur Goldmann, "Das verschollene Wiener Judenbuch (1372–1420)" in *Quellen und Forschungen zur Geschichte der Juden in Österreich, II: Nachträge* (Vienna: Selbstverlag der Historischen Kommission, 1936) 1–14. For Wiener Neustadt, see Martha Keil, "Der Liber Judeorum von Wiener Neustadt 1453–1500. Edition" in *Studien zur Geschichte der Juden in Österreich*, Martha Keil and Klaus Lohrmann, ed. (Vienna: Böhlau, 1994), 41–99.

⁸⁵ See the example quoted above of the *iudicis iudeorum* of Linz being caretakers of the ducal castle.

cases, it was even the ruler himself who committed the town to set up a *Judenbuch*,⁸⁶ and although it is likely that the Austrian duke catered to the wishes of the citizens, registering the debts in the *Judenbuch* also provided some protection for the Jews, since the entry rendered it impossible for debtors to claim that the obligations the Jews presented were forgeries.

Little is known about the organisation that is referred to as *Judengericht* (“Jewish court”, not to be confused with the internal court of the Jewish community)⁸⁷ the existence of which is first documented for the city of Vienna in 1361.⁸⁸ In the course of a general court reform, Duke Rudolf IV decreed the continued existence of the Viennese *Judengericht*, yet specified neither its constitution nor its competence in detail. Presided over by the *iudex iudeorum*, its assessors consisted of delegates from the city and the Jewish community in equal representation. Its jurisdictional competences, however, can neither be inferred from its only mention for Vienna nor from the Styrian references of the fifteenth century,⁸⁹ although it is very likely that they mainly dealt with the settling of conflicts between Jews and Christians.

Their increasing influence notwithstanding, Austrian towns remained for the most part powerless should the respective ruler, in whose official possession the Jews remained until the end of Jewish medieval settlement, decide to intervene. The Austrian dukes gave their Jews as fiefs to noblemen they particularly wanted to honor, reward, or bribe,⁹⁰ without

⁸⁶ E.g. Duke Albrecht III who obliged the Lower Austrian town of Bruck/Leitha to set up a *Judenbuch*; see Lohrmann, *Judenrecht*, 158.

⁸⁷ Martha Keil, “Gemeinde und Kultur—Die mittelalterliche Grundlage jüdischen Lebens in Österreich” in *Geschichte der Juden in Österreich*, 15–122 (40–41, 60–72).

⁸⁸ Eveline Brugger and Birgit Wiedl, *Regesten zur Geschichte der Juden in Österreich. Vol. 2: 1339–1365* (Innsbruck-Vienna-Bolzano; StudienVerlag: 2010), 263, nr. 992 (the volume is downloadable as a pdf-file here: http://www.injoest.ac.at/projekte/laufend/mittelalterliche_judenurkunden/, last accessed: 2 July, 2012); Lohrmann, *Wiener Juden*, 47, Brugger, “Ansiedlung,” 150.

⁸⁹ Brugger, “Ansiedlung,” 150.

⁹⁰ The most famous of these was the enfeoffments of the Counts of Cilli (today’s Celje, Slovenia) with the Jew Chatschim and his family by Duke Rudolf IV—which also means that the Counts of Cilli, who were about to build up their own territory in the realms of today’s South Styria, Slovenia, and parts of Italy, acknowledged Rudolf’s authority over a Jew who lived on their territory. See *Gj III 1350–1519, Part I: Ortschaftsartikel Aach—Lychen*, Ayre Maimon and Yacov Guggenheim, ed. (Tübingen: J.C.B. Mohr, 1987), 209; Lohrmann, *Judenrecht*, 206–07; Markus Wenninger, “Die Bedeutung jüdischer Financiers für die Grafen von Cilli und vice versa” in *Celjski grofje, stara tema—nova spoznanja*, Rolanda Fugger Germadnik, ed. (Celje: Pokrajinski Muzej, 1999), 143–64 (151–52). On Jews between ruler and (Lower Austrian) nobility, see Eveline Brugger, *Adel und Juden im mittelalterlichen Niederösterreich*, Studien und Forschungen aus dem Niederösterreichischen

so much as notifying the towns the Jews dwelled in; should a Jew flee from a ruler's territory, the towns were neither involved in the ensuing trial nor did they participate in the share of the Jew's confiscated property.⁹¹ In 1350, the nobleman and chancellor of Styria, Rudolf Otto of Liechtenstein, granted the Jew Häslein, the right to settle in his town of Murau, placing himself and his family in a very privileged position with respect to both the Jewish community of Murau and the town itself.⁹² Although it is very likely that Rudolf Otto of Liechtenstein issued the privilege with ducal approval, there is no mention of any involvement whatsoever of the town of Murau—which, if nothing else, had to renounce any jurisdictional rights over Häslein, who fell under the sole competence of Rudolf Otto himself. A few years later, Häslein had moved to the ducal town of Judenburg, receiving a privilege of Duke Rudolf IV that went along the same lines; and when Häslein's return to his hometown Friesach was interpreted as a flight by Duke Rudolf who then subsequently confiscated all of Häslein's property, thus ruining the entire family's business,⁹³ neither of the towns was involved in the process. This example concurs with a general increase of personalized privileges in the second half of the fourteenth century,⁹⁴ privileges that granted a special status to an individual Jew or Jewess (usually including the entire family) and exempted them from the legal requirements of the town they lived in.

In the course of the fourteenth century, many German cities had taken to granting citizenships to Jews,⁹⁵ a right that had, for the most part, been transferred to them by the lord of the town.⁹⁶ As far as Austria is

Institut für Landeskunde 38 (St. Pölten: Selbstverlag des Niederösterreichischen Instituts für Landeskunde, 2004).

⁹¹ For "famous flights" of Jews see Lohrmann, *Judenrecht*, 218–20 (Häslein) and 225–30 (the brothers Chatschim and Mosche).

⁹² Brugger, "Ansiedlung," 181–82; Wadl, *Juden Kärnten*, 196–98.

⁹³ Eveline Brugger, "Loans of the Father: Business Succession in Families of Jewish Moneylenders in Late Medieval Austria," in *Generations in Towns: Succession and Success in Pre-Industrial Urban Societies*, Finn-Einar Eliassen and Katalin Szende, ed. (Newcastle upon Tyne: Cambridge Scholars Publishing, 2009), 112–28 (119–21).

⁹⁴ Brugger and Wiedl, "Christlich-jüdische Interaktion," 288–89.

⁹⁵ Alfred Haverkamp, " 'Concivitas' von Christen und Juden in Aschkenas im Mittelalter" in *Gemeinden, Gemeinschaften und Kommunikationsformen im hohen und späten Mittelalter*, Friedhelm Burgard, Lukas Clemens and Michael Matheus, ed. (Trier: Kliemedien 2002), 315–44 (previously published in *Aschkenas* Beiheft 3, 1996, 103–36); *GJ III/3*, 2181–87; Gilomen, *Juden in den spätmittelalterlichen Städten*, 11–23, with a summary of the relevant literature.

⁹⁶ There are very few examples of cities (Worms, Prague) where this right to grant citizenship to Jews was independent from the concession of the ruler, see *GJ III/3*, 2169, 2181–82.

concerned, both the dominating position of the ruler(s) and the lack of really powerful, important cities (with the possible exception of Vienna) is most likely the reason for non-existing Jewish citizenship, the granting of settlement remaining exclusively in the hands of the rulers.⁹⁷ There is but one exception: the small town of Feldkirch in the utmost west of today's Austria, which was under the rule of a local and not overly powerful noble family. Unlike in Austria, Jewish citizenship was fairly common especially in the area around Lake Constance, to which Feldkirch belonged both politically and culturally.⁹⁸ However, Jewish citizens are solely mentioned in theory in a collection of (customary) regulations of Feldkirch from the mid-fourteenth century, and no individuals possessing the status of citizens are known.⁹⁹ Generally, information on Austrian Jews participating in urban duties is scarce. Jews paying taxes to the town (Laa an der Thaya 1277,¹⁰⁰ Eisenstadt 1373),¹⁰¹ or taking part in the city watch (Görz/Gorizia, today's Italy, 1307)¹⁰² are documented yet remain an exception.

During the last decades of the fourteenth century, the situation of the Jews in the Austrian territories worsened considerably. The concept of Jews being part of the ruler's treasure still prevailed, yet the idea of profiting from prospering Jewish communities had changed dramatically to squeezing as much money as possible out of them,¹⁰³ an economic

⁹⁷ Klaus Lohrmann, "Bemerkungen zum Problem 'Jude und Bürger,'" in *Juden in der Stadt. Beiträge zur Geschichte der Städte Mitteleuropas 15*, Fritz Mayrhofer and Ferdinand Opll, ed. (Linz: Landesverlag, 1999) 145–66 (161–64).

⁹⁸ Karl Heinz Burmeister, *medinat bodase. Zur Geschichte der Juden am Bodensee, Vol. 1, 1200–1349*. (Konstanz: Universitätsverlag Konstanz 1994), 40–42.

⁹⁹ Leopold-Schneider, *Stadtrecht von Feldkirch*, 236. See also Brugger, "Ansiedlung," 204.

¹⁰⁰ Brugger and Wiedl, *Regesten 1*, 74, nr. 57. On taxation of Jews by cities see *GJ III/3*, 2263–2267; on the Jewish taxes in Austria, see Brugger, "Beziehung der Habsburger," 742–743.

¹⁰¹ It is questioned whether the town charter of Eisenstadt, which mentions the taxes of Jews living in- and outside the city walls, is authentic; see Harald Prickler, "Beiträge zur Geschichte der burgenländischen Judensiedlungen" in *Juden im Grenzraum: Geschichte, Kultur und Lebenswelt der Juden im burgenländisch-westungarischen Raum und in den angrenzenden Regionen vom Mittelalter bis zur Gegenwart*, Rudolf Kropf, ed. Wissenschaftliche Arbeiten aus dem Burgenland 92 (Eisenstadt: Burgenländisches Landesmuseum, 1993), 65–106 (68–69).

¹⁰² Brugger and Wiedl, *Regesten 1*, 160, nr. 153, *GJ III/3*, 2181–82; Haverkamp, *Conciviltas*, 125–26; Toch, *Juden im mittelalterlichen Reich*, 51–54; Markus Wenninger, "Von jüdischen Rittern und anderen waffentragenden Juden im mittelalterlichen Deutschland" in *Aschkenas. Zeitschrift für Geschichte und Kultur der Juden*, 13/1 (2003), 35–82 (54–67); Christine Magin, "'Waffenrecht' und 'Waffenverbot' für Juden im Mittelalter—zu einem Mythos der Forschungsgeschichte," in *ibid.*, 17–34.

¹⁰³ From mid-century onwards, the Austrian dukes favoured noblemen by means of what is referred to as *Tötbrieft* ("killing letters") which cancelled debt instruments without

development that was also made possible by the increasing importance of the citizenries on the financial sector. However, the fact that other groups were taking on the role of money lender and financiers of the rulers and the nobility was but one factor in the general deterioration of the overall status of the Jews. Unlike in the earlier decades most of the persecutions were condoned, or even initiated, by the rulers.¹⁰⁴ The legal role of the towns remained a minor one, and even if Jewish settlement after the persecutions of 1338 was not, as frequently noted, reduced to the big(ger) towns, the persecutions and expulsions of the fifteenth century were partially initiated, or at least supported and carried out, by the citizenries. The *Vienna Gezerah* of 1420/21 brought an end to Jewish life in the duchy of Austria at the same time when Jews were evicted from many cities along the Rhine and around Lake Constance.¹⁰⁵ A second huge wave of persecutions within the realms of and carried out by the imperial cities in the eastern and northern parts of the Holy Roman Empire—after ongoing minor expulsions throughout the century—at the end of the fifteenth century occurred concurrently with the expulsion of the Jews from Styria and Carinthia, which had at least partially been carried out at the demand of the cities. The combined political and, above all, financial power of nobility and cities, the good will of which Emperor Maximilian I needed for his war preparations, eventually succeeded in expelling the Jews from all over the territory of today's Austria.

any compensation, Lohrmann, *Judenrecht*, 171–73); they held Jews at ransom, or confiscated their whole property, and the collecting of special taxes became more and more common (Brugger, “Ansiedlung,” 219–21).

¹⁰⁴ For example the persecution of the Jews of the Archbishopric of Salzburg in 1404, which had most likely been caused by financial problems of Archbishop Eberhard III, Wenninger, “Juden Salzburg,” 748–49.

¹⁰⁵ Brugger, “Ansiedlung,” 221–24, with a summary of the vast literature.