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Prvih osem člankov v tej številki *Acta Histriae* je nastalo iz prispevkov za mednarodno spletno konferenco *After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe*. Konferenca je bila del podoktorskega projekta Z6-3223 *Reševanje sporov med nižjimi sloji v baročni Notranji Avstriji: med fajdo in kazenskim pravom, ki ga je financirala Javna agencija za znanstvenoraziskovalno in inovacijsko dejavnost Republike Slovenije (ARIS) v letih 2021–2023, ter raziskovalnega programa P6-0435 Prakse reševanja sporov med običajnim in postavljenim pravom na območju današnje Slovenije in sosednjih dežel, ki ga sofinancira ARIS v letih 2022–2027*. / I primi otto articoli in questo numero di *Acta Histriae* provengono dagli interventi presentati alla conferenza internazionale online *After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe*. La conferenza faceva parte del progetto di post-dottorato Z6-3223 *La risoluzione delle controversie plebee nell' Austria Interiore nel periodo barocco: tra faida e diritto penale, finanziato dall' Agenzia slovena per la ricerca e l'innovazione (ARIS) nel periodo 2021–2023 e dal programma di ricerca P6-0435 Pratiche di risoluzione dei conflitti tra diritto consuetudinario e statutario nell'area dell'attuale Slovenia e dei suoi territori limitrofi, cofinanziato dall' ARIS nel periodo 2022–2027*. / The first eight papers in this issue of *Acta Histriae* originate from papers for the international online conference *After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe*. The conference was part of the post-doctoral project Z6-3223 *Plebeian Dispute Settlement in Baroque Inner Austria: Between Feud and Criminal Law, funded by the Slovenian Research and Innovation Agency (ARIS) in 2021–23, and the research programme P6-0435 Practices of Conflict Resolution Between Customary and Statutory Law in the Area of Today's Slovenia and Its Neighbouring Lands, co-funded by ARIS in 2022–27*.

## DUELLING IN THE HABSBURG HEREDITARY LANDS, 1600–1750: BETWEEN LAW AND PRACTICE

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### ABSTRACT

*The article focuses on duelling in the Habsburg hereditary lands, with an emphasis on Styria. It presents around fifteen cases of duels that have been fought or provoked, from 1643 to 1750. In the Habsburg hereditary lands and in the Holy Roman Empire in general, duelling flourished during and after the Thirty Years' War, and thrived between 1660 and 1730. Anti-duelling decrees prescribed fines and sometimes imprisonment, and the death penalty in homicide cases. Duels continued despite strict bans (also) because sanctions were generally not enforced, and if the 'criminal' was brought to court, he was almost always pardoned by the Emperor. In practice, the death penalty for duellists was an extraordinary event, since even trials were exceptional, including cases when duels resulted in deaths.*

*Keywords: duels, early modern period, Holy Roman Empire, Habsburg hereditary lands, Inner Austria, Styria, Carniola, seventeenth century, eighteenth century*

## I DUELLI NELLE TERRE EREDITARIE ASBURGICHE, 1600–1750: TRA LEGGE E PRATICA

### SINTESI

*L'articolo si concentra sui duelli nelle terre ereditarie degli Asburgo, con particolare enfasi alla Stiria. Presenta una quindicina di casi di duelli combattuti o provocati, dal 1643 al 1750. Nelle terre ereditarie degli Asburgo e nel Sacro Romano Impero in generale, il duello fiorì durante e dopo la Guerra dei Trent'anni, e prosperò tra il 1660 e il 1730. I decreti anti-duello prescrivevano multe e talvolta la reclusione, e la pena di morte nei casi di omicidio. I duelli continuavano nonostante i severi divieti (anche) perché in genere le sanzioni non venivano applicate, e se il 'criminale' veniva portato in tribunale, veniva quasi sempre graziato dall'Imperatore. In pratica, la pena di morte per i duellanti era un evento straordinario, poiché anche i processi erano eccezionali, compresi i casi in cui i duelli avevano come esito la morte.*

*Parole chiave: duelli, primo periodo moderno, Sacro Romano Impero, terre ereditarie degli Asburgo, Austria Interiore, Stiria, Carniola, XVII secolo, XVIII secolo*

INTRODUCTION<sup>1</sup>

Recently, a handful of publications addressed duelling in the early modern Holy Roman Empire (Carroll, 2023; Ludwig, 2016), but duels in the Habsburg hereditary lands remain underresearched. The most on local duels was written well over a century ago by Josef von Zahn (Zahn, 1888) in his article on the history of manners (*Sittengeschichte*) in Styria, which is, as can be expected, very outdated in its approach. For example, Zahn argued that the main reason for duels was intoxication, which encouraged quarrelling (Zahn, 1888, 151, 163). However, the number of eighty fought or provoked duels that he pointed out for the Styrian capital of Graz from 1670 to 1699 – forty cases alone from 1670 to 1675 (Zahn, 1888, 163, 170) – is nevertheless extremely high, and calls into question the traditional notions that the nobility in Habsburg hereditary lands had been largely pacified already by the early seventeenth century.

Due to the prohibition of feud, or *Fehde*, by the Imperial Perpetual Peace of 1495, nobility in the Empire has traditionally been seen as pacified early in the sixteenth century. However, Stuart Carroll has recently argued, that this is not the case and that despite the ban feuding was still widely practised at the end of the sixteenth century and beyond (Carroll, 2023, 145–185). There is growing evidence that this was also true in the Habsburg hereditary lands of Inner Austria (Styria, Carniola, Carinthia, Gorizia, Gradisca and some smaller territories) well into the seventeenth century (Makuc, 2015; Oman, 2016; 2019; 2023; Oman & Darovec, 2018). Furthermore, duelling did not replace the *Fehde*, as is generally assumed, but was in many instances its extension, much like elsewhere in early modern Europe (Carroll, 2023, 183–185).

Carroll also highlights rising levels of interpersonal violence and enmities as a result of economic, political, social and similar crises. In the seventeenth-century Habsburg hereditary lands, there was enough upheaval and unrest, starting with the Counter-Reformation from the late sixteenth century and early absolutist reforms. There were also peasant revolts and Hungarian rebellions. The Emperor was in constant demand for money to pay for the wars against Ottoman Turks and the combat of the Thirty Years' War, which exerted considerable pressure on the Provincial Estates, and thus on nobility, who in turn put pressure on their subjects. The Military Frontier was largely financed by Inner Austrian Estates, and some parts of the Habsburg hereditary lands were in 1683 invaded by the Ottoman Turks. The seventeenth century is also generally considered to be the century of the plague, with epidemics hitting Styria and Carniola every few years: 1600–2, 1623–31, 1634, 1641–8, 1664–9 and 1679–83 (Travnar, 1934, 100; Umek, 1958, 80; Zupanič Slavec, 1999, 209), so it can be deduced that this was also a century of significant economic crisis in the

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1 The research for this article was carried out as part of the research programme *Basic Research of the Slovenian Cultural Past* (P6-0052) and the postdoctoral research project *Probate Inventories of Styrian Social Elites in the Early Modern Period* (Z6-4606), funded by the Slovenian Research and Innovation Agency (ARIS). I would like to thank Žiga Oman for his advice on the drafts of this article, and the anonymous reviewers for their comments.

Habsburg hereditary lands. In part, these crises carried on into the early eighteenth century. In 1703–11, Styria and Lower Austria were for the final time invaded by kuruc insurgents from Hungary, while Styria was also hit by a rinderpest epizootic in ca. 1711. Concurrently, the last plague epidemic struck Styria in 1710–16, also spreading to Carinthia and Carniola in 1715–6 (Golec, 2022, 70–71; Brunner, 2007, 148). The Habsburg victories against the Ottoman Turks from 1683, and the start of the War of the Spanish Succession, led to new financial demands from the Emperor. The nobility's fortunes and credit, already very fragile after decades of economic crisis, especially after the Thirty Year's War, were put under further strain. As economic and material competition increased, the rise of duelling after 1648 can be interpreted as a consequence of the nobles' struggle for possessions, rights, positions and honour, all of which were closely related.

In the chapter on duelling in the Habsburg hereditary lands, some cases of duels in Habsburg hereditary lands will be presented, mainly from Inner Austria, especially Styria. These cases are rare. I became acquainted with duels during my genealogical research on the Herberstein noble family and their kin as part of my dissertation. Duelling cases presented in this article were more or less discovered by chance, as I surveyed the elite's probate inventories from the extensive *Landrecht* fond (StLA, LR), containing documents from all courts with jurisdiction over the provincial nobility. It should be noted, that these judicial documents are often very fragmentary. I have also surveyed some digitised burial registers and did some field research in Graz. As for individual accounts of duelling in Carniola, I have checked the diary notes of Baron Franz Heinrich Raigersfeld. Based on about fifteen duel cases, I will try to draw some conclusions at the end.

## DUELLING IN THE HOLY ROMAN EMPIRE – AN OUTLINE

People have always sought honour and prestige (glory). This was a characteristic of all classes in early modern Europe, but was most pronounced among the nobility. For all pre-modern societies, the worst insult (injustice) was the accusation of lying or dishonesty. The semantics of honour took a central place in the dispute settlement of early modern societies. Among status equals, a violent response to an accusation of dishonesty was to some extent legitimate (Schwerhoff, 2013, 38–40). In sixteenth century Italy, the duel developed as a form of a violent response over the point of honour. It spread rapidly in France, having been brought home by soldiers serving on the Apennine Peninsula. Through them, the phenomenon was swiftly adopted by the French upper nobility, to such an extent that it persisted throughout the seventeenth century, despite repeated prohibitions by the authorities (Carroll, 2006, 9; 2016, 105–106, 117; Cavina, 2016, 579–580; Billacois, 1990, 15, 18–19).

Early duels were still public and formal procedures, allowing the community, such as the townspeople or local nobility, to intervene in a dispute at any point and settle it as quickly as possible. The duel can therefore be interpreted in the context of the traditional system of dispute settlement, i.e. the concepts or rituals



of vengeance and reconciliation (peacemaking), in which honour and humiliation were two sides of the same coin (Darovec, 2017, 74–75, 86–88; 2018, 469–470; Oman, 2023, 275–276).

As duelling became established in Renaissance Italy as one form of dispute settlement, a culture or code of honour developed alongside it both there and elsewhere in Europe, which, through the use of books of conduct and similar texts,<sup>2</sup> became a key part of the educational process and social consciousness of young noblemen in the period between the sixteenth and eighteenth century. This was also emulated by the more ambitious townspeople (Cavina, 2016, 571, 585–586).<sup>3</sup>

In the Holy Roman Empire, duels were rapidly adopted from Italy and especially France.<sup>4</sup> They were particularly common among the nobility and in the army, especially among officers, but were by no means confined to the upper classes (Carroll, 2023, 206–207; 2017, 132–133; Ludwig, 2016, 85, 94, 168–169; Schwerhoff, 2013, 39; Billacois, 1990, 24–26; Zahn, 1888, 154, 161). In her study of duels in the Empire, Ulrike Ludwig also lists craftsmen or apprentices, merchants and even peasants. Edicts against duels were formally addressed to the whole of society, with the exception of women (Ludwig, 2016, 47–49, 86–89). Although duels took place for the most part within the same social groups, the typical ‘offenders’ were military officers (Ludwig, 2016, 86, 165–167, 193; Schwerhoff, 2013, 39).

In the Habsburg hereditary lands and in the Holy Roman Empire in general, duelling flourished during and after the Thirty Years’ War, when it peaked.<sup>5</sup> Of the 42 anti-duelling decrees, around 75% were issued in the second half of the seventeenth century, a quarter of these between 1650 and 1655 alone.

2 As duelling became established, the first treatises on the subject were published. In the sixteenth century, the first writers on duels were representatives of Italian humanism, such as Andrea Alciato, Girolamo Muzio, Giovanni Battista Possevino, Torquato Tasso, Sperone Speroni and others. Their treatises were known and copied throughout Europe (Billacois, 1990, 19–20; Carroll, 2016, 117–118; Štoka & Vrabc, 2013, 26–27).

3 At the same time, the Grand Tour (*Kavaliersreise*) was part of the educational process, where the nobleman perfected his knowledge of languages, artistic taste, poise, dancing and playing a suitable instrument, and, above all, the correct and elegant swinging of a one-handed rapier or smallsword. Knowledge of Italy and its culture was an integral part of the nobleman’s decorum (Kokole, 2015, 60; Low, 2003, 18–19).

4 By the time Germans adopted the duel, they had their own specific style of fighting. They favoured slashing with the broadsword, but also valued wrestling with the opponent in order to disarm him. The adoption of the rapier required a new fighting style (Carroll, 2023, 207).

5 In the mid-seventeenth century, a corpus of about a dozen Lutheran theological texts about duels can be identified in Germany. In addition to the reception of French duelling mandates by German theologians, there were also other lines of connection with countries, where a specific duelling culture had already been established by the early seventeenth century. Thousands of Germans learned about duels fighting in the French Wars of Religion from 1562 to 1598, making the local nobility in Germany among the earliest adopters of the duel, while especially during the Thirty Years’ War, the French were found in the armies of the German conflict parties and ensured that the duel was spread there (Ludwig, 2016, 68–69; Carroll, 2023, 170, 208).

They stipulated fines and sometimes imprisonment, and the death penalty in homicide cases (Billacois, 1990, 23). Early patents or decrees against duelling in Habsburg territories are mentioned in 1606, 1613, 1615, 1624, 1637, 1647, 1666, and 1670 (Ludwig, 2016, 77; Zahn, 1888, 152, 162; Kočevar, 2017, 137, n. 25; Guarient und Raal, 1704, 285–288, 624), which means that they long had little effect.

Before the nineteenth century, no specific duelling code, which would regulate the conduct and form of the duels, had been developed on German territory (Ludwig, 2016, 302, 332). Until then, duels, which unlike in France and Italy were not strictly distinguished from brawls and clashes between the lower classes, had been referred to as *Raufen*, *Prügeln*, *Balgen*, *Kugeln wechseln* and only from the 1760s increasingly also by the word *Zweikampf* (Ludwig, 2016, 80–81, 120). The foreign word *Duel* appears in the German press at the beginning of the seventeenth century, but it described a pre-existing practice. From the 1630s onwards, the term became commonplace, although it can be seen that it was used to refer to a wide variety of interpersonal conflicts. German combatants did not talk much about ‘duels’ and tended to talk of ‘encounters’, which were fortuitous and thus defensible in law, or they used the verbs *erstochen* or *erschossen* to distinguish their acts from simple murder (Carroll, 2023, 211; Zahn, 1888, 162–163). Listing cases from Graz, Zahn also records the words *Aufstoss*, *Missverstand*, *Ungelegenheit*, *Stritt*, *Zwispalt* and, when the duel was interrupted, the French loanword *rencontre* (Zahn, 1888, 162–163). The first trials against duellists in the Holy Roman Empire date from the mid-1600s.<sup>6</sup> Duelling thrived between 1660 and 1730 and then sharply declined, followed by a resurgence and boom since the 1790s, especially among officers and students (Ludwig, 2016, 102–103, 164–168, 200–205, 222; Carroll, 2023, 182, 209, 219; 2017, 132–133; Schwerhoff, 2013, 41).

A challenge to a duel was only possible if the adversary was of legal age and able to bear arms, while the age difference between the duellists was irrelevant. The duel did not depend on noble rank, but on whether the opponents were allowed to bear arms and considered themselves as equals (Billacois, 1990, 73, 75; Carroll, 2016, 122; Cavina, 2016, 584).<sup>7</sup> Those challenged usually had a choice of how to conduct the duel: on foot or on horseback, with a smallsword

6 A tourist visiting Vienna in 1651 reported that murders were still so common that one would be talking about one at midday only to hear that another had been committed that evening. By then the duelling to the death, which had already conquered the nobility, spread to the towns (Carroll, 2023, 182).

7 Germany was different from the rest of Europe in that martial arts were valued by all social classes. Service in civic militias was a badge of citizenship and, in contrast to many European countries, where military training of peasants was frowned upon, many German states organized territorial militias. In areas where there had long been a free peasantry, soldiering was a respectable profession, and in some parts of south-west Germany this was an important economic activity. Weapon ownership was not only widespread but often a requirement for citizens (Carroll, 2023, 208).

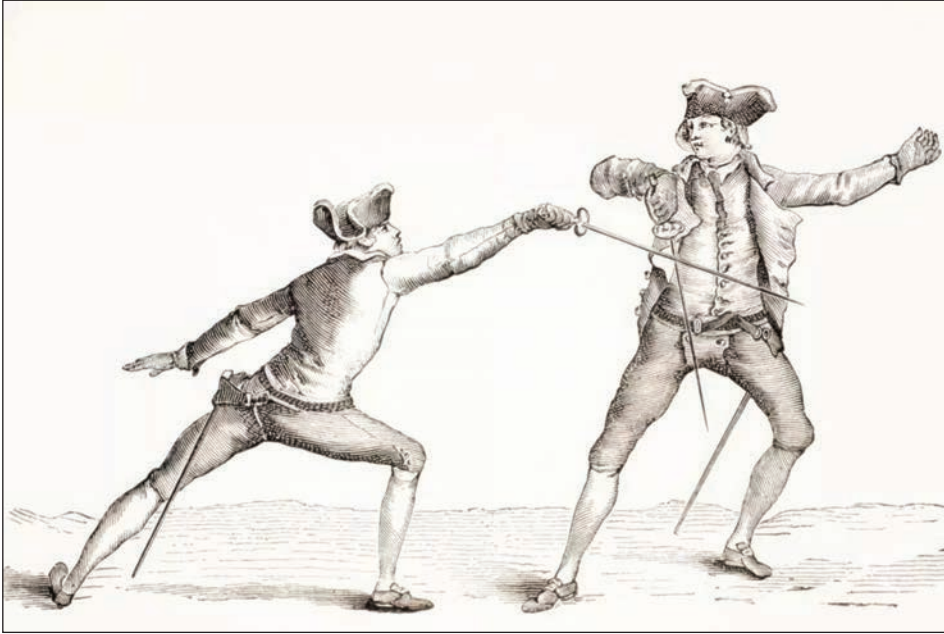


Fig. 1: Smallsword duel in the eighteenth century (Wikimedia Commons).

or pistol, etc. (Zahn, 1888, 166). After 1660, duels in France increasingly abandoned form in order to achieve the point: to kill the opponent, humiliate him or avenge oneself for an insult.<sup>8</sup> Sometimes only a few minutes elapsed between the challenge to a duel and the duel itself. A large open space was sufficient for a duelling venue. Those who wanted to attract attention chose more populated places, while others, wanting to avoid the authorities (state, civil, or religious), preferred deserted places. Conflicts over honour and rights were an integral part of noble life, so weddings and other celebrations were venues for displays and challenges of honour. As similar conflicts did not occur at princely courts or at the sessions of the provincial and state assemblies, some places were (apparently) considered sacrosanct (Carroll, 2017, 133; Ludwig, 2016, 175–176). As the timing of the duel was no longer important, the conflict ceased to be a public

<sup>8</sup> In exchanges of vindictory violence, the intention had not always been to kill, as drawing blood or maiming was often sufficient revenge (Carroll, 2006, 140). However, already in 1664, the German fencing master Johann Daniel Lange (pseudonym Jean-Daniel de l'Ange; † after 1682) published in Heidelberg a fencing manual entitled *Deutliche und gruendliche Erklarung der Adelichen und Ritterlichen freyen Fecht-Kunst*, which treats the use of the single rapier. The manual advertised the art of killing quickly, by puncturing vital organs and arteries (Carroll, 2023, 207; Lange).

spectacle. The weapon of the duel became the one-handed rapier.<sup>9</sup> From the rapier the smallsword developed and was fully established by the mid-seventeenth century, with blade length usually between 60 and 85 centimetres. The not too sharp cutting edge and the sharp point made the smallsword suitable for stabbing (thrusting), with the shorter version allowing for a quicker stab. With the smallsword, it was possible to quickly kill the opponent, but otherwise the loser was not necessarily maimed and disfigured.<sup>10</sup> The rapier and the smallsword did not favour the duellist's physical strength or stamina, but rather his mastery of the weapon (Low, 2003, 6–7, 44; Small sword).

By the mid-seventeenth century, especially in France, pistols were also used in duels, due to their greater lethality. Pistol duels were usually carried out with two pistols, as at that time only one shot could be fired from each. While deep thrusts against an unprotected body were extremely difficult to heal, firearm wounds were often fatal due to sepsis.<sup>11</sup> In her study, Ludwig also reports on pistol duels in the seventeenth-century Empire. The German term *Kugeln wechseln*, i.e. the exchange of bullets, was also synonymous with duels at that time (Ludwig, 2016, 80–81, 120, 324, 326). Gerd Schwerhoff, for example, notes the prevalent use of firearms in duel killings in Cologne around 1700 (Schwerhoff, 2013, 40).<sup>12</sup>

Opponents sometimes arranged for the duel to be fought with weapons of same length or quality. Others did not care about this, as long as the duel took place as soon as possible, not to be seen as a coward in the opponent's eyes. Duels of the time were fast and deadly. An important change in the form of duelling was the new role of seconds as witnesses or assistants. As a rule, seconds accompanied each of the duellists to the duel site. Sometimes there were more than one, but always an equal

9 In Styria, one of the earliest rapiers recorded are in Hans Globi(t)zer's probate inventory from 1591. Among the many cold weapons of the deceased, 'three German rapiers' (*dreu teutsche rapier*) are mentioned, which itself is distinctive and interesting (StLA, LR 279, 210r). In the probate inventory of gentlemen Hans Gleispach from 1598, the inventory commission found several pieces of rapiers among the cold weapons: two silver-plated, two black and four old ones (StLA, LR 275, 400v–401r). This suggests that from the end of the sixteenth century onwards, rapiers were commonplace in the Habsburg Monarchy or at least in the Habsburg hereditary lands.

10 Smallsword is thought to have originated in France, from where it spread rapidly across Europe together with the duel. It was at the height of its popularity between the mid-seventeenth century and the late eighteenth century, when it was carried by every nobleman as an accessory to his outfit and as an aid in duelling or defence (Small sword).

11 Pistol duels around the mid-seventeenth century in France should not be equated with the student and bourgeois duels in Germany of the nineteenth century. In the seventeenth century, in so-called pistol duels the (unreliable) pistols were fired at first and then rapiers or smallswords were drawn. Those duels were fought with up to three men on each side (Carroll, 2006, 137–140, 158).

12 The prevalent use of firearms in Cologne homicide cases is a clear indication that the soldiers as 'professionals of violence' were becoming the main protagonists in many places. Schwerhoff states, that around 1700 not only in Cologne but also for other cities the retreat of the elites and the middle-classes from violence-based honour conflicts can be observed (Schwerhoff, 2013, 40).

number on both sides. They may have been related to the duellist (although often they were not) and, before the duel began, they encouraged or comforted him, checking, if necessary, the type and length of weapons, the absence of protection and amulets. However, seconds soon ceased to be passive witnesses and often fought among themselves. Moreover, if a second killed or otherwise knocked out his opponent, he could join the main duel and thus help the protagonist. In this case, the duellists were no longer tied, but this was irrelevant, as only the situation at the start of the duel was important (Billacois, 1990, 61–65; Carroll, 2006, 148–149, 151; Low, 2003, 18, 46–47; Peltonen, 2003, 96, 190, 203).<sup>13</sup> Taking part in a duel meant that one became known for one's courage, and even the losers seemed to have gained renown for their fighting. The performance of the duel was necessarily transmitted by a few observers, mostly seconds, sometimes surgeons etc. (Low, 2003, 18).

When someone was killed in a duel, the killer usually retreated to his estate, in most cases voluntarily. In practice, the retreat served as a form of self-punishment (or self-humiliation) and constituted the relinquishment of all his positions and rights while awaiting pardon. Such 'exile' interrupted his career, his network of acquaintances and distanced him from his home environment for a long period – possibly for several years (Billacois, 1990, 109, 161). Many then joined the Imperial or Royal Hungarian army, as their loyalty to the Emperor and service to the monarchy enabled them to obtain his letter of pardon sooner (Carroll, 2006, 127–129; Makuc, 2015, 222, 224).<sup>14</sup> The aim of early modern litigation remained settling the injustice and preserving the reputation or honour of the conflicting parties, not to seek out the truth. This was also supported by the (noble) courts of law, which, like extra-judicial rites, were primarily concerned with making peace quickly and safeguarding the social order and the balance of power in the community. The justice system was predominantly in favour of the more powerful party to a conflict (Oman, 2023, 276; Povolo, 2015, 215–217).

The fact that the decrees and anti-duelling patents (mandates) were violated was not only due to the duelling code of honour, but also due to the uneven procedures, and, in Inner Austria, occasionally the conflict between the two authorities: the princely Inner Austrian Government and the Provincial Estates. The nobles were under the jurisdiction of the provincial governor and members (*Beisitzer*) of his law court, and a court of their peers (and/or relatives) was rarely independent. In 1669, for example, the Government complained to the governor that one of the causes for so many duels were the many acquittals of duellists in the noble court. The Government admitted that the provincial governor or the provincial administrator (*Landesverwalter*) was not to blame, but rather the fact that the defendants appointed members of

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13 Seconds were always persecuted in France. In royal decrees from 1643 and 1651, they were treated more severely than the main duellists and faced the death penalty (Billacois, 1990, 104).

14 Especially at the beginning of the early modern period, some truly contrite (and wealthy) nobles could even make the pilgrimage to Rome, hoping to receive in return for some act of penance a papal letter of pardon (Carroll, 2006, 128).



his law court and solicited votes from all of them, thus easily avoiding punishment (Zahn, 1888, 152–153). Duels continued despite strict bans (also) because sanctions were generally not enforced, and if the perpetrator was brought to court, he almost always received the Emperor's letter of pardon. This was due to the fact that the Emperor, like his courtiers, was not only indulgent of duellists, but also respected and even admired them (Billacois, 1990, 80, 110; Carroll, 2006, 151, 214–215). In practice, the death penalty for duellists was an extraordinary event, and even trials were exceptional, including cases when duels resulted in deaths (Ludwig, 2016, 281; Billacois, 1990, 109, 179).

## DUELLING IN THE HABSBURG HEREDITARY LANDS

The conflicts over honour and rights were an integral part of noble life. The nobles' social gatherings were venues for displays and challenges of honour (Carroll, 2017, 133; Ludwig, 2016, 175–176). As princely courts and state assemblies were (apparently) considered sacrosanct, so were the provincial assemblies. That this was also the case in Styria, and likely elsewhere in Inner Austria, is evidenced by a well-preserved plaque on the exterior wall of the *Landhaus* in Graz. To the right of its main gate, there is a plaque from 1588, during the reign of Archduke Charles II. It states, that the Diet of the Styrian Provincial Estates also decided, that no one should dare to fight in the *Landhaus* with a weapon, dagger, or bread knife, practice mischief or play tricks with other weapons, but to use the weapons with all due respect and modesty, or be severely punished.<sup>15</sup>

In addition to the sacrosanctity of certain spaces, the plaque proves two things: that the rapier as a duelling weapon was not yet established at that time, nor was duelling as an avenue of dispute settlement and/or defending a nobleman's honour. This changed quickly. Already in 1591, 'three German rapiers' are recorded in Hans Globi(t)zer's probate inventory (StLA, LR 279, 210r). Fifteen years later, duelling evidently already made its way into Habsburg hereditary lands, as the first patent or decree against duelling in the territory was issued. To little avail, and the next ones followed in 1613 and 1615 (Zahn, 1888, 152; Kočevar, 2017, 137, n. 25).<sup>16</sup>

15 Original inscription in full: *Mit der Fürst. Durchl. Erzherzogen Karls zu Oestereich unseres gnädigsten Herrn u. Landesfürsten gdgsten Vorwißen Consens v. Ratification, hat eine Hochlöbliche Ladft. Dieses Herzogthumbs Steyer in dem Landtag unter anderen auch dahin beschloßen v. Befelch gethan daß Niemand wer der auch seyn mag sich unterstehe in dießem Hochbefreyten Landthaus zu rumoren die Währ Tolch oder brodmeyßer zu zucken, zu balgen, v. zu schlagen, gleichfals mit andern Wöhren Vngebühr zu üben oder Maulstreiche auszugeben sondern hiernnen aller Gebühr und Bescheidenheit mit Worthen und Weethen zu gebrauchen Welche aber darwieder handeln daß dieselben nach Gelegenheit des Verbrechens an Leib und Leben unnachlässig sollen gestraffet werden darnach sich mäniglich wiße zu richten. Actum Grätz 20. Sept. 1588. Renovatum 12. April 1694. Renov. 10. 8ber 1773. Renov. 29. 7ber 1824. Renov. 27. Jänn. 1900.*

16 Whether the early period of duelling in the Habsburg Monarchy or Habsburg hereditary lands was mainly about disputes between Protestants and Catholics would be pure speculation at this point.



*Fig. 2: Plaque on the exterior wall to the right of the Landhaus' main gate in Graz (photo: Matjaž Grahornik, 2023).*

On 1 December 1615 in Graz, Archduke Ferdinand II issued a special patent for Inner Austria, criticizing the vengefulness prevalent not only among commoners but also among the nobility, and again prohibited duels. The Archduke warned that such practices often led to wounds and even death. The decree portrayed vengeance as contrary to divine, ecclesiastical, secular and princely law and police orders. In addition to their injuries, it causes enmity and mistrust between families, which is passed on to their offspring. To maintain order among his subjects, the prince issued a patent that no one should sin against his neighbour, that everyone should behave peacefully, and that there should be no fights or duels. No occasion for a duel should be given by a provocation, regardless of status. If, however, any person is injured in honour, body or property, he is to report it to the competent authority or, in case of emergency, to the Inner

Austrian Government or the prince in person. The Government, as a princely institution, had his mandate to act in such cases. If someone does not appear for a duel, neither his honour nor his good name will suffer. Otherwise, he will be committing a criminal offence by appearing for a duel. The prince further called for peace and unity and threatened violators with severe penalties. To respect his patent, he authorized all his subordinate authorities, from provincial governors to elected market-town judges and lower offices (AS 1079, št. 99, Anti-duelling patent, 1 December 1615; Kočevar, 2017, 137, n. 25).

However, almost thirty years had passed between the anti-duelling patent from 1615 and one of the earliest well-documented duels in the Habsburg hereditary lands. In the meantime, a significant moment occurred when, on 1 August 1628, Emperor Ferdinand II issued a patent or general mandate, wherewith he ordered the Protestant nobility of Inner Austria to convert to Catholicism or leave all his lands within a year. According to known sources, some 750 nobles left Styria, Carinthia and Carniola, while other Protestant nobles converted. The patent was made possible by favourable political circumstances following the victories of the Emperor's and the Catholic League's armies in the first two phases of the Thirty Years' War (Kočevar, 2020, 381–382, 387–389, 393–397, 426).

The nobles who left Inner Austria were quickly replaced by newcomers, mainly from the Habsburg territories in what is now Italy and Spain.<sup>17</sup> Violence and enmities among early modern nobility – especially in urban centres – were also aggravated by increased social mobility, which eroded established signs of respect or honour, such as a proper greeting, the right of way, seating in church, etc. (Oman, 2023, 275). But none of this was the case on 17 June 1643, during the reign of Emperor Ferdinand III, when in Graz Baron Wolf Maximilian Eibiswald (after 1620–74) engaged in a smallsword duel with Baron Gottfried Schrattenbach Jr (†1643).<sup>18</sup> The duel is said to have taken place as a result of a drinking contest (*ein Gsundtrunk mit 3 classen*). Baron Eibiswald had had too much and spilt his drink. Baron Schrattenbach teased him and a verbal duel ensued. Schrattenbach snatched a smallsword from the present Baron Moritz Herberstein<sup>19</sup> and the duel almost started at the table, but then they immediately went to the *Kuhtratte* (Zahn, 1888, 163; Graz-Hl. Blut, DR 1642–1649, 62).<sup>20</sup> The seconds (*assistendo*) in the duel were Baron Hans Albrecht Herberstein and

17 In the lands of Inner Austria, particularly Styria and Carniola, there has been a significant increase in the population with roots from Italy from the sixteenth century, especially during the reign of the devout Catholic Archduke Ferdinand, from 1619 Emperor Ferdinand II.

18 Baron Gottfried Schrattenbach Jr is mentioned as a knight of the Teutonic Order. At the time of his death he was Vizedom von Friesach and Landkomtur in Velika Nedelja (Naschenweng, 2020b, 840). His name is not mentioned in the parish register. From the entry it is also not clear when and where he was buried (Graz-Hl. Blut, DR 1642–1649, 62).

19 Probably Christoph Moritz (1586–1647), who in 1621 married the widow Baroness Maximiliana Maschwander, née Baroness Herbersdorff (Naschenweng, 2020a, 515).

20 For *Kuhtratte*, cf. figure 3 and note 34.

Baron Johann Baptist Maschwander (StLA, LR 177, I. Teil, 109r–v).<sup>21</sup> Schrattenbach, who carried only a short smallsword, took that of his lackey, and when it fell from his hand, Eibiswald did not take advantage of it. In the second attempt, Eibiswald fell seriously wounded. Schrattenbach tried to give him a *coup de grâce*, which was parried by the Eibiswald's second, Baron Maschwander. Schrattenbach, himself badly wounded, took a few steps and fell dead (Zahn, 1888, 163; Graz-Hl. Blut, DR 1642–1649, 62; StLA, LR 177, I. Teil, 109r).

Schrattenbach's second, Baron Hans Albrecht Herberstein (1599–1651), was seen as the instigator of the duel.<sup>22</sup> On July 6 1643, he was ordered by the Styrian *Landesverwalter* to remain in 'actual prison' until the matter was resolved.<sup>23</sup> According to the decree of 28 July 1643, all three remaining participants in the duel were temporarily imprisoned in Graz (StLA, LR 177, I. Teil, 109r–v). Soon after the killing of Baron Schrattenbach, Eibiswald's father Christoph (1578–1650) petitioned to the Emperor and the Inner Austrian Government to release his wounded son. At his request, his son Wolf Maximilian was allowed to leave the prison for eight days after 5 August to recuperate in Tobelbad, but then had to return to his house arrest (*in seinem arrest*). The father guaranteed for his son's return to house arrest with all his property. The decree further reveals that Wolf Maximilian was imprisoned at his father's house in Graz and that he was guarded by the town guards (*die statt quardi*) (StLA, LR 177, I. Teil, 110r). Before 19 August, Christoph pledged again with all of his property, set as surety, at any time upon request, that his son could remain and live with him on his estate, free and unguarded.<sup>24</sup> A decree of the Styrian provincial

21 It was probably the same Baron Maschwander who, in 1669, after the Graz town judge had arrested one of his servants, came to the *Rathaus* and shouted that if his servant was not released immediately, he would kill the town judge and several members of the town council (Zahn, 1888, 155).

22 Hans Albrecht was born in 1599. On 8 November 1620, he was a colonel in the Imperial army in the decisive victory of the Catholic League in the first major battle of the Thirty Years' War, the Battle of White Mountain, near Prague. Afterwards, he became a major general (*General Feldwachtmeister*), and was also appointed Imperial chamberlain and a member of the Inner Austrian War Council. On 7 April 1625 in Graz, he married the widow Baroness Maria Renata Schrattenbach (!), née Baroness Herberstein. She was the daughter of Bernardin of the older main branch at Herberstein from his first marriage to Maria Constanze, née Baroness Fugger. Her first marriage to Baron Karl Schrattenbach took place on 13 February 1612 (Graz-Hl. Blut, MR 1621–1639, 182; Naschenweng, 2020a, 508, 521).

23 [D]ie ferere allergenedigiste verordnung dahin gethan, daß er herr von Herberstain freyherr, biß zu außtrag d[er] sach in noch weitter w[ir]klichen arrest erhalten, unnd von d[er] gebettten erlassung, abgerisen werden solle, weliches wollgedachter h[er]r landtsverwalter p[er]ge ihme h[er]ren von Herberstain freyh[er]ren p[er]ge hiemit nachrichtlichen erindert haben will, Grätz den 6 Jully [1]643 (StLA, LR 177, I. Teil, 108r–v). At that time, house arrest was (more) common, as will be seen below.

24 [D]amit sein sohn herr Wolff Maximilian gegen disen sein herrn Christoffen von Eybißwaldt freyherrn anerbieten, d[a]ß er denselben bey verpfendung aller seiner güetter, iederzeit auf begehren stöllen wolle, bei ihme auf seinen hoff frey unnd unverarrestierter verbleiben unnd wohnen möge, auß sonderbahren erhöblichen motiven, unnd ursachen dahin aller genedigist resolvirt, das gedachten jungen heern von Eybißwaldt freyherrn, gegen seines herrn vattern erbieten, auf den hoff sich zue begeben, erlaubt seyn, unnd sich dero selbe aldorten in arrest ohne quardi erhalten solle. Dessen wirdet herr landtschaubtman in Steyr zu nachricht, und des herrn supplicanten beschaidung hiemit erindert. Grätz den neün zehenden Augusti A[nno] x[ti] 1643 (StLA, LR 177, I. Teil, 106r–v).



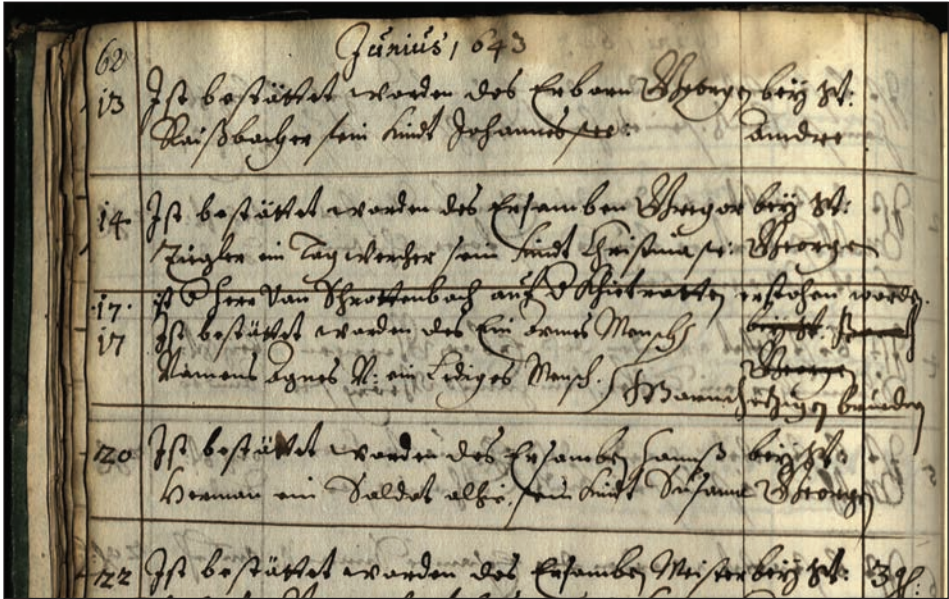


Fig. 3: Burial register entry for Baron Gottfried Schratzenbach Jr as a result of the duel, fought on 17 June 1643 in Graz (Graz-Hl. Blut, DR 1642–1649, 62).

governor from 20 November reminded Christoph that he has pledged for his son with his life and entire property. Upon his request, that his son be imprisoned as late as possible, and his payment of the bail (*caution*), Wolf Maximilian was granted to move freely in Graz, but was not allowed to leave the Styrian capital until further notice (StLA, LR 177, I. Teil, 103r–104v). A document from 21 March 1644 notes that Wolf Maximilian was still under arrest (for 9 months) in the house of his elderly father, with whom he had (for some time) to endure and provide for the town guards stationed there. According to the description, Wolf Maximilian had suffered serious, supposedly even ‘fatal’ wounds in the duel, which left him in severe pain and very weak.<sup>25</sup> We also learn, that Eibiswald’s second, Baron Maschwander, ‘who had little to nothing to do with the matter’ (*deme die sach nit souil oder nichts angang*), soon left the house arrest, apparently without any notification or permission from the noble

25 [D]as nit allein der herr von Eybiswaldt, in die zechen monat lang, sich in würllichen arrest erhalte, selbst, neben erlitnen unerträglichin iniurien, noch darzue tötlich verwundet worden, grose schmerzen undt schwaheiten ausgestanden, [...] sondern auch dessen alt erlebter herr vatter, neben d[er] disfalls ausgestandenen bekhümbenens die waht ein zeitlang, in seinen haus gedulden, und dieselben unterhalten müessen (StLA, LR 177, I. Teil, 115v). According to the description, the document in question was written in order to bring a long process to a conclusion as favourable as possible for Wolf Maximilian Eibiswald (and his father).



court of law (*tribunalis*), and even went to the session (*tagsazung*) of the state assembly in Vienna (StLA, LR 177, I. Teil, 114r–115v). According to a resolution of the Court Council of 16 April 1644 in Graz, a decree stipulated that the Styrian provincial governor had to hand over the process to the Inner Austrian Government (*daß herr landtshaubtman gedachten abgefierten process ihro reg. erwartter übergeben solle*) (StLA, LR 177, I. Teil, 116r). In the final decree, Baron Herberstein was identified as the main culprit for the duel-homicide (*alß anraizer desselben duells*) and was to pay a fine of 1,000 Guldens. After the Inner Austrian Government confirmed the fine on 7 June 1645, the Styrian provincial governor Count Saurau was ordered to receive it from Herberstein. According to the Empress Dowager's decree, the money was to be donated to the St Catharine's building (*gebeü*); today part of the Mausoleum of Emperor Ferdinand II in Graz (StLA, LR 177, I. Teil, 101r–v). Interestingly, Baron Wolf Maximilian Eibiswald married Baroness Sidonia Eleonora Herberstein, daughter of Hans Friedrich and Anna Eleonora, née Lady Starhemberg, only a few years later, in 1647.<sup>26</sup>

On 7 February 1653, there was a pistol duel in Linz in Upper Austria between Baron Sigmund Friedrich Salburg and Baron Stephan Franz Oedt (*Öedt*). Baron Salburg was fatally shot and seriously wounded, and died a couple of days later.<sup>27</sup> Baron Oedt, on the other hand, retreated to an unknown place immediately after the shot.<sup>28</sup> A patent issued later clearly speaks of a duel (*Duell*) between the two barons. After his retreat, Baron Oedt was requested to appear before the Upper Austrian noble court of law (*sich persöhnlich für dises löbl. landtshaubtmanisches gericht zustellen*) by three edicts issued one after the other, for the purpose of filing his stance on the matter or *purgation*. Finally, it has been decided that legal proceedings be taken against him in absence (*in contumaciam*). However, after the specified deadline expired, no written notice was received from Baron Oedt, nor did he appear in court in person, but remained absent. The Emperor then decided, 'according to all laws', that Oedt should lose his life. As the baron's whereabouts were unnown, on 18 November 1653 the provincial governor of Upper Austria,

26 Sidonia Eleonora and Hans Albrecht Herberstein were very distant kin. Her grandfather was Johann Friedrich from Hrastovec, while Hans Albrecht came from Neuberg line. Wolf Maximilian and Sidonia Eleonora had two children, Franz Christoph and Maria Eleonora. After the death of their only son (†1649), this branch of the Eibiswald male line died out in 1674 with his father (Naschenweng, 2020a, 340, 516, 518, 521). At this point, we can only speculate whether the 'only' two children of the marriage were the result of Wolf Maximilian's ill health (due to injuries sustained in the duel), a forced marriage, or if something else was in the way. Perhaps the marriage symbolised the reconciliation or the conclusion of peace between the Eibiswald and Herberstein families.

27 The issued patent mentions the death of Baron Salburg on the seventh day after the duel (*am sibenten tag hernach darüber sein zeitliches leben beschliessen miessen*) (OeStA, HHStA, StK Patente 9, Linz, 18 November 1653). Burial register entry for Baron Salburg records the date of 12 February 1653. The fact that he died as a result of wounds received in a duel is not mentioned (Linz-Stadtpfarre, DR 1640–1667, 151).

28 [A]lsobaldt nach volbrachtem schuß von danen entwichen, und sich mit der flucht unwissent wohin saluirt habe (OeStA, HHStA, StK Patente 9, Linz, 18 November 1653).

Count Johann Ludwig Kuefstein (1582–1656; governor 1630–56), issued a patent or decree in the Emperor's name, forever expelling Baron Oedt from the Habsburg Monarchy and the hereditary lands, depriving him of his honour, and striking his name from the Provincial Register (*Landts Matricul*) (OeStA, HHSStA, StK Patente 9, Linz, 18. XI. 1653; Heilingsetzer, 1982, 183–184; Kuefstein).

The next Emperor, Leopold I, was through his officials well informed about duels, which resulted in a number of arrests or detentions of duellists. The aim of detaining duellists was not to initiate trials, but to facilitate settlements.<sup>29</sup> At least from the 1660s, that the Emperor was well-informed about duels was apparently not a problem, as, according to Count Gottlieb Windischgrätz's comment from 1664, duels in Vienna were the latest fashion by which participants tried to attract the attention of the Imperial Court.<sup>30</sup> On the other hand, rumours or the certainty of duels beyond the court could suddenly make court presence

29 As Billacois writes, the desire of the authorities was not to suppress, but to punish. They were trying not to wipe out a crime, but to purge a sin (Billacois, 1990, 110). Also, demands for challenges to a duel were not certain to succeed, since duels could be postponed, cancelled, or refused. Ludwig states, that a peaceful solution to the conflict was generally accepted at the time and the absence of a violent reaction did not mean a loss of honour for the offended party. The legal practice also proves to be different from what is described in the anti-duelling decrees, as it can be noted that the conflicting parties repeatedly filed charges themselves (Ludwig, 2016, 281, 294, 325; cf. Kos, 2016, 216, 219). For England, Peltonen writes that it was possible even to withdraw one's challenge without facing utter humiliation (Peltonen, 2003, 203).

30 Count Gottlieb Windischgrätz (1630–95) explained to Count Ernst Adalbert Harrach (1598–1667) that people were recently traveling to Vienna and thus to the vicinity of the Imperial Court, to fight a duel. Speaking of Cardinal Count Harrach, let us note that in his diaries from 1629–67 he mentions 16 duels or rumours of duels, none of which took place in the vicinity of the Imperial Court in Vienna. The first duel he recorded was in Summer 1647 in Prague between Emperor's colonel (*Oberst*) and artillery-general, Martin Maximilian Goltz (around 1593–1653), and silver chamberlain (*Silberkämmerer*) Wolfgang Adam Pappenheim (before 1627–47), the only son of the famous general and field marshal Gottfried Heinrich (1594–1632). That was the time of the Thirty Years' War. In 1647, another Swedish invasion of Bohemia became foreseeable. The field marshal and military governor of Prague Count Rudolf Colloredo invited the generals and colonels to a meal in his Prague palace on 30 June. Martin Maximilian Goltz, who was known for his bluntness, made very disparaging remarks about the absent major general Claus Dietrich Sperreuth (or Sperreuter). Wolfgang Adam Pappenheim defended Sperreuth, insulted Goltz in front of the assembled generals, threatened him with his pistol, and finally challenged him to a pistol duel. The duel was fought without seconds at Marienwall near Prague's fortifications on the left bank of the Vltava near the Royal Garden. At first Johann Christoph Wallstein intervened to reconcile the duellists, but while he was negotiating with Goltz, Pappenheim secretly approached and fired at Goltz. On the second attempt, Pappenheim again fired first, hitting the horse and Goltz's arm. The latter then pointed the pistol directly at Pappenheim's heart, fatally wounding him. After being shot, Pappenheim galloped off on his horse just 100 paces away and died. Goltz was placed under house arrest, and on 21 August 1647 he was already acquitted by Emperor Ferdinand III (Keller & Catalano, 2010, 49; Ludwig, 2016, 176–177; Goltz). Count Harrach wrote about this duel in his diary on 7 July, when he was in Vienna (Keller & Catalano, 2010, 49). I would like to thank Neva Makuc for the translation of Harrach's diary entry from Italian.

problematic.<sup>31</sup> Duellists have repeatedly used their contacts at court to obtain pardons. However, the Emperor's letters of pardon were not so important in avoiding a drastic punishment, since nobody could have seriously expected to be executed for duelling. They were more significant for duellists, so that they could remain at the court without any doubts. It was apparently perceived as a problem if a duel, as a (at least hypothetical) *crimen laesae maiestatis*, lacked the official pardon (Ludwig, 2016, 176–177).

The failure to intervene in a duel resulted in the homicide of Count Franz Adam Losenstein (1631–66). He died on 8 August 1666 from wounds received the day before in a duel with Count Adam Kollonitsch (Garsten, DR 1663–1685, 39r; Naschenweng, 2020a, 508).<sup>32</sup> Franz Adam, who married Countess Maria Theresia Herberstein in Vienna in 1658, got into a dispute already in the year of the wedding, which led to a duel with Count Ludwig (or Ludovico) Colloredo (Ludwig, 2016, 176–177; Naschenweng, 2020a, 508). Two years after Count Losenstein's homicide, Baron Albrecht Rattmansdorff died in Vienna as a result of the duel sometime between 30 July and 1 August. There was a large gathering at the house of Count Johann (or Hans) Jacob Khisl (1645–89), which was also attended by Count Johann Karl Saurau and Baron Albrecht Rattmansdorff. After twelve o'clock, Saurau sent a lackey into the salon to arrange a face-to-face meeting with Count Khisl. Rattmansdorff also wanted to be present, and although Khisl talked him out of it, he forced himself into the conversation. While they were riding, the words between Saurau and Rattmansdorff grew increasingly harsh and finally they drew their smallswords. Khisl knocked the sword out of Rattmansdorff's hand, grabbed Saurau by the wrist, and by doing so received three stabs in his hand. He managed to calm the opponents and they reconciled with a kiss. They were about to get back on their horses, when Saurau uttered some Italian word. Rattmansdorff wanted it explained, but this proved difficult. Now a formal duel broke out, which Khisl could not stop. Rattmansdorff was stabbed in the chest and was carried into his opponent's dwelling, where he died within half an hour. The Provincial Estates' investigation acquitted the victor of criminal offenses, but presented the case to the Emperor. A fine of 1,000 Ducats was imposed, which was eventually remitted (Zahn, 1888, 170). Baron Rattmansdorff was buried in the noble crypt of the Church of St Michael on 4 August 1668. He left behind his widow Anna Maria, née Countess Khisl (1643–1703), elder sister of aforementioned Count Johann Jacob Khisl, the influential owner of the Lordship of Maribor in Lower Styria (Wien-St. Michael, DR 1631–1699, 58; Naschenweng, 2020a, 176).

31 Carroll also states, that the Emperor's support did not come cheap and visits to Vienna could prove financially crippling, as access to the Imperial Court could require some type of (financial) compensation (Carroll, 2023, 260).

32 The burial register entry for Count Franz Adam Losenstein does not mention a word about the fact that he died as a result of wounds received in a duel (Garsten, DR 1663–1685, 39r).

The duellists evidently wanted to attract attention in the main or major cities and towns of the Habsburg Monarchy.<sup>33</sup> As noted, in the Styrian capital Graz,<sup>34</sup> forty duels are recorded to have been fought or provoked between 1670 and 1675 (Zahn, 1888, 163).<sup>35</sup> By then, the lessons in fencing could be gained locally, from the fencing master Hanns Jacob Khöfflerl, who was employed by the Styrian Provincial Estates (*Landschaft*).<sup>36</sup> There is evidence of duels fought by three members of the Herberstein family between 1674 and 1675 alone. At the end of July 1674, Count Erasmus Friedrich Herberstein, lord of Hrastovec, publicly duelled over honour with Baron Maximilian Stübich. The two quickly cooled down and settled their differences on 2 August at the *Landhaus* in Graz. After the settlement, they had to remain under house arrest until further instructions (StLA, LR 393, H. 1, 51r–v). According to the anti-duelling decrees, a challenger who accepted a duel that did not take place lost his position at court, had to surrender his chamber key (*Kammerherrschlüssel*) and was interned in a frontier fortress or a prison. Such threats of punishment made little impression on the nobility (Zahn, 1888, 162–163). The reconciliation between Herberstein and Stübich was likely concluded by a symbolic gesture. As noted above, in the seventeenth-century Austria this could have still been a kiss (Zahn, 188, 170), as well as perhaps also an embrace, but definitely a handshake, as the main coeval gesture of peace. Also common was the joint participation at Mass (Carroll, 2023, 44, 259, 437; 2016, 127–128; Oman, 2019, 695, 700–702).

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- 33 On noble violence in the border area between the Venetian Republic and Inner Austria, cf. Makuc, 2015.
- 34 For centuries, Graz was also the residence of the Inner Austrian archdukes and provincial administrators (*Landesverwalter*, *Statthalter*). According to Zahn, a favourite place for duels in Graz was the so-called *Kuhtratte* (or *Kühtratte*), a pasture for cattle in the vicinity of the *Eisentor* (Iron Gate), on both banks of the Grazbach (i.e. Graz Stream), roughly where the street *Schönaugasse* (*Schöne Au*, as beautiful floodplain) is today (Zahn, 1888, 154).
- 35 For this period, I have surveyed the burial register of the Graz-Hl. Blut parish. The entry for the first potential duel is from 7 April 1670, where it is mentioned that one Georg, a servant of Count Saurau, was stabbed (*erstochen wo[r]den*) by another servant (Graz-Hl. Blut, DR 1667–1673, 202).
- 36 Hanns Jacob Khöfflerl is in the burial register entry from 7 December 1670 mentioned as a *vorsefhter oder fehtmaister* in Graz (Graz-Hl. Blut, DR 1667–1673, 235). Since Johann Baptist Rubin (or Robin) was active as a fencing and dancing master in Graz in the first third of the eighteenth-century (see note 51), but is listed only as a fencing master (*fechtmäster*) in burial register entry from 4 August 1742 (Graz-Hl. Blut, DR 1742–1754, 45), the opposite can be assumed for Salvator Alefante (Alifante, Alephante, Allaffanta), who is mentioned only as a dancing master (*tantzmaister*) at the time of his death on 16 June 1676 (StLA, LR 15, 1r–2r; Graz-Hl. Blut, DR 1674–1682, 92). The Styrian Provincial Estates employed him on 9 December 1639. In his probate inventory, under the heading ‘clothing’, an old rusty smallsword (*ain alter verroster stossbögen*) and an old ruined Ottoman backsword (*ain alter verdorbener päläsch oder plezer*) are listed (StLA, LR 15, 4r, 5r). The wear and tear of the mentioned cold weapons would not be so unusual for a fencing teacher. Besides, one would have expected a fencing teacher to demonstrate how to fight with or against Ottoman weapons, in addition to the popular smallsword-duels of the time, since Styria was close to the Hungarian and Croatian lands under Ottoman rule. Before Salvator Alefante, his relative (father?) Hortensius was appointed as a dancing master on 1 February 1623, at the early stage of the Thirty Years’ War (StLA, LR 15, 4r; Graz-Hl. Blut, DR 1635–1641, 37).

In 1674, another duel in Graz took place between Count Richard Herberstein, Lord of Viltuš, and Count Felix Thurn-Valsassina.<sup>37</sup> On 9 September of that year the duellists were placed under house arrest. They settled the next day, following the mediation by Baron Johann Christoph Rottall and Count Wolfgang Ferdinand Schrattenbach (StLA, LR 394, 4r, 6r; Naschenweng, 2020a, 519). In early October 1675, a public duel took place between the 22-year-old Count Johann Maximilian Galler and the at least 47-year-old Count Georg Günther Herberstein. After facing a fine of 2,000 Ducats, the Styrian court of nobility ordered both men to be placed under house arrest at the seats of their respective lordships, i.e. Ravno Polje manor and Vurberk castle. A settlement was concluded on the same day (StLA, LR 393, H. 2, 130r–v). Their duel was undoubtedly part of an enmity between the Herbersteins and the Gallers, or the neighbouring Lordships of Vurberk and Ravno Polje, which culminated in May 1677, when Count Herberstein was killed in a clash with his opponent's subjects defending the lordship's border along the changing course of the Drava River (Oman & Darovec, 2018, 109–110; Radovanovič & Vidmar, 2002, 22–29). As noted, across Europe, duels in general were often connected to pre-existing disputes and enmities between families and lordships.

Between 1675 and 1699, another forty duels are recorded to have been impeded or fought by nobility in Graz (Zahn, 1888, 170). On 23 September 1682, Emperor Leopold I issued a new anti-duelling patent in the Habsburg hereditary lands, namely for Upper Austria. It imposed execution by the sword for all participants in a duel, both on the challenged and the challenging side, including all their supporters (seconds and other assistants). The death penalty was foreseen in case of death, inflicted wounds (first blood) and even if there were no duel-injuries at all (Guarient und Raal, 1704, 286, 288; Zahn, 1888, 162–163).<sup>38</sup> Only half a year later, a duel between Baron Johann Lucas Kriechbaum (*Khriehpaumb*) and an unknown opponent took place, probably in Linz. Given Baron Kriechbaum's escape, it can be assumed that his opponent in the duel lost his life.<sup>39</sup> The Imperial *Landrichter*, the gentleman Johann Paul Rottwang-Rottenstein, ordered that the baron was to be arrested and brought to Linz to face trial. This patent in the Emperor's name, issued on 5 March 1683 in Linz, ordered 'all and any authorities, their subordinate officials, as well as the market-town and village judges, wherever this patent is presented',<sup>40</sup> to comply with it and to provide the *Landrichter* with every possible support (*alle erforderte assistenz zu*

37 Richard (1648–77) was then no more than 26 years old. Felix may have been the 40-year-old Ferdinand Felix (1634–1714) from Zbelovo. He was married four times: the first time to Countess Sophie Schrattenbach (†1670), the second time (20 April 1671) to Lady Anna Maria Elisabeth Stubenberg (1634–92), the third time to the widowed Countess Regina Lucrezia Rattmansdorff and the fourth time to Countess Theresia Gabelkoven. I would like to thank Miha Preinfalk for this information.

38 The decree of 1624 already stipulated the death penalty for the challenger, the challenged and the seconds in the duel. In practice, however, the government's law that no one should lose his honour by refusing a duel had no impact on the nobility (Zahn, 1888, 152).

39 The death or burial register for the Linz town parish is not preserved for the period of 1668–1746.

40 [A]llen, und ieden obrigkeiten, wie auch deren nachgesetzten beamten, dann denen markt- und dorfrichtern, alwo gegenwertig offenes patent vorgebracht wird (OeStA, HHStA, StK Patente 12, Linz, 5. III. 1683).



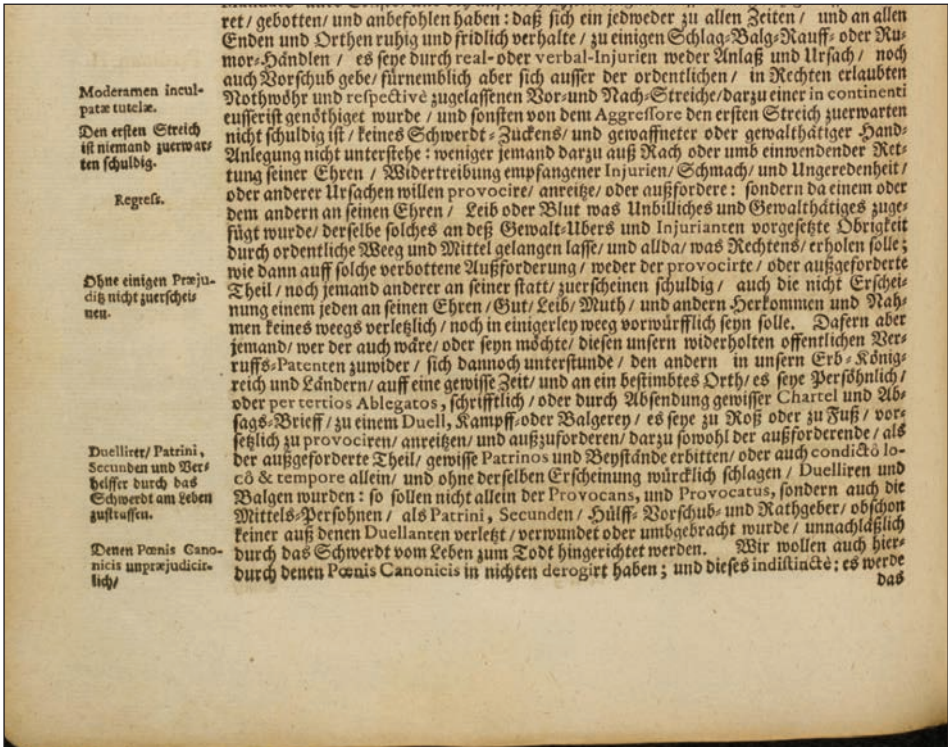


Fig. 4: Detail of the Emperor's anti-duelling patent from 1682, which decreed execution by the sword for all participants in a duel (Guarient und Raal, 1704, 286).

laisten) (OeStA, HHStA, StK Patente 12, Linz, 5. III. 1683). Unfortunately, we know nothing else about the unfolding of Baron Kriechbaum's story.<sup>41</sup>

From 1700 onwards, duelling became rarer, or rather, it no longer came to light (in the sources) as it used to (Zahn, 1888, 170), and by around 1730 duelling in Styria seems to have practically disappeared. It is known that Count Karl Friedrich Herberstein (1675–1739), lord of Hrastovec and son of Erasmus Friedrich, took part in a duel in Graz on 7 July 1708, in which Lord Leopold Stubenberg (1673–1708) lost his life. Leopold was on his way home in a carriage from the building of the Inner Austrian Privy Council at around midday when, at the gates of Prince Schwarzenberg's Palace near the Jesuit Collegium in the Bürgergasse, he was attacked by Count Anton Adam Saurau (1685–1737)

41 He may have been the son of Sigmund Balthasar (†1688, in Linz) from his first marriage to Baroness Maria Anna Ludovica Kazianer in 1658. At least 13 children were born in this marriage by 1683 (Naschenweng, 2020a, 229).

and his brother-in-law, Count Karl Friedrich Herberstein (Graz-Hl. Blut, DR 1705–1722, 142). The cause of Count Saurau's anger derived from a lawsuit. Lord Stubenberg lost it, and Saurau made fun of him, commenting about the age (or elderliness) of the Stubenberg family. Lord Stubenberg took advantage of a nobles' social gathering to verbally retaliate against Count Saurau, which justified a duel. Saurau then took a few days and demanded explanations, which Stubenberg continually refused (Zahn, 1888, 159). Finally, Saurau reached the point of stopping Stubenberg in his carriage and forcing him to a duel, in which Count Herberstein was his second.<sup>42</sup> Saurau and Stubenberg drew their small-swords and twice slashed at each other without a winner. On the third attempt, Saurau cut Stubenberg from the right side of the chest to his left hip, so that he died shortly afterwards. The description of the duel suggests that Herberstein, as Saurau's second, knocked out Stubenberg's smallsword, whereupon Saurau was able to deliver the fatal stab.<sup>43</sup> Lord Leopold Stubenberg, then Imperial Privy Councillor, Chamberlain and Styrian Hereditary Cupbearer, was buried a day later in the Stubenbergs' family tomb at the Jesuit church (today's cathedral) in Graz (Graz-Hl. Blut, DR 1705–1722, 142–143).

This duel was part of a long-standing feud between the Stubenberg and Saurau families. Lord Leopold Stubenberg was the adopted son of Lord Georg Stubenberg (1632–1703), a long-serving Styrian provincial governor (1687–1703), who was in several disputes with the members of the Saurau family. Before Lord Georg Stubenberg, the Styrian governor was Count Georg Christian Saurau (1624–86; governor in 1680–86). Georg Christian was one of the younger sons of the former Styrian governor Count Karl Saurau (1586–1648;

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42 *Den sibenden July dises 1708<sup>ten</sup> jahrs gegen zwölf uhr umb mittag zeith ist /: layder :/ auß dem gehaimben rath nacher hauß fahrendt unversechens bey dem fürst. Schwarzenburg. [sic!] thor gleich neben dem Jesuit. Convict alhier von Antonio graffen v[on] Saurau cum patrino suo Carl Friderich graffen von Hörberstain in dem wag[en] attackiert, und bey betrohung des uhrblützlichen todtß auß selbigen zusteigen, auch sich mit ihme Saurau zuschlagen gezwungen worden, wellicher moderaminis inculpatæ tutelæ sich gebrauchendt [...]* (Graz-Hl. Blut, DR 1705–1722, 142). It is unknown why Count Saurau accused Lord Stubenberg of undiligent guardianship (*moderaminis inculpatæ tutelæ*), cf. below.

43 *[Z]way gäng glichlich wid[er] ihme Antoniu[m] vollbracht, im tritten congressu aber wegen v[on] Carl Friderich v[on] Herberstain alß Saurauischen secundanten außgeschlagenen dögen v[on] ihme Saurau einen graußamben stoß von der brust rechter seithen biß zur huffte linker seithen durch und durch empfangen [...] in Gott seelig endtschlaffen [...]* (Graz-Hl. Blut, DR 1705–1722, 142). It is not known who was the second of Lord Stubenberg. In a quick duel that followed, the role could have been taken by his carriage driver. Zahn states, that this homicide case was very notorious, as the duel was conducted against all forms of duelling. In fact, it was a murder and was treated as such. Unfortunately, we do not know the outcome of the story. For now, we can conclude that the 'strict investigation against Count Saurau' was ineffective, as were four other cases from the same year (Zahn, 1888, 159–160).

governor in 1635–48).<sup>44</sup> During his time as a student with the Jesuits in Graz, he and his younger brother Julius Ernst (1627–66) were notorious bullies among the students, with their rapiers or smallswords always on the loose.<sup>45</sup> In 1643, the Saurau brothers wounded a Hungarian student in front of the gate of the Jesuit Collegium. That same year, a duel is said to have occurred between Count Julius Ernst Saurau and Baron Johann Maximilian Herberstein Jr (1631–80), who was wounded (Naschenweng, 2011, 145).<sup>46</sup> As fate would have it, 37 years later, Count Georg Christian Saurau became the Styrian provincial governor after the sudden death of Johann Maximilian Jr. There were no children in the two marriages of Count Saurau, which is perhaps not unimportant for later developments (Naschenweng, 2011, 145–147; 2020b, 809). Lord Georg Stubenberg became Styrian governor after Saurau. Interestingly enough, when he was nominated the Styrian governor in 1686, he did not have the support of the Provincial Estates, but only the Emperor's.<sup>47</sup> This lack of Stubenberg's acceptance by the Estates is perhaps one of the reasons for the governor's later conflicts with them. During his time in office, there were further Habsburg victories against the Ottoman Turks, as well as the start of the War of the Spanish Succession. The resulting continuous demands for money from the Emperor, which the governor had to present to the Provincial Estates, put a heavy strain on the relationship between the government and the Estates. When the government demanded 500,000 Gulden in extraordinary taxes from Styria in 1693, in a heated debate the cathedral provost of Seckau argued about the land treasury system. He believed that it was not really known where the funds from such taxes were going, to which Stubenberg replied in irritation that he would not allow himself to be accused of stealing. Then he added, that the provost must be in cahoots with the Styrian Marshal (Count

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44 Karl Saurau is said to have been rigorously striving to achieve wealth and dignities. He acquired many lordships and estates from his fellow noblemen who as Protestants had to emigrate following the Counter-Reformation against nobles in 1628–9. Many Stubenbergs were among them. Karl was also able to make use of his position as the main guardian of minor nobles' children. His final fortune was very respectable, as he was able to bequeath as many as ten lordships to his descendants. From an inexperienced court cavalier, he rose to the position of provincial governor. When the Emperor also granted him the office of Styrian Marshal, he gained the two highest dignities in the province. As early as 1628 he was elevated to the rank of count (Naschenweng, 2011, 138–139; Frank, 1973, 226).

45 In 1638, Georg Christian is listed as a student of poetics (*poetae*) in the 5th class of the Jesuit Collegium in Graz. Julius Ernst is recorded as a student of poetics at the same Collegium in 1640 (Andritsch, 1980, 28, 41).

46 Baron Johann Maximilian Herberstein Jr is 1644 listed as a student of syntax in the 4th class of the Collegium in Graz (Andritsch, 1980, 58), when he was 13 years old. From 1648, he held the rank of count and was Styrian provincial governor between 1675 and 1680 (Naschenweng, 2011, 144–145).

47 The Provincial Estates nominated Count Georg Seyfried Dietrichstein for the role. He became the Styrian provincial governor after Lord Stubenberg, in the period 1703–14 (Naschenweng, 2011, 153–154).



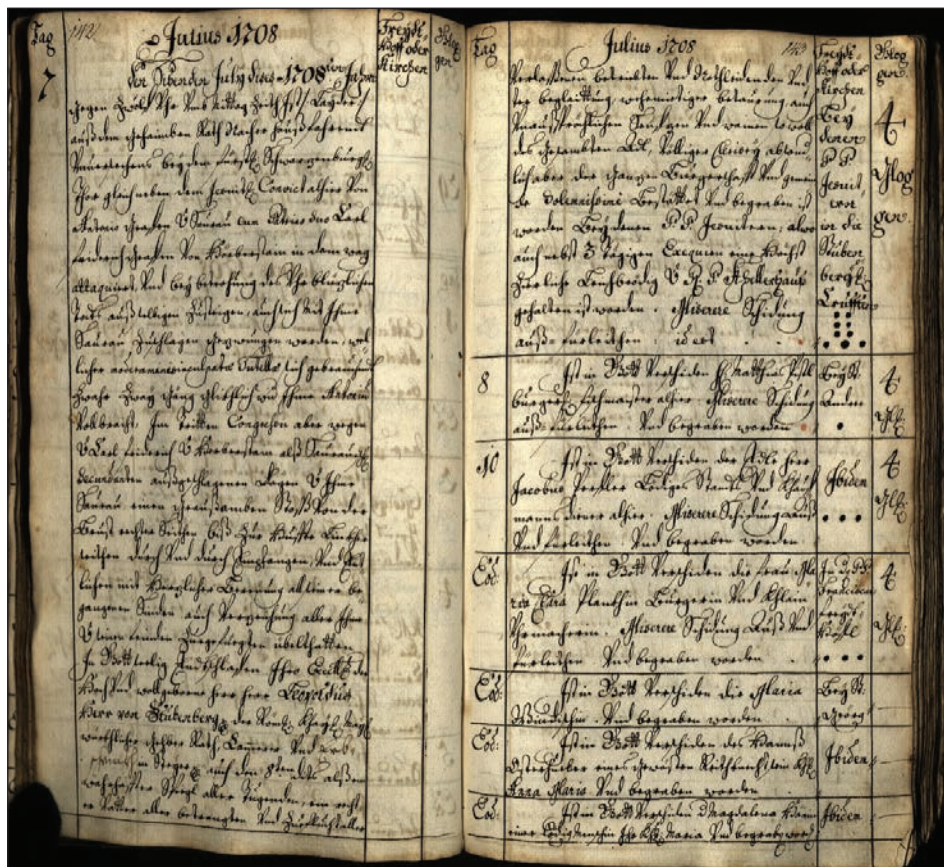


Fig. 5: Burial register entry for Lord Leopold Stubenberg as a result of the duel fought on 7 July 1708 in Graz (Graz-Hl. Blut, DR 1705–1722, 142–143).

Johann Georg?; 1654–99) Saurau, who had already verbally injured him once. The governor’s enemies in the Provincial Diet (*Landtag*) were just waiting for (t)his attack. They managed to make the Emperor suspect Stubenberg and cast doubt on his loyalty, so that he had no choice but to order an investigation in the matter. This not only tarnished the governor’s honour, but that of the entire Stubenberg family. Only years later did the invalidity of the accusations and slander become apparent. The Diet then hastened to restore Stubenberg’s integrity, and the Emperor once again bestowed his favour upon him. The investigation and the affair have nevertheless very much shaken Stubenberg’s health (Naschenweng, 2011, 148). He died in 1703 in Graz (Graz-Hl. Blut, DR 1692–1705, 303). As he had no children from his three marriages, he adopted

his nephew Lord Leopold Stubenberg as his son and heir. Leopold Stubenberg was a victim of the hostilities that had long been simmering between the families Stubenberg and Saurau (Naschenweng, 2011, 148).<sup>48</sup>

Only part of the story is known about the homicide of Lord Leopold Stubenberg in 1708 in a duel with Count Anton Adam Saurau, whose second was Count Karl Friedrich Herberstein. After the duel, Saurau fled to the monastery of St Paul, where he was granted asylum.<sup>49</sup> Then a conflict arose between the princely government and the Metropolitan of Salzburg, as the Inner Austrian Government wanted to apprehend the perpetrator, and the Metropolitan wanted the right to asylum to be respected. The Prince-Bishop of Salzburg excommunicated the officials involved. In response, the Emperor threatened to seize church temporalities (*Stiften*), i.e. the secular properties and possessions, that were used to support a bishop, other clergy members or establishment (Zahn, 1888, 171). The fact that the duel in 1708 was a special case is supported by the complaint of the Privy Council two whole years later (1710), that the provincial assembly was well aware of the situation between Saurau and Stubenberg, and that neither private nor official actions were taken to prevent the ‘accident’ (duel) (Zahn, 1888, 153). Later, Anton Adam became an Imperial chamberlain, lieutenant colonel and commander of the Otočac fortress in the Croatian Military Frontier (Naschenweng, 2020b, 807).<sup>50</sup> Karl Friedrich, the second in the duel, who, according to the entry in the burial register, had a fatal influence on its outcome, died in 1739 (Mooskirchen, DR 1731–1774, 63; Naschenweng, 2020a, 518). Interestingly enough, on 12 June 1713 in Graz, he stepped in as a godfather to the daughter of a Styrian fencing teacher in Graz, Franz Sigmund de Castro (Graz-Hl. Blut, BR 1707–1720, 367). At the end of the following year, the owner of the great Hrastovec lordship and castle went bankrupt. This was not the result of participating in a duel, but primarily due to the unfortunate death of his livestock by the rinderpest in 1711, after which he was left with only one cow out of 97 heads of cattle (StLA, LR 403, H. 2, 185r). This only highlights, how fragile the nobility’s fortunes and credit really were in this period.

We are particularly familiar with the duel from 2 January 1713 between the Counts Franz Joseph Herberstein (1688–1713) and Franz Albrecht Rechberg

48 Naschenweng writes that Count Anton [Adam] Saurau dragged Lord Stubenberg out of his carriage and stabbed him on Herrengasse (Naschenweng, 2011, 148).

49 St Paul’s monastery probably refers to the so-called Stiegenkirche in Graz. According to tradition, the Stiegenkirche is the oldest parish church in Graz. It is located in the oldest part of the city, where the ‘Paulsburg’ once stood, and is first mentioned in a document in 1343. By the middle of the sixteenth century, the Stiegenkirche was hardly used. In 1588, Archduke Charles II handed the Stiegenkirche and a house to the Augustinian hermits to accommodate their convent. In 1619–27, they built a new church and monastery above the old St Paul’s church (Kölbl & Resch, 2004, 107–108; Stiegenkirche).

50 Count Anton Adam Saurau died at the beginning of February 1737 and was buried in Vienna on 7 February (Wien-St. Stephan, DR 1733–1737, 321).



(1645–1715) (StLA, LR 403, H. 1, 9r, 59r, 63r–64r, 69r–71v, 75r). The then 24-year-old Herberstein engaged in a duel with the 67-year-old chamberlain of the Prince-elector of Bavaria. They met the previous evening in the billiard salon at the Ballhaus in Graz, where the older count paid a compliment to his younger counterpart. The fact that the compliment was neither acknowledged nor returned by Herberstein annoyed Rechberg. After Dr Menradt, who was also present, explained that Herberstein is suffering from hypochondria, Rechberg calmed down – or so it seemed. During the night he may have nonetheless decided that he cannot swallow his pride so easily. The following morning, he returned to the Ballhaus with two acquaintances, Count Fugger, apparently a member of the entourage of the Prince-elector of Bavaria, and the Styrian Count Philipp Lodron. From the testimony of Count Wurmbrand, we can draw a conclusion that the three were waiting there specifically for Count Herberstein. The counts' reunion led to a duel. Count Rechberg could rely on Count Philipp Lodron as his second. Count Herberstein wanted his good friend Count Franz Dismas Attems in this role, but Attems did not oblige his request; it seems that Herberstein's second was the Noble Franz Anton Hasberg (StLA, LR 416, H. 1, 94r–95r).<sup>51</sup>

The duel took place at the Karmeliterplatz after 11 AM. Count Herberstein may have relied on his youth and his familiarity with the local terrain but, above all, desired to restore his wounded honour he had suffered from Rechberg's 'verbal stabbing'.<sup>52</sup> The circumstances, which spoke in Herberstein's favour, did not help him. Rechberg (or possibly Lodron, his second) stabbed the young Herberstein with a smallsword in the left side of the torso, between the fourth and fifth rib upwards. Bleeding, he was carried back to the Ballhaus, where he died before 11.45 AM, after receiving last rites. He was buried in the family crypt at the Jesuit church in Graz on 4 January (Graz-Hl. Blut, DR 1705–1722, 346). After the duel, Count Rechberg fled to the Capuchin monastery less than 200 metres from Karmeliterplatz. This is a further case, which confirms that ec-

51 At the age of 24, Count Herberstein likely did not have much experience with the smallsword. It is possible that he learned fencing while on a Grand Tour in Parma (StLA, LR 403, H. 2, 143v). We can also assume that he took fencing lessons from Johann Baptist Rubin (or Robin), who worked between 1701 and 1734 in Graz as a fencing and dancing master, as well as a dancing master in the Graz Jesuit Collegium (Kokole, 2015, 61). Count Rechberg noted in his application for the rank of Imperial Count (*Reichsgrafenstand*) that he had participated in 15 military campaigns (*veldtzig*) against the Ottoman Turks and other enemies of the Holy Roman Empire up until then (1699). In 1683, he took part in the expulsion of the Ottomans from the besieged Vienna, and in the conquest of important fortresses in the Great Turkish War: Zagreb, Nové Zámky, Buda, Belgrade and others, all in the presence of the Bavarian elector Maximilian II Emanuel (OeStA, AVA Adel, RAA 336.51, Rechberg, Franz Albrecht, Imperial Count-title, Vienna, 28 January 1699, 5r–v, 12r–v).

52 Franz Joseph was not a particular weapons enthusiast. In his probate inventory, which was valued by the commission at 50,550 Gulden and 43 Kreuzers, the weapons were valued at only 80 Gulden, however, five smallswords were inventoried (StLA, LR 403, H. 2, 151r–170v).

clesiastic and monastic asylum had long persevered in Inner Austria (cf. Oman, 2016, 81). The government ordered the Capuchin monastery to be surrounded. After a few days, the government secretary Wierth arrived there with the town captain (*Stadthauptmann*). The Guardian, the superior of the Capuchin monastery, only allowed the government secretary to enter. Before that, to prevent the town captain from entering the church, he had all the entrances to the church closed, all the candles lit and the host (communion bread) put on display. The government secretary handed over the extradition order, and as he received no reply, he wanted to leave. Then he was told that he could not leave through the main door, but only through the church, which was an act of humiliation.<sup>53</sup> As the government official regarded that as unacceptable, he stayed put. The government did not know what to do. After three weeks, the secretary's wife fell ill, and he finally left – through the church. The government then sent a commissioner, but the Guardian did not accept him, as the secretary had previously only been admitted as a friend. Eventually, this 'murder case' was almost forgotten and the trial stalled (Zahn, 1888, 171–172).

Emperor Leopold I's anti-duelling decrees in the Habsburg lands, issued on 28 September 1666, in 1670, and again (at least) in 1682, prescribed death by the sword for both duellists and seconds if anyone was killed. It did not matter whether the duel took place in one of the Habsburg hereditary lands or abroad. Although banishment was very rarely imposed, the 'criminals' usually left the court, city, town or province on their own. In the event that a duellist withdrew from the country or did not appear in court, the Emperor confiscated his property until he surrendered to the authorities and settled with the opposing party.<sup>54</sup> For a fugitive without possessions, the decree stipulated banishment (*Banno*), and in special cases the pillory (Guarient und Raal, 1704, 285–288; Ludwig, 2016, 77; Zahn, 1888, 162–163).

As a high-ranking and very influential Styrian noble family, the Herbersteins were probably in a position to obtain appropriate satisfaction with relative ease. The fact that they demanded this is evident from a letter from the deceased's stepmother and sister (StLA, LR 416, H. 1, 63r–64v). It should also be borne in mind that the Herbersteins had reached one of their high points on 30 July 1710, just a year and a half before Franz Joseph's death, when the entire family was granted the title of Imperial Counts (OeStA, AVA Adel, RAA 180.35, Herberstein, Imperial Count-title, Vienna, 30 July 1710, 1–15).

When a duel resulted in a killing, the killer usually retreated to his estate, in most cases voluntarily. In the case of Count Rechberg, the retreat was not or would not be particularly tragic, as he operated in Bavaria. He was certainly

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53 The archpriest had the keys to the main door, and knew exactly what the right of asylum meant (Zahn, 1888, 171).

54 The fugitive's property was to be confiscated (sequestered), but his family was taken care of in between (with maintenance or alimony) (Zahn, 1888, 162).



*Fig. 6: Antoniuskirche in Graz (photo: Matjaž Grahornik, 2023).*<sup>55</sup>

additionally protected due to the influence of the Prince-elector of Bavaria, being his chamberlain. In exchange for the ratification of the letter of pardon, he certainly had to pay a fine to the noble court of law as well as perhaps pay for masses for the victim and possibly also do some other kind of penance to commemorate his victim (purchase of vestments or church equipment, money for alms, etc.).<sup>55</sup> To the victim's family, he surely had to pay costs and appropriate reparations, i.e. blood money (Carroll, 2023, 238; Oman, 2019, 705;

<sup>55</sup> Antoniuskirche (Church of St Anthony), built between 1600 and 1602, was the first church of the Capuchin monks in Styria (Antoniuskirche).

2016, 66; Billacois, 1990, 110).<sup>56</sup> The actual reconciliation or the conclusion of peace between the two families was certainly demonstrated by some kind of symbolic gesture (Darovec, 2018, 458–459). The perpetrator or his party had to publicly apologize to the offended party with gestures of humiliation and pleas for forgiveness. Reconciliation with the victim's family was the first step for the guilty party to regain the Emperor's favour (Carroll, 2006, 230). Count Rechberg died a little over two years after the duel, in May 1715, at the age of 69 (Rechberg). About his second, Count Philipp Lodron, it is known that he received safe conduct (*salvus conductus*) for his participation in the killing of Count Herberstein and had to pay a surety to prove he had no intention of fleeing in order to remain free for the trial (StLA, LR 416, H. 1, 2r–v). He died in 1718 (Graz-Hl. Blut, DR 1705–1722, 586).

For the Duchy of Carniola, two duels are known to having almost taken place in the provincial assembly in Ljubljana as early as in 1599 (Kočevar, 2017, 137, n. 25). Interestingly, we have very little information about duels in this province from 1600 to around the middle of the eighteenth century, especially as Carniola also bordered on Friuli in the Venetian Terraferma, which was beset with vendettas for much of the early modern period (cf. Makuc, 2015).

In order to not completely overlook Carniola, we will provide some information on duels in this province around the mid-eighteenth century. The following examples are further proof that duels for honour as a form of dispute settlement in the Habsburg hereditary lands were far from over by 1700.

As for individual accounts of duelling in Carniola, for now, we have to be content with the information on duels provided by the gentleman and, after 1747, Baron Franz Heinrich Raigersfeld (1697–1760), who wrote his diaries in 1739–60 and lived in the Carniolan capital of Ljubljana from 1747 (Kos, 2022, 7–8, 12, 75). In March 1748, Baron Raigersfeld described the prevention of a confrontation between Baron Seifried Gusič, then district governor of Inner Carniola (Notranjska), and Count Franz Karl Lichtenberg in front of Gusič's house in Ljubljana. The confrontation was prevented by Counts Leopold Karl Lamberg and Ignatius Maria Engelshaus. Both hot-blooded men were ordered to be taken into custody (house arrest) (Kos, 2022, 236).

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56 The Church developed a series of rituals and penances that required the perpetrator (killer) to make adequate atonement for their crime. This usually involved a combination of devotional works, pilgrimage, masses for the deceased's soul, and the erection of a cross. These measures were often written into reconciliation agreements, either as part of court settlements or in addition to the blood money compensation set by the court. However, by the seventeenth century, settlements became disenchanting and atonement was largely replaced by monetary payment (Carroll, 2023, 229–233). The Church's influence nevertheless remained powerless against duels, and Church authorities could not be persuaded by the State to ban duelists from the church or to refuse them burial (Zahn, 1888, 153).

The townspeople and nobles always had disputes with military officers.<sup>57</sup> On 4 August 1750, gentleman and captain Karl Joseph Lukančič was taken to prison in Ljubljana Castle for stabbing a lieutenant Gruber to death.<sup>58</sup> On the morning of 9 October, he was transferred from prison at Ljubljana Castle to the town jail. He was released from custody on 5 November and allowed to rejoin his Regiment (AS 730, kn. 165, Diaria 1746–1750, 790, 794, 842, 856; Kos, 2022, 236).<sup>59</sup>

In May 1752, Raigersfeld described a noblemen's dispute in the salon of the Carniolan provincial governor Count Anton Joseph Auersperg (1696–1762; governor 1742–62), in his house on the Novi Trg in Ljubljana. Baron Joseph Alexander Mordax wanted to settle his wife's card-playing debt to colonel Baron Maximilian Krottendorf there, but the latter contemptuously refused the money, throwing it on the ground in front of Baron Mordax. Mordax then threatened Krottendorf in a slightly raised voice that he would have taught him manners (*die mores lehren wolte*) if they had not been the governor's guests. To avoid a confrontation, the governor immediately sent Mordax to house arrest. After the intervention of the cavaliers and officers, the two reconciled the next day (AS 730, kn. 166, Diaria 1751–1756, 251–252; Kos, 2022, 237; Preinfalk, 2005, 180–182).<sup>60</sup>

## CONCLUSION

On the basis of data from the preserved probate inventories, we have found that the rapier as a primary duelling weapon was widespread in Styria and Inner Austria from the end of the sixteenth century. The adoption of the rapier also meant the general acceptance of duelling as a form of dispute settlement over the point of honour. According to the first patents against duelling (1606, 1613, 1615), the duel quickly established itself amongst the local nobility.

This article presents in more or less detail around fifteen duels that have been fought or provoked from 1643 to 1750. In the Habsburg hereditary lands and in the Holy Roman Empire in general, duelling flourished during and after

57 On 25 July 1749, Raigersfeld mentions in his diary the arrest of three noblemen's servants who, on the evening of July 22, clashed with some officers and wounded them (*mit einigen officieren handl gehabt u[nd] solche gefährlich blessiret haben*). The servants were handed over to the prison at Ljubljana Castle (*ins Castell in arrest geführt worden*) (AS 730, kn. 165, Diaria 1746–1750, 558).

58 After his imprisonment, the first witness hearings took place on 6 and 7 August 1750 (AS 730, kn. 165, Diaria 1746–1750, 794).

59 [1750, 9'ber, 5] *Heüt Morgens ist d[er] Leüth. Lu Haupt[ma]n Lukantschitsch v[on] Molckischen Regim[en]t auß seinen arrest gekomen u[nd] wied[er] auf freüen fuß gesezet worden* (AS 730, kn. 165, Diaria 1746–1750, 856).

60 *Gest[ern] [May 22, 1752] ist die affaire zwischen B[aron] Mordaxt u[nd] den obristen B[aron] Krottendorff güttlich beygelegt worden u[nd] seyn gegen ein and[er] officiers u[nd] Cavaliers geschickt worden das sich dan beede partheyen explicirt haben d[a]s Sie die Sache nicht übel gemeint haben* (AS 730, kn. 166, Diaria 1751–1756, 252).



the Thirty Years' War, and thrived between 1660 and 1730. While the first case, the duel between Eibiswald and Schrattenbach in 1643, can be attributed to drunkenness, this should not mislead us into thinking that this was the case in most duels, like Zahn thought in the late nineteenth century. In the seventeenth and early eighteenth centuries, there was a significant economic crisis in the Habsburg hereditary lands, which strained the nobility's fortunes and credit, often to the point of breaking. The rise of duelling after 1648 in the territory can be interpreted as a consequence of elite's struggles for possessions, rights, positions and honour, as the economic and material competition increased, worsening relations between individuals or families. The duel between Herberstein and Galler was undoubtedly part of a long-standing territorial dispute turned bitter enmity over the boundaries of neighbouring dominions along the changing course of the Drava River. The duel between Saurau and Stubenberg also stemmed from a long-standing dispute regarding rank and precedence between the two influential Styrian families; a Styrian provincial Governor was named from both families at the end of the seventeenth century. In the Styrian capital Graz alone, forty duels are recorded to have been fought or provoked between 1670 and 1675, and another forty between 1675 and 1699, which suggest that duelling was a widespread phenomenon. It seems reasonable to think that the violence and hostilities among the nobility in Graz were all the greater, because the town was the residence of the prince, the Inner Austrian Archduke, and provincial governors. From 1700, duelling becomes rarer in the sources, however Baron Raigerfeld's diary notes on the life in the Carniolan capital Ljubljana from the mid-eighteenth century reveal that they were far from over in the Habsburg hereditary lands. The examples given here show that noble disputes ending in duels took place primarily in the major towns or (provincial) capitals of the Habsburg hereditary lands. This is to be expected, as the noble's social gatherings were venues for displays and challenges of honour. The main reason why there were so many disputes is probably that the nobility was concentrated there, since it became increasingly urbanised. More nobles at one place meant that disputes were easier to arise. The main audience of urban nobles were other nobles. They had to present, claim and defend their honour and rank in front of the community of their peers. On the other hand, the princely courts and state or provincial assemblies were considered sacrosanct.

The presented examples show at least eight homicides, more than half the analysed cases of duels. Although this number is relatively small, and perhaps the most tragic ones are best documented in surviving sources, we can still conclude that the homicide rate of duellists in the Habsburg hereditary lands was not low. It is also clear, that in most cases after the duel or attempted duel all participants were placed under (house) arrest. Two (notorious) cases from the early eighteenth century suggest, that the medieval practice of seeking asylum in a church or monastery had not completely fallen into abeyance for noble perpetrators. In judicial hearings and parish registers there is much

talk about accidental ‘encounters’, which were defensible in law. The verbs *erstochen* (‘stabbed’) or *erschossen* (‘shot’) were used to distinguish duellists acts from simple murder. As a result, even when the duel ended with a homicide, the perpetrators were quickly released from prison or house arrest. The venality of noble courts of law also facilitated the duellists’ acquittal. To the victim’s family, perpetrators had to pay appropriate reparations, i.e. blood money. The reconciliation or the conclusion of peace between the two families was likely demonstrated by some kind of symbolic gesture. In the seventeenth-century Habsburg Austria this could still have been a kiss, perhaps an echo of the medieval ‘kiss of peace’.

In the event that a duellist withdrew from the country or did not appear in court, the Emperor confiscated his property until he surrendered to the authorities and settled with the opposing party. For a fugitive without possessions, the decree stipulated banishment, and in special cases the pillory. When individual cases were decided by the Emperor or his Privy Council, heavy fines were usually imposed, but normally not enforced, and ultimately often remitted. But when the guilty party did not attend the settlement with the other party, the Emperor knew no mercy: the perpetrator was expelled from the Habsburg hereditary lands and the Habsburg Monarchy, deprived of his honour, and his name erased from the Provincial Register.

## DVOBOJI V HABSBURŠKIH DEDNIH DEŽELAH, 1600–1750: MED ZAKONI IN PRAKSO

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### IZVLEČEK

*Dvoboji so kot ena od oblik reševanja sporov izšli iz renesančne Italije in do konca 16. stoletja hitro postali evropski fenomen. Z njimi se je razvil kodeks časti, ki je postal ključni del vzgoje in družbene zavesti mladih plemičev v obdobju med koncem 16. stoletja in 18. stoletjem. V Cesarstvu oziroma habsburških dednih deželah so dvoboje prevzeli iz Italije in predvsem iz Francije. Posebej pogosti so bili med plemstvom in v vojski, tam zlasti med oficirskim kadrom, vendar še zdaleč niso bili omejeni le na višje sloje. Med dvobojevalci so bili tudi obrtniki oziroma obrtniški vajenci, trgovci in celo kmetje. Odloki zoper dvoboje so formalno naslavljali vso družbo, z izjemo žensk.*

*Poziv na dvoboj je bil možen le, če je bil moški polnoleten in sposoben nositi orožje, pri čemer starostna razlika in plemiški rang dvobojevalcev nista bila tako pomembna. Po letu 1660 so pri dvobojih vse bolj opuščali formo, da bi dosegli bistvo: ubiti nasprotnika ali ga nadvladati (tj. ponižati ga oziroma mu vrniti za žalitev). Orožje dvobojevanja je postal enoročni rapir, iz katerega se je razvila in do sredine 17. stoletja povsem uveljavila spada. Udeležba v dvoboju je pomenila, da sta oba udeleženca (zmagovalec in poraženec) postala znana po svojem pogumu. O poteku dvoboja so pripovedovali opazovalci (večinoma sekundanti, včasih kirurgi ipd.).*

*Primeri v članku kažejo, da so se plemiški dvoboji odvijali predvsem v večjih mestih ali prestolnicah habsburških dednih dežel. Plemiška družabna srečanja so bila prizorišča razkazovanja in izzivanja časti. V (večjih) mestih je bila večja koncentracija plemstva, tako da so udeleženci dvobojev imeli svoje občinstvo, druge plemiče, pred katerimi so se morali boriti za prestiž in braniti svojo čast. V knežjih dvorih in na državnih oziroma deželnih zborih je bilo dvobojevanje prepovedano.*

*V 17. in v zgodnjem 18. stoletju je v habsburških dednih deželah vladala huda gospodarska kriza. Premoženje plemstva je bilo v tem obdobju zelo negotovo in občutljivo, zlasti po koncu tridesetletne vojne. Porast dvobojev po letu 1648 si lahko razlagamo kot posledico bojev plemičev za posest, pravice, položaje, čast itd. Zgodnji vrhunec so dvoboji v habsburških dednih deželah dosegli v obdobju od konca tridesetletne vojne pa do okoli leta 1730. Zatem so močno upadli, nakar sta sledila ponovna oživitvev in razcvet od devetdesetih let 18. stoletja. Od 42 odlokov zoper dvoboje jih je bilo okoli tri četrtine sprejetih v drugi polovici 17. stoletja, četrtnina zgolj med letoma 1650 in 1655. Predpisovali so globe in včasih*

zaporne kazni, za primere uboja pa smrtno kazen. Odlok cesarja Leopolda I. zoper dvoboje v habsburških deželah, izdan leta 1666 in ponovno (vsaj) še leta 1682, je tako za dvobojevalce kot sekundante (in druge pomočnike) predvidel smrt z mečem.

Ko se je dvoboj tragično končal, se je krivec (morilec) umaknil na svoje posestvo, največkrat prostovoljno. V praksi je umik služil kot samokaznovanje (ali samoponižanje) in je pomenil odpoved vseh storilčevih funkcij in pravic v času čakanja na pomilostitev. Za formalno poravnavo v primeru dvobojev je bilo pristojno deželno ali ograjno sodišče. Najvišjo raven pri poravnavi je predstavljal tajni svet, kjer je vladar v spore med svojimi pomembnejšimi podaniki posegal osebno. Krivec je moral sodišču v zameno za ratifikacijo pomilostitve plačati globo in za zločin opraviti pokoro, ki je bila v obravnavanem času pretežno spremenjena v denarno plačilo. Pokojnikovi družini je moral zagotovo plačati stroške in ustrezno odškodnino, tj. krvnino. Ti ukrepi so bili pogosto zapisani v sporazumih o spravi, bodisi kot del sodne poravnave bodisi kot dodatek k odškodnini (krvnini), ki jo je določilo sodišče. Sprava s sovražnikom ali z njegovo družino je za krivca pomenila prvi korak, da je bil ponovno deležen vladarjeve milosti.

Dvoboji so se kljub strogim prepovedim nadaljevali (tudi) zato, ker se sankcije na splošno niso izvajale, če pa je krivec že bil pripeljan pred sodišče, ga je vladar (cesar) skoraj vedno pomilostil. To je bila posledica dejstva, da vladar, podobno kot njegovi dvorjani, na dvobojevalce ni gledal zgolj popustljivo, ampak tudi s spoštovanjem in celo z občudovanjem. V sodni praksi je bila smrtna kazen za dvobojevalce izreden dogodek, sodni postopek zoper njih – tudi v primeru uboja – izjema in odsotnost sodnega postopka pravilo.

*Ključne besede:* dvoboji, zgodnji novi vek, Sveto rimsko cesarstvo, Habsburške dedne dežele, Notranja Avstrija, Štajerska, Kranjska, 17. stoletje, 18. stoletje

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