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NARVA UNDER THE LIVONIAN ORDER: THE ROLE OF BAILIFFS IN COURT SYSTEM

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Abstract

Medieval Narva, as a town under the order's subordination, was administratively dependent on the bailiff of the Livonian Order, who was in the first instance focused on solving two tasks – maintaining defenses of the border fortress at a proper level and providing optimal conditions for the development of international trade in Narva. In legal proceedings in Narva, that had a town law and status of “commune”, bailiffs played a significant role until the early 16th century, but this did not raise resistance from the town council's side. The interests of the Order and the town council in most cases corresponded. Thereto, the bailiffs acted as rights assurers of Narva's citizens, who did not have any access to Hanseatic privileges, in international trade, and this allowed the Narva's citizens to stand against the other Livonian towns, members of the Hansa, first of all - Reval. The protection of interests of citizens both inside Livonia and in the international field, that was carried out by the bailiffs, complied with the executive management guidelines of the Livonian order, as evidenced by the privileges granted to Narva by its Masters. Also, Livonian Masters often took sides with Narva in critical juncture, and defended Narva's interests in disputes with the Hanseatic cities. With this background, the actions of the order's administration can be regarded as protection.

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1. Introduction

Despite of small size and absence of the status of a Hanseatic city, Narva was one of the most important trading towns in medieval Livonia, direct coupled with the development of Hanseatic-Russian relations in the light of the international Baltic trade. In this regard, the nature of Narva's subordination to the Livonian Order, its sovereign (Landesherr, a territorial lord), and the role of the Order in the business activities of citizens is of special interest. The studies devoted to the review of Hanseatic-Russian contacts were concerned with this problem fragmentary or this problem was considered in the context of "Narva problem" - the rapid development of Narva and the transformation of the town into a major trading center of the Eastern Baltic between the Middle Ages and early Modern times.

Lübeck law, granted to Narva in 1345 (Kivimäe, 2004), gave the town the status of a "commune" with specific self-governance in form of an elected town council (Smolokurov, 1999). It is also worth taking into account that Narva was economically and administratively dependent on Reval (Tallinn), that apprehensive about commercial competition and was striving to limit the independence of the town (Kazakova, 1975). At the same time, there is an evidence of the Livonian Order's positive influence on the development of Narva's trade (Jähnig, 2011), due to the Order's commitment in increasing of economic capacity of the town as a strategically significant defense center on the Livonian-Russian border and in increasing of profitability of the Order's business, because the representatives of the Order's local authorities (district officials) were fully committed in mercantile operations (Bessudnova, 2016). As to Narva, it is important to note the procedure of judicial proceedings, as well as the relationship between the order bailiff and local administration on this territory, due to fact that the basis of judicial precedents in Narva was cases related to mercantile and business practices. Also it is significant that there were no serious disagreements between the town council and the Order in Narva, but such disagreements can be noticed in other Livonian trade cities under the Order's power, first of all in Riga and Reval (Kreem, 2002).

2. Problem Statement

This study is based on the question of reasons, nature and results of cooperation between the town council of Narva and Narva's sovereign, the Livonian Order, the authority of whom in the town was represented by a bailiff. This problem can be considered more largely – with respect to mobilization of mixed administrative resources for optimizing of conditions for the development of international trade in the town which didn't have Hanseatic privileges and was forced to abide the pushback from Reval. The background of this problem in the study is the judicial practice of Narva in regards to cases related to foreign trade.

3. Research Questions

In the course of investigations of the stated problem it was supposed to answer questions about full powers of Narva's bailiffs as subjects of judicial procedures, nature of juridical cases dealing with international trade in Narva, and how bailiffs protected the rights of citizens in their discordance with Livonian, Hanseatic and Russian merchants. Over and above, it is necessary to deduce changes in judicial

and administrative sole powers of a bailiff in the last quarter of the 15th century in the light of extension of the general powers of the town council and determine the procedure for the complex legal cases settlement without the representatives of the Order's power, as well as identify issues, most commonly concerning the interests of the Order and administered by the bailiff for the whole 15th century.

4. Purpose of the Study

The study completes the existing historiography concept of the cooperation of the Livonian Order with small towns of Livonia in the late 14th – 15th centuries and allows us to pose a question on the protectionism elements in the internal policy of the Livonian Order. In addition, examples of administrators' activities in Narva allow to enhance our insight about the Order as a territorial ruler, its participation in the town's management and to understand how the judicial system of Narva functioned under the control of the Order's members, and later without them.

5. Research Methods

This study is done on the basis of a comprehensive analysis of unpublished and published archival sources, as well as by using of historiography. The documents represented in the Tallinn city archive (Tallinna Linnaarhiiv), especially materials from the Fund 230 dedicated to the town council (TLA, BD 8 II) and bailiffs (TLA, BB 52 I) of Narva form the basis of this analysis; documents represented in two parts of "Liv- Esth- und Curländisches Urkundenbuch" are also used. The used methods have the form of the formation of sources into issue blocks that allow to structure the studied issue more precisely, followed by distribution into topic groups. Logic of presentation is based on the principle of "from particulars to generals" and involves using of specific examples followed by a unifying analysis.

6. Findings

At the beginning of the Order's rule in Narva, i.e. in the middle of the 14th century it was a small town that is mentioned in sources as *wikbilde* (Bunge, 1857), i.e. a settlement, some place. At this development stage the town had a simplified self-governance (Czaja, 2002), where court procedures were out of jurisdiction of the town council, established according the privilege of King Valdemar IV Atterdag of Denmark (CA.1320-1375) in 1345 (Bunge, 1855). The town council members were German merchants settled in the town, members of the Large Guild of Reval, who controlled the income and expense of the town. Only in the end of 14th century the power and authority of Narva's town council enlarged when Narva was granted with a status of a town with all rights by Wennemar von Brüggenei (1389–1401) (Militzer, 2002) and became known as *stadt* (town), *stedeken* (small town).

The close cooperation between the Order's bailiff and the Narva town council was provided by a number of circumstances. First, when dealing with important issues in regard to international, foremost Russian, trade, where their interests usually coincided, conflicts did not arise. When the bailiff took an "unpopular" decision, for example closing the border for transit of merchants or putting goods under arrest, so the town council reported about nonparticipation in that and about dependence on the territorial lord and his representative (TLA, n.d. i). Second, the bailiff was responsible for the defense of Narva under the

Livonian Master and had to provide the resource base necessary for a key point of border defense, as well as the garrison and citizens, who were subject to call-up to home guard if necessary (Hilderbrand et al., 1900). Further, Russian and Livonian merchants who came to Narva from Russia also provided the bailiff with information on the situation on the Russian side (Bessudnova, 2016). And, third, the bailiff was personally interested in the development of Narva as an important trade center and involved in business operations (TLA, n.d. m) or delegated to people (TLA, n.d. d). Among other issues, he controlled the quality of exports and imports (TLA, n.d. f), and also ensured safety of merchant goods located in Narva (TLA, n.d. r). According with Lübeck law, court cases in Narva were first reviewed in the lower court (Niedergericht), the highest chamber of which was represented by the town council's court (Obergericht) (Hilderbrand et al., 1900). Judgments of the court of Narva could be appealed to the town council's court of Reval (Kleynenberg, 1970) (many examples of this are found in the book of Judgments of the court of town council of Reval, "Registr van affsproken") (Ebel, 1952); Narva significantly differed from other cities under the Order's subordination, where the court procedures were carried out by representatives of the Order's administration, i.e. district officials (Carstenn, 1937). However, this does not mean that the Order's representatives played no role in the court system of the town; so the jurisdiction of the bailiffs in the court system of Narva is the subject of this study.

Speaking about the participation of bailiffs in the court system of Narva, it is necessary to understand that their status and powers had changed as time passed, and therefore it is possible to determine several stages:

1374 – the eighties of the 15th century – participation of bailiffs in the majority of cases, enforcement of judgments;

2) the eighties of the 15th century – 1506 – interference of bailiffs into court cases of high priority, for example conflicts with foreigners;

3) since 1506 the bailiff did not participate in town court procedures.

The first stage, determined by us begins with the privilege of the Order's Master Wilhelm von Friemersheim (1364–1385) of October 31, 1374 where is stated that parallel with the town bailiff the Order's bailiff or his deputy (commander, constable) who got not less than a half of the fees (Bunge, 1857), even in letters of the 14th – early 15th century bailiffs underwrote themselves using a word "*advocatus*" (TLA, n.d. a-e), meaning "called for help", "rights defender".

We have a fairly wide range of sources for this period that inform about various court settlements with the involvement of a bailiff. The most percentage of cases are with a focus on trade and economic issues namely failures to perform obligations under the deals, normally trade deals (TLA, n.d. j; TLA, n.d. l). Beyond that point, there are cases concerning the arbitrary detention of Narva citizens (TLA, n.d. h; TLA, n.d. n), putting of merchants' goods under arrest (TLA, n.d. k), bashing and robbery (TLA, n.d. g).

Consideration should be given to a case of a Russian named *Makophe*, Narva's citizen *Johane Brakele* and Reval's citizen *Ghodeke Beseler* (TLA, n.d. j). In summer of 1420, Makophe applied to the bailiff and complained on Johane Brakele, because he was supposed to exchange 70 barrels of mead from his side for seven thousand of wax wheels from Makophe, but this was not done. The bailiff initiated the investigation. He called Brakele and found that he had complied with the commitment in full, but the goods were to be delivered by Ghodeke Beseler. What happened to the goods during transportation is not said,

but we know that because of this “Brakele suffered tangible losses” (*Brakel groten drepliken schaden hefft*) and by all accounts the Russian did not receive his goods. After that the bailiff appealed to Reval to pursue cost recovery for damages from Beseler and assist Brakele with his rights. Unfortunately, we do not know the answer from Reval and, thus, the outcome of this case, but the available information makes it clear that the bailiffs were first instance where the Russians applied for justice. This is also confirmed by materials over a period of the 15th century, where the bailiffs personally sat on a case and applied to Reval as the need required.

Another interesting letter is indicative of personal commitment of bailiffs in court procedures and dates back to April 23, 1427 (TLA, n.d. k). This letter says that the Narva’s citizen *Clawes van der Olzyn* applied to the bailiff because his goods were put under arrest in Flanders accused of that the goods belonged not him but the Russians (*syn ghut bekummert hebbe umme sake willen, dattat Rusch ghut scholle syn*). The bailiff covered up for his citizen because he had hard facts that the Russians gave their goods to Clawes van der Olzyn by themselves and hence there was no crime, and asked Reval to appeal to all the merchants and towns of Flanders with a request to return the goods to their rightful owner without any delay or encumbrances.

Another letter is worth mentioning as a separate point for revealing the participation of the local Order authorities in resolving conflict situations between Livonians, and exactly the appeal of the bailiff to Reval on June 9, 1427 about the bailiff’s servant named *grote Brun* and the Reval’s citizen *Gosschalk* (TLA, n.d. l). It is known that they purchased a lot of salt at halves, but Gosschalk did not sent the part that belonged to Brun for a year. Although he reported that salt was ready for forwarding. Then the bailiff initiated the court procedure, and presented to Reval all information available to him. It is worth noting individually that some *Herman Lichten* acted for grote Brun at the court and was “empowered and authorized at the court and the town council” (*vulmechtigh market in tho manede vor gerichte unde rade*). It’s interesting that examples of such representing at the court not individual and are to be found in other documents (TLA, n.d. o).

Between the 15th and 16th centuries Narva received more rights in the court system in connection with the development of Russian trade. The town council of Narva came to an agreement with the Order’s administration, and according to that representatives of the Order’s authorities had to be present only in discussing of certain cases. Powers of the Order in jurisdiction of the town are detailed presented in 12 articles compiled by the town council of Narva (Hilderbrand et al., 1900) abt. 1500, but actually the separation of the Order’s representatives from full control of the court system begins much earlier, around the eighties of the 15th century. By the time, under the jurisdiction of the bailiffs of Narva were only legal proceedings between Livonians and foreigners, that could lead to serious implications to the detriment of international trade, as well as cases concerning his people, or interests of the Order overall. Along with that, if the town council could not ensure the satisfying judgments, this was done by the bailiff, including by force (Smolokurov, 1999).

With that in mind, the case of Narva merchant *Hermen Happe*, presented in two letters from the town council of Narva to the town council of Reval in 1479–1480s, is prominent. They refer to a court trial by and among the Pskovian *Jackime*, *Hermen Happe* and the citizen of Reval *Simon Norenberger* on the subject of a lot of poor-quality onions. Using the first document we learn that Hermen Happe sold a barrel

(tonne) of onion seeds to the Pskovian Jackime. As long as onions belonged to specialty goods, it was impossible to control the quality on visual inspection (Kleynenberg, 1970), and that's why they required specific condition of the deal, and special notes were made. Under the terms of special notes the Pskovian could return the product within 3 weeks if the seeds were of a poor quality, and Jackime used this right. The town council of Narva has ruled to check the onions quality and in case of a poor quality to return the product to *Hermen*. But he refused to show his note, deferring the case and gave notice of appeal in Reval (TLA, n.d. p). The conditions of this case are also interesting because here we see an example of "unusual trade" (Bessudnova, 2019a; Bessudnova, 2019b): first, the deal was not a barter, on which the Hansa insisted in this period, but was an exchange of goods for money. Second, the usual right of German merchants stated that the deal done for money was indissoluble even if the goods are of a poor quality (Ebel, 1952, p. 9). Third, in the middle of the 15th century according the decision of the Livonian cities congress all German merchants had to require services of broker (mekeler) when trading with Russian merchants, but this was not done in the considered deal.

Using the second letter from the town council of Narva to Reval on February 8, 1480 (TLA, n.d. q) we learn that *Hermen Happe* purchased onion seeds from the citizen of Reval *Simon Norenberger* and the deal was made for money, despite that fact that Reval by contrast with Narva was a Hanseatic town. As the inquiry progresses, a sample of seeds was analyzed *unde int lateste, sodan saet to proberen unde to vorsoken*) and the Narva court declared them bad, and based on this decision Reval decided to return the seeds to *Simon* and exclude *Hermen* from the crime, but providing that there is some evidence that he did not change (i.e., did not spoil) quality of the purchased product. Thus we see that the Narva town council headed by its own judge, made investigation, conducted examination and resolved the case, and, even despite the presence of a Russian, the bailiff did not take any part in the court proceedings.

In this behalf one more case should be reviewed that at first thought had to be investigated by the town council, but this case was under control of the bailiff. In 1491 to the bailiff applied *Hermen Mule* who leased out his horse to *Ditmer Sper* in Reval for five weeks. However, after the expiry of the time-limit he got back his horse crippled and covered with wounds (*tobrokenn unndt zo sere vorßeret*) so much that after arriving at the owner, the horse died on the next day (*andern dach starff*). The bailiff wrote to the town council of Reval: "help our my man" (*unssem mynem manne behulplick*) with a focus on that fact that aggrieved *Hermen Mule* was his and the Order's person. 63). Here we see the situation where an ordinary conflict within the context of Livonia was ruled on personally by the bailiff, because the appelland was his man. What is more, it should be considered that it comes to the horse, and this also increased significance of the case, as long as the horse trade, both inside and outside Livonia, was most careful controlled by the Order.

Since 1506, the bailiff did not have part in town court procedures and received a flat tax from the town instead of half of the court fines (Hilderbrand et al., 1914); this was quite common, whereas in the major Livonian towns the territorial rulers lost this right even earlier, for example, in Reval it happened in 1265 (Johansen & Mühlen, 1973).

7. Conclusion

The duties of the Order's bailiffs in Narva included focusing on the economic well-being of the town for maintaining of its defensive potential, that provide conditions for close cooperation between the Order's administration and the town council. In the court system a bailiff owned wide variety of power and authority and used it also for strengthening the position of citizens in international trade. The bailiff was engaged in examination of issues related to citizens' conflicts between Livonians and foreigners, foremost Russians. Narva as a non-Hanseatic town was economically inferior to such a large Hanseatic center as Reval, but the participation of the bailiffs in dispute settlements between Narva and Reval on the side of the Narva's citizens made possible to balance a force in some measure. In court trials, the bailiff of Narva acted as a duty-bearer of the rights of his people in relation to Reval and protected their interests, because quite often he was a business partner (sometimes head partner) in trade with Reval. Additionally, the bailiff was the first instance for complaints handling of Russian merchants in Narva and tried to be fair-minded to avoid conflict situations and stoppage of trade that also met interests of Narva's citizens. As for shared participation of the bailiff and the town council in court trials, it is to be noted that for most of the 15th century priority belonged to the Order administration, but at the end of the 15th century, there was a noticeable strengthening of town structures, while bailiffs were involved in cases foremost related to the Order's interests. This strengthening of administrative resources provided conditions for an optimal development of the town in any aspect. The complete transition of court procedures to the sphere of the town council in the 16th century can be explained by the progressive development of the town in economic and political spheres, growth of its administrative potential that made the active support of the Order's administration unnecessary.

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