

SPECIAL ISSUE ARTICLE

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MERCHANTS AND THE LAW, 1350–1600

The legal position of guests in late medieval Stockholm

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Abstract

The article analyses the legal position of foreign visitors in late medieval Stockholm through the prism of the concept of legal certainty, which requires public, explicit and clear regulations, an institutionalized jurisdiction and equal, just and impartial judgments in court. The article concludes that the authorities in Stockholm strove to create legal certainty for foreign guests and that the regulated relationship between local hosts and visiting guests both provided a control mechanism for the authorities and security for the guests.

Burghers and guests in Stockholm

The assembly is to have the same statute for both you and the resident alien as a permanent statute throughout your generations. You and the alien will be alike before the LORD.

(Bible, Numbers 15:15)¹

In the Bible, the principle of equal rights for native and alien residents is repeated in several chapters.² In the medieval urban context, this was a principle practised under the umbrella concept of citizenship/burghership. All residents of a town could become a burgher of the same town and acquire the same privileges and obligations as the whole group of burghers, regardless of their origin. There were often other kinds of restrictions concerning the right to burghership, primarily economic, since residents needed to be able to support themselves and be accepted into the urban structures of trade and craft. Other factors could come into play, such as whether an

¹Christian standard Bible (English Standard Version), 2001, Crossway Bibles.

²See also Exodus 12:49: ‘The same law shall apply to both the native and the foreigner who resides among you’ and Leviticus 24:22: ‘You are to have the same standard of law for the foreign resident and the native; for I am the LORD your God.’ See also Leviticus 19:34.

individual adhered to the Christian faith or was born within marriage.³ The burghers of a medieval town were often immigrants from both the local area and from further away, creating a community that could be mixed in terms of language and ethnicity, as well as with regard to the social and economic backgrounds of those living there.

Burghers were often mobile, visiting markets and trading with burghers of other towns. However, they did not have the same privileges in other places as they did in their town of residence. Most town laws and regulations contained some form of rules concerning the rights and duties of visiting burghers from other towns. The legal term for visiting burghers in the Baltic Rim was guest (in German *Gast*, in the Stockholm council minutes *gest*).⁴ Stuart Jenks has shown that enforced limitations on the activities of visiting traders even applied to Hanseatic merchants when they visited Hanse towns other than their own.⁵ This illustrates that these rules had little to do with ethnic boundaries. The target was rather to protect the interests of the burghers of the town and to define the legal position of the visitors.

This article will address the legal position of guests in Stockholm in the late fifteenth century in order to investigate how urban magistrates and lawmakers in Sweden catered for merchants crossing jurisdictions. A guest is understood as a burgher of a town across the Baltic Sea who visited Stockholm to trade. The main question that this article seeks to answer is to what extent the Swedish king and the town authorities of Stockholm were able to provide guests with legal certainty as they crossed the legal boundaries between Stockholm and the towns on the western and southern shores of the Baltic Sea. Inspired by the modern concept of legal certainty, the study focuses on three principles often mentioned associated with the concept. The first principle is public, explicit and clear rules and ordinances, the second an institutionalized jurisdiction and legal usage, the third an equal, just and impartial judgment in court.⁶ In the first section the discussion will focus on the question of which law or laws applied to guests in Stockholm and how the guests were informed about them. In the second section, I will analyse whether there was an established jurisdiction for guests in Stockholm, which courts they could turn to and which rights they had as legal entities in court. In the third section, finally, I will discuss whether guests could expect to be judged fairly and impartially in the council court. The main source material of the study is made up of the laws, ordinances and privileges which applied in Stockholm in the late fifteenth century, as well as the minutes of the town council in Stockholm from the same period (preserved from 1474 onwards).

Stockholm was the main town of the Swedish kingdom from the thirteenth century, with approximately 5,000–8,000 permanent residents in the later Middle Ages. With its geographical location as a gateway from the Baltic Sea to Lake Mälaren,

³For a discussion on definitions of citizenship, see M. Prak, *Citizens without Nations. Urban Citizenship in Europe and the World, c. 1000–1789* (Cambridge, 2018), ch. 1.

⁴On 'guest' as a legal concept, see T. Boestad, 'Merchants and guests: laws and conditions of Baltic trade hospitality, twelfth–fourteenth centuries', in S. Nauman, W. Jezierski, C. Reimann and L. Runefelt (eds.), *Baltic Hospitality from the Middle Ages to the Twentieth Century. Receiving Strangers in Northeastern Europe* (Cham, 2022), 85, and L. Olsson, 'Guests or strangers? The reception of visiting merchants in the towns of the Baltic rim, 1515–1559', in *ibid.*, 148.

⁵S. Jenks, 'Das hansische Gästerecht', *Hansische Geschichtsblätter*, 114 (1996), 31–45.

⁶On definitions of legal certainty, see, for example, J.R. Maxeiner, 'Some realism about legal certainty in the globalization of the rule of law', *Houston Journal of International Law*, 13 (2008), 32; I. Lifante-Vidal, 'Is legal certainty a formal value?', *Jurisprudence*, 11 (2020), 456–67; S. Berteau, 'Towards a new paradigm of legal certainty', *Legisprudence*, 2 (2008), 25–45. Concerning equality before the law, see, for example, 'Universal Declaration of Human Rights', www.un.org/sites/un2.un.org/files/udhr.pdf, accessed 24 Mar. 2022.

it was a hub for both regional and long-distance trade. From spring to autumn, ships arrived from overseas, carrying cargoes of salt, cloth, wine, beer, spices and other luxury products. They left with cargoes which most likely included iron, copper, butter and furs.⁷ In Stockholm, the burghers came from far and wide. Many were born in the town, others were Swedes who immigrated from the surrounding countryside or from other Swedish towns. From the thirteenth to fifteenth centuries, a significant number of burghers had immigrated or were descendants of immigrants from the other side of the Baltic Sea, primarily from northern German towns and from the Finnish part of the Swedish kingdom. The town can thus be described as an ethnic melting pot in the later Middle Ages, where different dialects of Middle Low German were a familiar sound in the streets.⁸

The burghers of Stockholm, regardless of origin, were obliged to swear allegiance to the town council and to the Swedish king and were not allowed to have any political bonds elsewhere or be burghers of any other town.⁹ The burgher community was granted privileges by the king, including significant self-rule and economic monopoly on retail trade.¹⁰

Burghers of other towns who came to trade in Stockholm were regulated and controlled and did not have the same rights as the local burghers. In Stockholm, as elsewhere, the legal term 'guest' had the meaning of an alien, most often a merchant who was a burgher of another town. A clear definition of the term 'guest' is, however, seldom provided in the sources from Stockholm. In the Swedish town law from the middle of the fourteenth century, guests are mentioned as 'merchants from Flanders, Germany, Gotland or wherever they came from'.¹¹ Except for the mentioned examples of places the guest could originate from, Swedish law did not provide a legal definition of who the guest could be. The guest can also be difficult to identify in the court records from Stockholm. Ethnic boundaries or name forms are of little help, given that Stockholm was a multi-ethnic town. For example, men with typically Swedish names could be mentioned as the guest of a man with a non-Swedish name, thus 'Jenis

⁷G. Dahlbäck, 'Eisen und Kupfer, Butter und Lachs. Schwedische Produkte im hansischen Handel', in R. Hammel-Kiesow (ed.), *Vergleichende Ansätze in der hansischen Geschichtsforschung*, Hansische Studien 13 (Trier, 2002), 163–74.

⁸On the question of ethnicity in late medieval Stockholm, see J. Wubs-Mrozewicz, 'Interplay of identities: German settlers in late medieval Stockholm', *Scandinavian Journal of History*, 29 (2004), 53–67; S. Gustafsson, 'Ingen given konflikt: svenskar och tyskar i medeltidens Stockholm', in U. Sörenson (ed.), *Stockholm global stad* (Stockholm, 2012), 29–36. On the use of languages in Stockholm, see L. Moberg, *Lågtyskt och svenskt i Stockholms medeltida tänkeböcker: Niederdeutsch und Schwedisch in Stockholms mittelalterlichen Gedenkbüchern* (Uppsala, 1989); T. Pettersson, *Stockholms tänkeböcker: Funktionell texthistoria 1476–1626* (Stockholm, 2017).

⁹Examples in case law: *Stockholms stads tänkeböcker 1474–1483 samt burspråk*, Stockholms stadsböcker från äldre tid, 2:1 (Stockholm, 1917), 267; *Stockholms stads tänkeböcker 1483–1492*, Stockholms stadsböcker från äldre tid, 2:2 (Stockholm, 1944), 316; *Stockholms stads tänkeböcker 1492–1500*, Stockholms stadsböcker från äldre tid, 2:3 (Stockholm, 1930), 10, 55, 116. The council minutes will hereafter be referred to as *Stockholms tänkeböcker*, 1, 2 or 3.

¹⁰*Privilegier, resolutioner och förordningar för Sveriges städer: Första delen (1251–1523)*, ed. N. Herlitz (Stockholm, 1927), 77–83. Of course, not all residents of Stockholm were burghers, but a majority belonged to one of the burgher households.

¹¹The medieval Swedish town law has been translated to modern Swedish with a thorough commentary by E. Wessén and Å. Holmbäck in *Magnus Erikssons stadslag. I nusvensk tolkning (MES)* (Stockholm, 1966), here see Köpmålabalken XXXIV, 130. The manuscript of the law used in Stockholm had been digitized and is available online: https://weburn.kb.se/metadata/164/hs_12134164.htm.

Eriksson, Folmer fan Lundes gest'.¹² Even if ethnicity or different political allegiances were not clearly defined, it is most often the case that when a person is called a guest in the sources from Stockholm, he should be understood to have been a visiting burgher coming from overseas. It is these guests in Stockholm, mainly foreign merchants and skippers, that are the object of this study.

According to the Swedish town law, such guests were allowed to sail to Swedish towns as soon as the Baltic Sea was ice free and they were expected to depart no later than 8 September.¹³ This meant that guests from overseas were only a part of town life for about half of the year. Exceptions to this rule could be made in cases where guests were allowed to stay during the winter if they had been delayed from leaving while it was still safe to travel. If a guest stayed without such a legitimate reason he had to pay a high fine of 40 marks.¹⁴

The trading world of the Baltic Sea was an insecure one, where the journey alone posed a significant risk. There were, however, expectations of significant profits. The Hanse can be seen as a safety net, which gave participants rights and security in collaborating towns. The Swedish towns could sometimes enjoy certain privileges, but they were not part of the Hanse.¹⁵ Burghers from some individual towns were exempted from customs in Stockholm,¹⁶ while other visiting merchants did have to pay them, and all guests were controlled and restricted in their trade. Regardless of the complicated relationship between the Swedish kingdom and the Hanse, there were close communications and personal relations between burghers of Hanse towns and those of Stockholm.¹⁷

Laws and ordinances for guests in Stockholm

Stockholm had a written law from the thirteenth century (Björköarätt), which was replaced by a new and much more extensive town law in the middle of the fourteenth century. It was created at about the same time as the land law of Sweden and shared roughly half of its regulations with the land law.¹⁸ Both laws were divided into thematic sections, called 'balkar', and while sections on marriage, inheritance and criminal cases had many similarities, sections on, for example, trade, building and council rule separated the town law from the land law. These town-specific sections did not have any obvious connections to other existing town laws.¹⁹ Both the land law

¹²Stockholms tänkeböcker, 1, 8 Nov. 1477, 133.

¹³MES, Köpmälalbalken 147, n. 182.

¹⁴MES, Konungsbalken 12, XIX, Köpmälalbalken 147f, n. 182. On winter-lodgers in sixteenth-century Stockholm, see Olsson, 'Guests or strangers?'; and L. Olsson, 'I vinst och förlust: Köpmäns nätverk i 1500-talets Östersjöstäder', Södertörn doctoral dissertations 218 (Huddinge, 2023), ch. 4.

¹⁵C. Jahnke, 'Das Verhältnis der skandinavischen Städte zur Hanse', in J. Burgdorf, C. Hoffarth and S. Kubon (eds.), *Von Hamburg nach Java: Studien zur mittelalterlichen, neuen und digitalen Geschichte* (Göttingen, 2020), 115–34.

¹⁶For example, Lübeck and Kolberg, *Stockholms tänkeböcker*, 3, 240–1.

¹⁷See, for example, H. Rossi, *Lübeck und Schweden in der ersten Hälfte des 16. Jahrhunderts: Das Lübecker Holmevarer-Kolleg zwischen 1520 und 1540* (Lübeck, 2011); K. Kumlien, *Sverige och hanseaterna: Studier i svensk politik och utrikeshandel* (Lund, 1953).

¹⁸MES, Inledning XLIX, LXXXII.

¹⁹S. Gustafsson, 'Comparability between the medieval Swedish town law and the Lübeck law', in L. Beck Varela, P. Gutiérrez Vega and A. Spinoza (eds.), *Crossing Legal Cultures* (Munich, 2009), 129–40; S. Gustafsson, 'Sale of goods around the Baltic Sea in the Middle Ages', in J. Wubs-Mrozewicz and S. Jenks (eds.), *The Hanse in Medieval and Early Modern Europe* (Leiden, 2012), 129–48; D. Strauch, *Mittelalterliches nordisches Recht bis ca. 1500: Eine Quellenkunde* (Berlin and Boston, 2016), 562.

and the town law spread throughout the Swedish kingdom and in time came to be known as the Swedish laws, in modern times referred to as the laws of Magnus Eriksson, who was king of Sweden when the laws were created.²⁰ In late fifteenth-century Stockholm, a manuscript of the town law, preserved and dated to the second half of the fourteenth century,²¹ was in use. The council minutes often refer to particular paragraphs in the law, showing that it formed the basis for the rulings of the council court.

The Swedish town law was created for Stockholm and mentions places and distinguishing features of Stockholm. Marko Lamberg has established that it was the only law used by the town authorities in Stockholm and there is nothing in the sources indicating that rulings according to other codes of law were accepted.²² The law applied to all residents in Stockholm as well as temporary guests to the town. This was sometimes emphasized in the law. One example is the rule on how to make a purchase, which starts by describing how burghers and their servants could do so. The stipulation finishes by saying that the same was to apply for guests.²³

The general principle was that a case should be brought before the court in the place where it had occurred, but the council minutes reveal that crimes which had been committed elsewhere could sometimes be tried in Stockholm.²⁴ Some can be suspected to have been committed on board ships, such as when Hanis Rosenberg from Danzig took an oath before the court in 1476 that he did not cause the death of the skipper Baltazar by his will or intention. According to his description, Baltazar had hit him on the head with a tin candleholder so that the light went out. Then he had rushed forward and fallen on the knife that Hanis held in his hand.²⁵

Guests, like others, could expect to be judged in accordance with the Swedish town law when in Stockholm, and, as such, there were some particular rules that only applied to them. The section on trade in the Swedish town law ends with five articles containing regulations concerning guests, mainly specifying where, when and with whom a guest was allowed to trade in Stockholm.²⁶ At first, the official of the king had the right to buy what he wanted from the guest. After he had inspected the goods, or if three days had passed, the guest was allowed to sell his goods to others. The goods first had to be unloaded from the ship. If the guest sold something directly from the ship, and this was discovered, he could be permitted to keep the proceeds if it was the first time.²⁷ All goods had to be transported into town to be registered. If the guest failed to

²⁰Strauch, *Mittelalterliches nordisches Recht*, 559–61.

²¹At the earliest from 1357, according to P. Åström, *Senmedeltida Svenska lagböcker: 136 lands- och stadslagshandskrifter. Dateringar och dateringsproblem* (Stockholm, 2003), 221. About the manuscript, see MES, Inledning XIX.

²²Marko Lamberg mentions only one case in the 1590s: M. Lamberg, 'Unlawful contracts and foreign subtlety: (in)tolerance towards external legal customs and traditions in late medieval and early modern Stockholm, c. 1475–1635', in K. Tikka (ed.), *The Development of Commercial Law in Sweden and Finland (Early Modern Period–Nineteenth Century)* (Leiden, 2020), 17–58, at 41.

²³MES, Köpmålabalken XIV, 119.

²⁴Lamberg, 'Unlawful contracts', 38. Referring cases to courts in other towns: *Stockholms tänkeböcker*, 3, 309–10, 446.

²⁵*Stockholms tänkeböcker*, 1, 81.

²⁶MES, Köpmålabalken XXX–XXXIV, 126–31.

²⁷Some wares were exempted from the prohibition of trade from ships, for example, grain, copper and iron, which were export rather than import goods, and thus less likely to be sold by guests in Stockholm. MES, Köpmålabalken XVI, 120–1.

do so, the fine was 40 marks. If he tried to hide something, and this was discovered, he would pay the same fine and would also lose the goods in question. The laws specified different rules for different types of goods. All wine was, for example, to be sold in the wine cellar of the town, and salt and other bulk goods should be sold in open street stalls.²⁸

The guest was only allowed to sell and buy in large quantities. If he tried to circumvent this rule by leaving his goods with a burgher in town to sell them for him in retail, the fine was 40 marks and he would lose the goods if there were two witnesses testifying against him. The burgher who sold his goods had to pay a fine of 80 marks, since it was deemed he should know better. The guest was not allowed to trade with other guests in Stockholm, but only with burghers. He could not ride away from town and sell his goods outside of town, for example at markets, unless the town council had approved of it. Otherwise he would pay 40 marks and lose his goods. Again, a burgher who helped a guest to trade outside of town would pay an 80 mark fine and lose his goods.²⁹

In towns across the Baltic Sea, the Lübeck town law was most commonly used.³⁰ However, there were significant differences between Lübeck and Swedish laws.³¹ It is possible that a guest arriving in Stockholm for the first time would have poor knowledge of the local laws and ordinances. In both the Swedish law and in practice, some consideration was taken of this situation. Sometimes, the law provided the option of exacting a milder punishment on guests. For example, no one was allowed to purchase directly from ships. If they did so, the person would have to pay a fine and give the purchased goods to the king and the town, or swear an oath together with three men. The person selling goods from a ship instead of bringing them into town (i.e. probably not a resident of Stockholm) had the opportunity to swear an oath that he had not known about the rule.³² However, it is likely that a guest from across the Baltic Sea in the later Middle Ages would have had contacts in and some information about Stockholm before arrival.

Before a ship arrived at the harbour in Stockholm, it would have been met by a customs officer, to whom guests needed to declare their goods and pay customs duties. Upon arrival in Stockholm, it was again royal representatives who first had contact with the crew, since the king had a right to purchase the cargo before it was unloaded. As such, it was practically impossible to arrive in Stockholm unnoticed. There was also a barrier that needed to be removed in order to enter the harbour.³³ After the inspection by the state representatives, the guest was assigned a host from among the local burghers. Exactly how this was done in Stockholm is unclear. It can

²⁸MES, Köpmålabalken XXXIII, 128–9.

²⁹For an example where the council could give a guest the right to travel to markets: *Stockholms tänkeböcker*, 1, 200–1. For an example where the council clarified the rule against retail sale by guests, see *Stockholms tänkeböcker*, 1, 258.

³⁰There was, however, a significant plurality of law in the area; see, for example, P. Höhn, 'Pluralismus statt Homogenität. Hanse, Konflikträume und Rechtspluralismus im vormodernen Nordeuropa (1400–1600)', in R. Deigendesch and C. Jörg (eds.), *Städtebünde und städtische Außenpolitik – Träger, Instrumentarien und Konflikte während des hohen und späten Mittelalters* (Ostfildern, 2019), 261–90.

³¹Gustafsson, 'Comparability'; Gustafsson, 'Sale of goods'; example in case law: *Stockholms tänkeböcker*, 2, 563.

³²MES, Köpmålabalken XV, 120. See also Köpmålabalken XXXIII and XXXIV, 129, 131. This is, however, rarely mentioned in the council minutes of Stockholm.

³³*Stockholms tänkeböcker*, 3, 219–20.

be assumed that many guests already had a contact in town, in whose house they could reside during their stay. Most commonly, this would be a relative or trading partner. In addition, guests could stay at taverns, which had allocated taverners appointed each year.³⁴ In that case, the taverner probably functioned as the host.

How and to what extent were the guests informed about the rules that applied to them in Stockholm? According to the law text, the law was to be read aloud in the main square once every summer.³⁵ However, even though everyone had the right to attend, the reading was mainly aimed at residents of Stockholm. It was most probably the host who was obliged to inform the guest about the law of Stockholm. The law specified that the host had to adhere to certain requirements. He was, for example, responsible for ensuring that the guest paid taxes.³⁶ In particular, the local ordinances of Stockholm reminded the host of his extensive responsibilities in relation to the guest. Such ordinances (called 'burspråk') are preserved for Stockholm from 1459 and were read in public twice a year. Reviewing in detail the ordinances of 1482, there were five articles concerning these responsibilities:

Article 6: 'Each man sees to whom he harbours. Each harbours such men, for whom they would swear, so that the master does not have to atone for the guest.'

Article 15: 'Each man should warn his guest, when he arrives in town, that he should leave his sword at home in the shelter, or he will be punished, and he will lose his sword.'

Article 16: 'Each master informs the burgomasters when alien people arrive in town and what their purpose is. Each who fails to do so will be punished according to the law.'

Article 30: 'If the guest does not come forward, the master will answer for him.'

Article 59: 'No guests are to ride away from the town without paying a fine of 40 marks. If he leaves, the master answers for him.'³⁷

The ordinances show that a significant responsibility for the guest lay on the burgher host in Stockholm. If the guest broke the rules, the host would have to pay for it. This means that the burgher host must have had a strong motivation to inform the guest about the applicable rules, as well as making sure that he complied with them.

It is possible that guilds had some responsibility for guests in Stockholm. There is one entry in the council minutes that points towards that conclusion. The case, brought before the council court on 29 May 1484, concerns the misbehaviour of a blacksmith. He stood accused of having hit a pregnant woman, which caused the death of her unborn child. He had also overturned the money collection box of the blacksmiths' servants in the guild house, thrown their letters on the floor and wiped out from their board 'both guests, taxes of guests and other things that were in their

³⁴ According to the list of office-holders for 1494 'Herbergerara til fremede folk til staden koma kan ok behöffua', *Stockholms stads ämbetsbok 1419–1544*, J.A. Almquist (ed.), *Stockholms stadsböcker från äldre tid 4* (Stockholm, 1927), 128.

³⁵ MES, Konungsbalken XXII, 15.

³⁶ MES, Konungsbalken XX, 12.

³⁷ *Stockholms tänkeböcker*, 1, burspråk 1482, 486–93. Translation by the author with the intent to stay as close to the medieval Swedish original as possible.

care'.³⁸ This notice thus accidentally reveals that the craft guild of the blacksmiths had some sort of supervision over guests, the administration of which was written on a board (probably a blackboard or a wax tablet), which could be easily wiped out.

However, the identities of the guests concerned are not specified. Unfortunately, there are no other surviving sources that can shed light on the responsibilities of the guilds in Stockholm, but this single reference indicates that not only merchants, but also craftsmen, were engaged in the control of the guests.

Concerning the question whether there were public, explicit and clear rules and ordinances for guests in Stockholm, it can be concluded that the Swedish town law in Stockholm applied to both residents and guests. There are no cases recorded in the council minutes indicating that any other law, such as the law of the hometown of the guest, could apply to the guest when in Stockholm. There were some specific rules concerning guests, mainly regarding economic limitations. The rights and duties of the guest were clearly stipulated in the law. Some consideration was given to situations where a guest had broken a rule unknowingly. Concerning the question of the communication of law to the guest, the laws and ordinances were publicly read aloud a couple of times a year. The guest was the responsibility of a burgher host, who was at risk of being punished if the guest did not follow the rules. It can be established that there were legal prerequisites for a regulated, but also relatively secure, visit to Stockholm for guests.

The guest in legal practice

The second question to be discussed is whether there was an institutionalized jurisdiction and legal usage in Stockholm. The law was primarily administered by the town council in Stockholm. There was also a minor court, which was mentioned in the law as 'torgrätten' (the market court), but which in the council minutes from the late fifteenth century was known as 'lilla rätten' (the small court). It is unclear how this minor court related to the council court or how it functioned, since it is only mentioned sporadically in the surviving sources.³⁹ All kinds of cases can be found in the minutes of the council court, including criminal cases, so there does not seem to have been a thematic division of these between the courts. It is probable that the minor court functioned as a market court, possibly without any written records. Two councillors were assigned responsibility for the minor court, together with the bailiff (the latter obliged to safeguard the interests of the king). The council in Stockholm consisted each year of ten men, of whom two were burgomasters, two were assigned the role as chamberlains and two were court bailiffs. The royal bailiff was also obliged to partake in the council meetings. The council met on Mondays, Wednesdays and Saturdays and administered justice to guests and burghers.⁴⁰ Apart from the council court and the minor court, the chamberlains, who were mainly the financial officers of the council, had a certain right to deliver fines for minor assaults on behalf of the council outside of the court house.⁴¹ The guests thus most likely turned to the town council or the chamberlains or court bailiffs of the council if they needed legal help.

³⁸ *Stockholms tänkeböcker*, 2, 49. Translation by the author.

³⁹ S. Gustafsson, *Svenska städer i medeltidens Europa: En komparativ studie av stadsorganisation och politisk kultur* (Stockholm, 2006), 85–6.

⁴⁰ *Ibid.*, 122–3. There were, however, no meetings on feast days.

⁴¹ *Ibid.*, 105–6.

However, the section on trade in the Swedish town law also contained an article with the subheading 'At what time guests shall come to the town, and how they shall seek their right'.⁴² According to the article, one of the king's men was to come to Stockholm twice a year to administer justice to all guests and burghers, once at Pentecost, and once on St James' day (25 July). Together with this representative of the king's council, a representative of the cathedral chapter of the archdiocese was also supposed to come to the town and administer justice to guests and burghers in cases against representatives of the church and noblemen, as well as against other men of the country whom they were unable to prosecute elsewhere. Cases were to be solved within 14 days.⁴³

This article could be interpreted as a way to solve two different problems. The king's man functioned as a court of appeal for complicated cases where two burghers, a burgher and a guest, or two guests, could not agree, and the ruling of the council court for some reason was not sufficient, or the rules were unclear. The archbishop's representative, by contrast, was to pass a ruling in cases which did not fall under the jurisdiction of the town council because they concerned cases between burghers on the one hand and other social groups on the other (mainly representing religious institutions). The time limit of two weeks was probably intended to indicate a speedy process, this being particularly important for parties who did not live in the vicinity and who had been summoned to Stockholm because of the court case.

Turning to case law, there are several references in the council minutes to representatives of the kingdom and/or the archdiocese being present in the council court. Occasionally, the archbishop and regents themselves were present in person. Sometimes, they attended the court close to the dates mentioned in the law,⁴⁴ and sometimes they were present in the court at other times of the year.⁴⁵ There is no evidence of the establishment of a court separate from the council or the town hall. Instead, the representatives of church and kingdom (the latter more often) acted as judge in the presence of the council. It can be questioned if this should be understood as having been a court of appeal, because there is no evidence that the cases dealt with in the presence of these authorities had been tried beforehand by the council court. There is, however, at least one entry which states that a case was to be postponed until it could be dealt with by the regent Sten Sture the Elder.⁴⁶

The possibility of having cases brought before the Swedish regent can be viewed as an extra safety net for guests, making sure they were treated fairly, or at least in accordance with the Swedish law. There are no traces of a special court for guests in Stockholm. Only a couple of examples exist in the town books which point to anything close to such a court. In October 1480, the archbishop, a second bishop, the regent Sten Sture the Elder and another five noblemen of the Council of the Realm sat in the presence of the town council in the hall of the Grey Friars in Stockholm. The account of this meeting forms an extensive section in the town protocol with the subheading 'About foreign merchants'. Sten Sture asked all foreign and alien

⁴² *MES*, Köpmålabalken XXX, 126–7.

⁴³ *MES*, Köpmålabalken XXX, 127, see also nn. 184 and 186.

⁴⁴ See, for example, *Stockholms tänkeböcker*, 1, 1–4 Jul. 1475, 17–18; 21 Jul. 1479, 200–1; 3–10 Jun. 1480, 247–50.

⁴⁵ See, for example, *Stockholms tänkeböcker*, 1, 27–9 Apr. 1476, 49–53; 16–23 Oct. 1480, 265–9.

⁴⁶ *Stockholms tänkeböcker*, 1, 85; *Stockholms tänkeböcker*, 2, 162.

merchants trading in Stockholm if anyone had mistreated them (any of the present men or their servants, rich or poor, in or outside of town).⁴⁷ If so, he continued, the merchants should not be afraid to speak out, because, unless they told him, he could do nothing to set things right. The merchants answered that no one had mistreated them and that they were very thankful.⁴⁸ The king thus seems to have had an overarching responsibility for the well-being of foreign guests in Stockholm, as, for example, in the case of the Scottish king.⁴⁹

Turning now to the guest as a legal person in court, legal responsibility was personal in Stockholm. One could not be blamed for a crime committed by a relative or by a burgher originating from the same town.⁵⁰ In court proceedings, the council minutes show that a guest was acknowledged as a legal person, with the same right to act as witness as a local burgher.⁵¹ If accused, a guest could ask locals to witness and swear on his behalf.⁵²

Until 1471, the seated council of Stockholm was divided into two benches, a German one and a Swedish one, in accordance with the Swedish town law. Middle Low German had become a *lingua franca* of the whole Baltic area, and a visiting alien most likely spoke a dialect of Middle Low German, regardless of origin (with Finns as possible exceptions). The idea behind the introduction of the division was probably connected to the principle of a mixed jury that was common in England in the fourteenth century in cases concerning aliens.⁵³ Regardless of the origins of the division, aliens may well have derived a sense of increased legal security from the simple fact that a common language of communication was in place. However, in 1471 regent Sten Sture the Elder abolished the division between a German and a Swedish bench. From that point onwards, no men of foreign descent would be permitted to sit on the council.⁵⁴ Some councillors with German names remained on the council and were thus probably regarded as being Swedish. It is highly likely that they were bilingual and spoke both Middle Low German and Swedish.

The relationship between the two languages has been much debated. The main question centres on whether they were so closely related that Swedes and Germans could communicate in a similar way as Scandinavians can today (in other words, mutually adapting the mode of speech in order to find common linguistic ground) or if they generally spoke one language or the other. Erik Magnusson Petzell has argued convincingly for the first scenario.⁵⁵ Since most councillors were active in foreign trade in the late fifteenth century, it can be assumed that they were used to communicating with Germans, even if they were of Swedish descent.

⁴⁷ Since it was October, the only guests remaining in Stockholm at the time were expected to stay the whole winter.

⁴⁸ *Stockholms tänkeböcker*, 1, 267–8.

⁴⁹ See the contribution by Frankot elsewhere in this special issue.

⁵⁰ Compare Wubs-Mrozewicz, 'Interplay of identities', 64.

⁵¹ *Stockholms tänkeböcker*, 1, 84.

⁵² *Stockholms tänkeböcker*, 3, 301, 389, 436.

⁵³ M. Constable, *The Law of the Other. The Mixed Jury and Changing Conceptions of Citizenship, Law, and Knowledge* (Chicago, 1994), 7–27, 96–102.

⁵⁴ S. Gustafsson, 'German influence in Swedish medieval towns. Reflections upon the time-bound historiography of the twentieth century', in L. Bisgaard, L. Boje Mortensen and L. Pettitt (eds.), *Guilds, Towns and Cultural Transmission of the North, 1300–1500* (Odense, 2012), 109–29, at 112–13.

⁵⁵ E. Magnusson Petzell, 'Svensk-tysk kontakt och svensk och tysk OV-ordföljd', in M. Bylin, C. Falk and T. Riad (eds.), *Svenska språkets historia 12: Variation och förändring* (Stockholm, 2014), 133–42.

Was it possible for an alien guest to be prosecuted in German in the council court of Stockholm in the late fifteenth century? Like today, it must have been vital for legal certainty that all parties in a case could properly understand what was going on in court, and that they themselves could be understood. Only then could misunderstandings be avoided. There are no indications that interpreters were ever used.⁵⁶ The town scribe of Stockholm, who wrote the minutes of the council as well as some other key sources from the period, was Helmik van Nörden. His bilingualism can make it difficult to analyse the way that language was used in the town hall. There are, however, occasional citations in the protocols which point to the fact that guests were speaking German in court.⁵⁷ It can thus be assumed that German was accepted as a language in the council court.

In summary, the seated town council dispensed justice to both residents and visitors in town. The surviving council minutes show that the court was available several days a week at the town hall. Except for the council court and the minor court, a representative of the king judged together with the seated council at least once every summer. In court, the guest had the same right as residents to defend himself by calling witnesses or having men take an oath for him. In court proceedings, German was accepted as a language, which probably facilitated communication.

The guest before the council court

Whether guests and burghers were judged equally in Stockholm is difficult to establish, but as described above, the punishments for the same type of crime could be different for guests, in accordance with the law. Could guests expect a just and impartial judgment in the council court? Starting with the question of an impartial court, prospective members of the town council had to swear an oath, just like in other medieval towns. According to the Swedish town law, this oath took the following form:

So I pray to God to help me and the holy items that I hold, I shall be faithful to my king, and by poor and rich in all judgments follow what is right, and never twist it against my conscience and against law, never pervert the law or wrongly strengthen, not for the sake of fear, violence or avarice, not for envy or spite, not for ties of kinship or friendship, and God have mercy on me; I speak the truth.⁵⁸

Even though impartiality was a common norm, particularly expressed in council oaths, the oath in the Swedish town law had an unusual focus on impartiality in court.⁵⁹ The law is, however, a normative source and it is impossible to know for sure whether every councillor took the oath. The council minutes at least indicate that there was a practice of oathtaking. The oath was read when a burgher was appointed

⁵⁶A couple of individuals with the surname Tolke (meaning interpreter) do, however, appear in the town books.

⁵⁷T. Pettersson, *Stockholms tänkeböcker*, 54, 57; Moberg, *Lågtyskt och svenskt*, 12, 32.

⁵⁸MES, Konungsbalken I, 3. Translation by the author.

⁵⁹See, for example, Gustafsson, *Svenska städer*, 161–4; B. Frenz, *Gleichheitsdenken in deutschen Städten des 12. bis 15. Jahrhunderts. Geistesgeschichte, Quellsprache, Gesellschaftsfunktion* (Cologne, Weimar and Vienna, 2000).

chamberlain, which in Stockholm meant that he entered the council.⁶⁰ It cannot be ruled out that the seated council took an oath together after the election each year. There is information from many other towns that this was part of the ritual of the election. Unfortunately, the surviving sources give no description of the election process in Stockholm. Information about the election is only ever referred to in a casual manner, or in account records.⁶¹

The councillor swore to act impartially in court, but whether he actually did during his many years in office is more difficult to establish. There are, however, only a few cases in the council minutes concerning parties who questioned the rulings of the council.⁶² Two aspects of the Swedish law helped prevent biased decision-making. Firstly, the law was quite extensive, and although the council was given royal sanction to apply common sense in cases where the law was unclear, things remained more strictly codified in comparison with most other town laws of the time.⁶³ Secondly, everyone had the right to question a ruling of the council court, either by an appeal to the king, or by paying a small sum of money to have the law read to them.⁶⁴

Like all people appearing before the council, the guest could expect to be met by an impartial court, and should have been able to question the rulings of the court without being subject to serious repercussions. He could also expect to be treated with respect by all office-holders of the town, since they too had to take an oath.⁶⁵ These conclusions stem from information contained in the normative sources, and from the scarceness of cases concerning conflicts between council and guests in the council minutes. It does not rule out the possibility of impartial treatment being more common in court than the minutes reveal.

Guests are seldom defined in the council minutes as having a specific ethnic origin or belonging to a specific linguistic grouping (for example, German). Instead, they are sometimes defined as being a burgher of a specific town, for example 'Pawal Scultte of Riga'⁶⁶ or 'the merchants of Rostock'.⁶⁷ Most often, no such geographical identifiers are recorded, in which case the definition of a person as a guest can only be determined from the immediate contextual setting pertaining to the given entry in the records. This might also reflect how the guests were perceived and received before the council. In the late fifteenth century, the concept of ethnic group identity was probably of less significance than in later centuries.

It is possible that a guest could have been treated differently based on the political relationship between Stockholm/Sweden and the town he came from, or on how important he was personally for the economy of Stockholm. This is, however, very

⁶⁰S. Gustafsson, 'Succession in medieval Swedish town councils', in F.-E. Eliassen and K. Szende (eds.), *Generations in Towns. Succession and Success in Pre-Industrial Urban Societies* (Newcastle upon Tyne, 2009), 198.

⁶¹S. Gustafsson, 'Måltid på rådhuset', in M. Gröntoft, S. Gustafsson, M. Bonow and M. Lindberg (eds.), *Biskop Brasks måltider. Svensk mat mellan medeltid och renässans* (Stockholm, 2016), 164–86.

⁶²See, for example, *Stockholms tänkeböcker*, 1, 16, 173; *Stockholms tänkeböcker*, 2, 9–10, 162; *Stockholms tänkeböcker*, 3, 388.

⁶³*Privilegier, resolutioner och förordningar*, 81–2.

⁶⁴MES, Rådstugubalken III–VI, 171–2. Concerning equality before the law in Stockholm, see N. Ericsson, *Rätt eller fel? Moraluppfattningar i Stockholm under medeltid och vasatid* (Stockholm, 2003), particularly 113–17.

⁶⁵MES, Rådstugubalken XXXIII, 183.

⁶⁶*Stockholms tänkeböcker*, 3, 105.

⁶⁷*Stockholms tänkeböcker*, 2, 299.

difficult to establish from the information contained in the council minutes. An entry dated 17 July 1493 states that Gerdt Bure was judged by the bailiff, the burgomasters and the council to be worthy of keeping some illegally purchased copper, because he was accommodating and loving to the burghers in Stockholm ('epter han ær vara borgere til wylie ok kerleck').⁶⁸ This should be understood as a rare exception, because the council minutes reveal that many guests were fined for trading illegally. Almost every year, some people were convicted on that basis. They were sometimes described as guests, but often only identified by their names, which makes it difficult to determine for certain that they were guests. The punishment was a fine of 40 marks, in accordance with the law, but as with all fines, the actual amount was lower.⁶⁹

Illegal trade and disputes concerning trade were the most common categories of cases that involved guests from across the Baltic Sea. The council also dealt with a number of cases concerning physical violence, where one of the parties was defined as a guest, or as a burgher of a specific town.⁷⁰ One example is Long Henrik, the guest of Jahan fan Campen, who was fined 40 marks for destroying pots and pans for 'Litid och gott' (a nickname, meaning small and good).⁷¹

The Swedish town law tried to assure impartiality in the council court, defining the oath of the councillors and giving the right to question the judgments of the court. The right to appeal to the king was another way of ensuring that the council judged in accordance with the law. It is not possible to determine whether guests were treated any differently than residents when it came to council judgments. Circumstances are seldom described in detail, and it can be difficult to establish if parties were burghers, non-burghers or visiting burghers from other towns. In addition, court sentences are sometimes missing in the minutes. It is thus difficult to assess if the guests could expect a just ruling in the court.

Legal certainty and the guests in late medieval Stockholm

In the Middle Ages, Stockholm was a place characterized by its status as a hub of cosmopolitan interchange, its strong connections to the outside world and by the attention afforded it by the Swedish regent. It was Sweden's largest town and saw many visitors within its walls. Upholding the Swedish town law and providing a town court that dealt with cases swiftly and efficiently (while at the same time recording every case) was considered to be of great importance.

Legal certainty equivalent to modern standards did not exist in the Middle Ages. Still, the principles connected to the concept can be assessed against the expectations of a travelling merchant or skipper of the fifteenth century, as well as in relation to the practical reality of visiting a foreign town with different rules and privileges than elsewhere. I have established that it was clear which laws and ordinances applied to guests in Stockholm. These could differ significantly in detail from the town law of the guest's home town, and some regulations only applied to the guests as a separate legal group in Stockholm. Prior to the revolution of printing and media, and without a

⁶⁸*Stockholms tänkeböcker*, 3, 105.

⁶⁹See examples in *Stockholms tänkeböcker*, 1, 133, 583–4; *Stockholms tänkeböcker*, 2, 122; *Stockholms tänkeböcker*, 3, 150, 181, 202, 374, 437.

⁷⁰*Stockholms tänkeböcker*, 1, 133; *Stockholms tänkeböcker*, 2, 560–2; *Stockholms tänkeböcker*, 3, 17, 183, 383.

⁷¹*Stockholms tänkeböcker*, 1, 117.

centralized state, the means of disseminating information to the public were rudimentary. Nonetheless, the authorities found ways to inform guests through public readings of laws and ordinances and by emphasizing the personal responsibility of the host. The council minutes reveal that all categories of cases involving guests were brought before the council court and that a guest had similar rights as a legal person in that court as a local burgher. There was an emphasis in the law on impartial judgments in the council court, but the records are not detailed enough to judge whether the court treated guests in an equal and just manner.

Based on the results of the study, there can be no doubt that the Swedish town law, the town council of Stockholm and the regent of Sweden all strived to create legal certainty for guests. The reason for this was likely that the economy of Stockholm was highly dependent on foreign trade and on maintaining good relations with other Baltic towns. Creating a sense of security in a business as insecure as shipping overseas in the later Middle Ages must have been regarded as an achievement worth working hard for. The court records survive as a rich source of evidential material relating to the presence of guests in Stockholm as well as to the regulations that pertained to them as traders. There are, however, relatively few cases recording examples of conflict between burghers and guests other than financial settlements or concerning the conduct of the council court towards guests. The reason for this might be that these kinds of cases were not recorded or were settled by the chamberlains or court bailiffs outside the court room, or that they were edited out of the minutes. However, it is also likely that the council minutes give an accurate account of the proceedings, and that they generally point to the fact that the system worked as expected most of the time.

Moving through different jurisdictions was a necessary condition of long-distance trade in the fifteenth century. Magistrates with the intention of fulfilling expectations of legal certainty, understood as clear rules and ordinances, institutionalized jurisdiction and impartial and just judgments in court, must have been crucial for skippers and travelling merchants when they had to cross legal boundaries on a regular basis to conduct their business.

Competing interests. The author declares none.