

## CHURCH AND SECULAR COURTS IN UPPER HUNGARY (FOURTEENTH TO SIXTEENTH CENTURY)<sup>1</sup>

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While studying urban judiciary and judicial practice in sixteenth century in Upper Hungarian (today eastern Slovakian) towns, I was puzzled by the relation of these secular courts to church courts and about their division of jurisprudence.<sup>2</sup> According to the law, church courts, apart from the jurisprudence over their own people and church matters, had the right to decide in some secular fields, such as marital property litigation, dowry, marriage gifts, the daughter's quarter, cases of widows and orphans, false oaths, usury, and tithe.<sup>3</sup> On the other hand, from the urban judicial records in the sixteenth century, it is clear that all serious offences, including matrimonial and sexual, and some offences that were previously judged by the church courts, were tried in front of the secular courts.<sup>4</sup>

From the studied material I have tried to find some evidence that would elucidate the development of the secular and church courts, the division of their jurisdictions, their co-existence, co-operation, and possible conflicts and ways of resolving the controversies between them. This research – at the moment still in the initial stages – may also serve for comparative studies concerning local laws and courts, on the one hand, and the necessity to approach the Penitentiary, on the other hand.

I will not focus on internal problems of the church and its members, but rather on matters that concerned both ecclesiastical and lay people, and on the

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<sup>2</sup> Blanka Szeghyová, "Súdniectvo a súdna prax v mestách Pentapolitany v 16. storočí" [Judiciary and judicial practice in the towns of the Pentapolitany in the sixteenth century], PhD thesis (Bratislava: Historical Institute of Slovak Academy of Sciences, 2003).

<sup>3</sup> According to law n. 3 from 1462 and n. 45 from 1492, in: János M. Bak, György Bónis and James Ross Sweeney, tr. and ed., *The Laws of the Medieval Kingdom of Hungary. Decreta Regni Mediaevalis Hungariae, 1458-1490*, vol. 3 (Los Angeles: Charles Schlacks, 1997), 17; Dezső Márkus, *Corpus Juris Hungarici 1: 1000-1526* (Budapest: Franklin Társulat, 1899), 508-510.

<sup>4</sup> Compare with the situation in England, where matrimonial and sexual cases were tried in ecclesiastical courts; see Martin Ingram, *Church Courts, Sex and Marriage in England, 1560-1640* (Cambridge: Cambridge University Press, 1987), passim.

relations of church and secular courts in practice. Because of the scarcity and character of the archival material in this study, this paper is only a collection of introductory remarks and observations rather than a comprehensive study of the topic. Examples are taken mostly from the town archives of Bratislava (Pozsony, Pressburg, Posonium), Bardejov (Bartfa, Bartpha) and Prešov (Eperies) from the fourteenth to the sixteenth century.

There is little judicial material from the fourteenth and fifteenth centuries in the town archives. However, there is some evidence that tells about the combined activities of urban authorities and ecclesiastical institutions. The Bratislava chapter had an agreement with the town authorities about the election of the parish priest. Other towns also had the right to elect parish priests, that being one of the privileges granted to free royal towns.<sup>5</sup>

The co-operation between parish priests, preachers or other church authorities, on the one hand, and town authorities, on the other, can be demonstrated by the practice of penitential or expiatory pilgrimages. In the fourteenth and fifteenth centuries, such pilgrimages were widely used as a punishment for those who had committed murder or homicide. Although it was a religious form of penance, sending a culprit on a penitential pilgrimage to Rome or to some other shrine was a common practice of the town authorities, who used it predominantly as an alternative to a stricter punishment. A precondition for the pilgrimage was reconciliation between the culprit and the closest kinsmen of the victim, usually mediated by the arbitrators, and the culprit's inability to pay blood money. Penitential pilgrimages can be seen as a substitute for paying such blood money to the closest relatives of the victim. Part of the penitential procedure was the public act of asking pardon before the family of the victim. The culprit, dressed in traditional pilgrims' clothes and usually followed by his closest relatives, appeared in front of the bereaved family and asked for the remission of his sin.

This kind of punishment was not used generally, but it seems that some urban communities preferred it to other forms of punishment. For example, as Enikő Csukovits shows, most of the cases of penitential pilgrimages came from two Upper Hungarian mining towns, Selmecbánya and Bestercebánya (Banská Bystrica and Banská Štiavnica), and only a few cases are known from other towns, such as Bratislava, Sopron or Zagreb.<sup>6</sup> Around 1416, the town council of

<sup>5</sup> Darina Lehotská, D. Handzová, V. Horváth, L. Hrabušay, V. Kendeffy, V. Merglová and H. Peťovská, *Inventár stredovekých listín, listov a iných príbuzných písomností* [Inventory of medieval charters, letters and other related documents], Archív mesta Bratislavy (Prague: Archívni správa Ministerstva Vnitra Praha, 1955) (hereafter Lehotská, "Inventár"), 20-22, 74, 123; Ľubomír Juck, *Výsady miest a mestiečiek na Slovensku (1238-1350)* [Privileges of towns and little towns in Slovakia (1238-1350)] (Bratislava: Veda Slovenská Akadémia vied Bratislava, 1984).

<sup>6</sup> Enikő Csukovits, "Bűn és bűnhődés. Vezeklő zárandoklatok a középkori Magyarországon" [Crime and Punishment. Expiatory Pilgrimages in Medieval Hungary], *Századok* 136, no. 2 (2002), 303-326; eadem, *Bűn és bűnhődés. Középkori magyar zárandokok* [Crime and

Bratislava wrote to the archbishop of Esztergom about the murderer Jakub Gorgcher, who had to go on pilgrimage to Rome.<sup>7</sup> The practice of penitential pilgrimages as punishment for murder and homicide ceased in the sixteenth century as town authorities increasingly imposed more secular forms of punishment on the guilty party such as the pillory, banishment or the death penalty.

However, the co-existence of church and secular institutions was not always peaceful. They had several conflicts during the fourteenth and fifteenth centuries, for instance, over the privilege of not paying taxes for the houses of ecclesiastical people and institutions in the town's territory, the right to sell wine, the unlawful extortion of tolls from burghers by the chapter, and matters of property and tithes.<sup>8</sup>

Some of the conflicts had to be resolved by the king or other higher authorities. For example, in 1307 the conflict over the administration of the hospital in Bratislava between the town authorities and the Order of St. Anthony was resolved and the final agreement made in front of the chapter of Bratislava.<sup>9</sup> In 1364, the resolution of a conflict between Bratislava's mayor and a parish priest from Geley involved the high royal official of the *tavernicus* and the court of the *palatinus*, the highest administrative dignitary in Hungary. The *tavernicus* was also involved in a conflict between Bratislava's mayor and the abbot of Pannonhalma in 1372.<sup>10</sup> Similarly, in 1498 King Wladislas II ordered that Bratislava's town council should transfer the case of the canon Martin Nyethaymer to the court of the *tavernicus*.<sup>11</sup>

Sometimes, the conflicts went so far that the church authorities threatened to excommunicate the town council, and in a few cases they put the threat into practice. Such a case happened in 1397, between the vicar of Esztergom and Bratislava's town council; the controversy originated from the fact that the council kept a cleric in prison.<sup>12</sup> Coincidentally, later in the same year, King Sigismund commanded the town council not to prosecute a certain Jakub Gyn-genher (Syngenher?) who had accidentally killed the imprisoned cleric.<sup>13</sup>

Another excommunication is known from 1416, when the vicar general of Esztergom excommunicated three burghers of Bratislava because they had

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Punishment. Medieval Hungarian Pilgrimages], *História Könyvtár monográfiák* 20 (Budapest: Magyar Tudományos Akadémia, Történettudományi intézete, 2003), 204-206.

<sup>7</sup> Municipal archive of Bratislava (hereafter AMB), lad. 34, n. 5147. Lehotská, *Inventár*, 126.

<sup>8</sup> AMB, lad 10, n. 594, 595; lad 7, n. 314, 330; lad. 9, n. 544; lad 11, n. 761, 763, 76; lad. 22, n. 2253-2255, 2296; lad. 29, n. 3368; lad 14, n. 1020; lad 15, n. 1109, 1223; lad. 19, n. 1796; Lehotská, *Inventár*, 32, 56, 59, 94, 126-127, 129, 207, 230, 280, 445.

<sup>9</sup> AMB, lad. 2, n. 24; Georgius Fejér, *Codex diplomaticus Hungariae ecclesiasticus ac civilis* 8, n. 1 (Buda: Typis universitatis, 1829-1830), 620-622 (hereafter Fejér, *Codex*).

<sup>10</sup> AMB lad 5, n. 193, 195; lad 6, n. 272, 273; lad. 29, n. 3260. Lehotská, *Inventár*, 37, 49-50.

<sup>11</sup> AMB, lad. 22, n. 2197. See also lad. 22, n. 2185, 2194, 2195. Lehotská, *Inventár*, 551, 553.

<sup>12</sup> AMB, lad. 9, n. 532; Lehotská, *Inventár*, 92.

<sup>13</sup> AMB, lad. 9, n. 540; Lehotská, *Inventár*, 93; Fejér, *Codex* 10, n. 3, 195-196.

attacked some of the town's clerics in Pyspekfalva (Podunajské Biskupice). The case later appeared before the king, who admonished them not to trouble clerics.<sup>14</sup> In a case from 1436, the archbishop of Novohrad demanded that two canons from Bratislava coerce the town council to pay their debts to a parish priest from Kremnica, under the threat of excommunication.<sup>15</sup>

However, excommunication was probably only the last resort, when they could not reach agreement otherwise, and before choosing this option they used other means. For example, in 1400 the archbishop of Esztergom demanded in a letter that the town authorities should not imprison his subjects travelling to Bratislava, and in 1428 he demanded that the town council should release his subjects from prison.<sup>16</sup>

On the other hand, town authorities and local priests co-operated in cases that led to the excommunication of some town inhabitants. For example, in 1500, on the request of the judge and the town council of Prešov, the parish priests from the nearby towns of Košice (Cassovia, Cascha, Cassa), Bardejov, Sabinov (Cibinium, Kisszeben) and Šariš (Saros) excommunicated Elizabeth Krausz, because she did not pay 24 gulden to St. Elizabeth's church in Košice.<sup>17</sup> The heirs of Paulus Moderer were excommunicated in 1470 because they had failed to appear in court in a litigation in which even the pope had intervened.<sup>18</sup>

The controversy or bone of contention that can best elucidate the problems over jurisdiction of secular and church courts during the fourteenth, fifteenth and the beginning of the sixteenth centuries is, however, that over the privilege of sanctuary. This old privilege, dating back to ancient times and also adopted by Hungarian law, caused many controversies between the church and the town authorities. This is evident in the example of Bratislava, the town in the immediate neighbourhood of the chapter, which, as an ecclesiastical institution, had the right of sanctuary.

As early as 1359, Louis the Great was forced to address the problem after he was informed that criminals, after they had committed their crimes, often sought asylum in churches, monasteries, and cemeteries of Bratislava. In his decree, the king ordered that they should be removed from the sanctuaries and brought to the town court, where they should be tried and sentenced for their

<sup>14</sup> AMB, lad. 11, n. 745, 747, 748, 749, 750; Lehotská, *Inventár*, 125-127. A year later, there was yet another argument between clerics from Bratislava and the town council: AMB, lad. 29, n. 3370; Lehotská, *Inventár*, 128.

<sup>15</sup> AMB, lad. 32, n. 4380.

<sup>16</sup> AMB, lad. 29, n. 3312, 3437. Lehotská, *Inventár*, 97, 152.

<sup>17</sup> Regional archive of Prešov, Collection of Municipal records (hereafter AMP), n. 334 and 480. Béla Iványi, *Eperjes szabad királyi város levéltára. Archivum liberae regiaeque civitatis Eperjes 1245-1526*, vol. 1-2 (Szeged, Az Egyetem és a Rothermere-alap támogatásával, 1931), 817.

<sup>18</sup> AMB, lad. 20, n. 1935. See also lad. 20, n. 1887, 1888, 1900. Lehotská, *Inventár*, 478, 483, 492.

crimes, according to the custom *rite et racionabiliter*, although under the condition that the clergy and other ecclesiastical persons were not against it.<sup>19</sup>

At the beginning of the fifteenth century, the controversy resumed again. The judge Ulrich (*Ulrichus dictus Wenwarder*) and the town notary Konrad complained at the royal court about the behaviour of people belonging to the chapter (*familiares et iobagiones praepositi, canonicorum et capituli ecclesiae sancti Martini sexus utriusque ...*). These people, falling under the jurisdiction of the chapter, quarrelled with the burghers and inhabitants of Bratislava and allegedly committed robberies, murders, and violence (*nonnullae intricaciones, rixae, brigae, spolia, hominum interemtionēs, mutilationes, et quam plurima mala opera patrarentur*) in the territory of the town. Their crimes, however, remained unpunished, because they would return and seek asylum in the houses of the provost, chapter, and canons. These buildings were next to the church and included in the protection area.<sup>20</sup>

After having consulted the prelates and barons (*maturo prelatorum et baronum nostrorum habito consilio*), King Sigismund decided that if anyone belonging to the chapter, *familiares* or *iobagiones*, regardless of their status or sex, committed a crime in the territory of the town (*in dicta civitate, in eius districtu, tenutis et territorii*), they should be tried in front of the municipal court, that is, the judge and the members of the town council. Should they hide in the houses of the provost, canons or in the chapter, the town magistrates were fully authorised to remove them, bring them into the town court and punish them.

The chapter appealed against the decision to the general vicar of the archbishop of Esztergom. The vicar decided in favour of the chapter, although he was subsequently (in 1418) ordered by King Sigismund not to deal with the complaints of the chapter any longer because the king would do it personally. Moreover, he ordered the archbishop of Esztergom to hand over criminals who were hiding in the houses of the canons in Bratislava.<sup>21</sup>

It was probably the connection with this matter that induced King Sigismund in his charter of 1419 to forbid anyone to summon inhabitants of Bratislava to a court outside of Hungary, particularly the Roman curia.<sup>22</sup> In 1436, the town council asked the king for the right to enter canonical houses, where criminals were seeking asylum.<sup>23</sup>

<sup>19</sup> AMB, lad. 5, n. 147; Lehotská, *Inventár*, 29. Daniela Hrnčiarová, *K otázke vzniku a vývoja azylového práva do konca 16. storočia. (Z pohľadu jeho uplatňovania v cirkvi)* [On the question of the origin and development of asylum right until the end of the sixteenth century (from the perspective of its practice in the Church)], Diploma thesis (Bratislava: Comenius University, 1999) (hereafter Hrnčiarová, *K otázke vzniku*).

<sup>20</sup> Fejér, *Codex* 10, n. 4, 400-402.

<sup>21</sup> AMB, lad. 11, n. 765; Lehotská, *Inventár*, 129; Fejér, *Codex* 10, n. 6, 189. Hrnčiarová, *K otázke vzniku*, 50-51.

<sup>22</sup> AMB, lad. 12, n. 782; Lehotská, *Inventár*, 35; Fejér, *Codex* 10, n. 6, 203.

<sup>23</sup> AMB, lad. 22, n. 2250; Lehotská, *Inventár*, 206.

Nevertheless, before long the chapter complained again, this time accusing the town authorities of infringing on their rights. According to the chapter, the council unlawfully removed two thieves, who had robbed a salt *camerarius* and his escort of money and guns, from a parish church in the possession of the chapter and (*in ecclesiam parochialem in possessione Pyspekfalva esistenti*) had them executed.<sup>24</sup>

The conflicts between the Bratislava chapter and the town council also continued during the rule of King Wladislas II. In 1503, Provost Nicolaus complained about the judge and a town magistrate who, at night, with arms in their hands, burst into the house of the provost, abducted a certain Johannes of Nitra and imprisoned him. According to the town magistrate, Johannes, who was a *familiar* of the provost, had committed several brutal deeds, but the provost had failed to punish him. That was why the judge, and also by some other burghers, urged by the husband of a woman who had died after being attacked by Johannes, decided to capture the offender. The king summoned the town authorities to his court to explain their behaviour, but the result of the incident is not known.<sup>25</sup>

Wladislas II also intervened in a case from Prešov in 1501. In that year he repeatedly ordered the vicar of Eger to transfer the litigation between a burgher from Prešov and the canon of Eger over a house in the town of Prešov from the church court to the *curia* (that is, the royal court).<sup>26</sup>

The relationship of the town council with the parish priest and preachers was of highest importance for the everyday life in an urban community. They were the ecclesiastical people with whom the town council and inhabitants of the town came into contact most frequently. If on good terms with them, the town council would even defend a priest, if necessary. In 1526, a preacher was criticised for saying that it was allowed to eat butter, cheese, and eggs during a period of fasting and was ordered to either take back what he had said or come to the vicar of Eger and defend himself, because the church authorities were not so benevolent to tolerate preaching against the true faith. The town council of Košice wrote a letter in favour of the preacher to the vicar of Eger, explaining that he only said that pregnant women, children, elderly, and the sick could do it with the permission of their priest.<sup>27</sup>

Despite the right of choice of parish priests, town authorities were not always lucky in selecting them. At the beginning of the sixteenth century, the town authorities of Bardejov did not get on with their parish priest, Johannes, at all. The first evidence of animosity comes from 1502, when Johannes had some

<sup>24</sup> Hrnčiarová, *K otázke vzniku*, 51.

<sup>25</sup> Hrnčiarová, *K otázke vzniku*, 52.

<sup>26</sup> AMP, Iad. 12, n. 822.

<sup>27</sup> György Bónis, *Szentszéki regeszták. Iratok az egyházi bíraskodás történetéhez a középkori Magyarországon* [The Regesta of the Holy See. Charters for the history of clerical jurisdiction in Medieval Hungary] (Szeged: József Attila Tudományegyetem Állam- és Jogtudományi Karának Tudományos Bizottsága, 1997), 664, n. 4371.

controversy with several burghers and with the whole guild of brewers. According to the citation issued by the town notary Janos Boson at the request of the papal *prothonotarius* Filip de Sarginedis, and a judge delegated by the apostolic see, the case was supposed to be solved by Filip.<sup>28</sup> A year later, the case was brought before Cardinal Peter, a papal legate.<sup>29</sup> King Wladislas intervened and reproached Johannes for turning to the papal legate and admonished him to turn to the town council instead in cases of minor controversies.<sup>30</sup> In his letter to the town, the king informed them that he had intervened in their behalf before the papal legate and admonished them to live in peace with the parish priest in the future.<sup>31</sup>

Nevertheless, six months later, Johannes was still not at peace with them, because the king, after receiving a complaint from the burghers of Bardejov, wrote another letter to him saying that since the time he had been selected as a parish priest he had been harassing the town council with quarrels and litigations that cost them a lot of money. Wladislas admonished him once more to try to live in peace with them.<sup>32</sup> We do not know whether peace was achieved, but even if it was, it definitely did not last long. Two years later, in 1505, the burghers of Bardejov complained to the king again, this time because of the Johannes' refusal to provide the schoolmaster and chaplains with food at his own table. This was an obviously old custom that the priest did not want to comply with. He probably resisted the king's order because there was a second admonition of the king in the same matter two months later.<sup>33</sup>

One of the possible causes of the animosity between Johannes and the people of Bardejov might have been his engagement in the campaign of the canon of Eger against those executors of last wills who concealed and appropriated the money or property bequeathed to religious fraternities, hospitals, poor-houses and for charity. On many occasions, Johannes urged those guilty of such misuse to return unlawfully appropriated possessions within a month, otherwise they would be excommunicated.<sup>34</sup>

One hears again about Johannes in 1514.<sup>35</sup> This time, the magistrate of Bardejov wrote to the bishop of Eger about him, not surprisingly complaining about his conduct. On St. Stephens's day, after the elevation of the chalice, he had made a personal public announcement before the gathered congregation in the church. He had accused some of the people present that they had talked

<sup>28</sup> Regional archive in Bardejov (hereafter AMBJ), Collection of municipal records, n. 3706. Béla Iványi, *Bártfa szabad királyi város levéltára 1319-1526* [Archives of the Town of Bartfa, a free royal town] (Budapest: Athanaeum, 1910).

<sup>29</sup> AMBJ, n. 3706.

<sup>30</sup> AMBJ, n. 3707.

<sup>31</sup> AMBJ, n. 3719.

<sup>32</sup> AMBJ, n. 3748.

<sup>33</sup> AMBJ, n. 3885, n. 3895.

<sup>34</sup> AMBJ, n. 3702.

<sup>35</sup> AMBJ, n. 4459.

about him in the pubs in a dishonourable and scandalous way, suggesting that he should be executed. Moreover, he gave his interpretation of the letter he had received from the king, stating that it was not he who wanted to quarrel and have litigation, but that he was actually pushed into them. Also, it was not his fault if, as a result, the burghers were burdened by heavier taxes; thus, he warned them not to be tricked. The town council believed that, with this and other proclamations, Johannes was trying to incite revolt and spread unrest among the people; therefore, they asked the bishop to put a stop to it.

In several municipal judicial cases, it is apparent that local church authorities tried to intervene in favour of laymen in trials in front of town courts. It is not always clear how these cases were brought to the attention of the church authorities. However, it is likely that it was the initiative of either the accused or the victim, if they were not satisfied with the procedure of the town court and tried to influence or change the municipal court verdict by intervention of the higher, ecclesiastical authorities.

In 1508, Georgius, bishop of Pécs and at the same time royal chancellor, wrote to the council of Bardejov that, with authorisation from the church in Eger, he had absolved a certain Stephanus Ruswalth, accused of homicide. According to Stephanus' deposition, his horse startled while he was sitting on it and rushed towards a fence. A man standing nearby was hit on the head by a stick that accidentally fell from Stephanus' hand. The impact was so strong that the man died. Since then, Stephanus had been continuously bothered by the son of the deceased man, who demanded blood money.<sup>36</sup> According to the bishop, he was not entitled to blood money, because it was an accident and not intended homicide. He urged the town council to see to it that the son of the deceased did not bother Stephanus any more.

Another case brought to the attention of the church authorities was that of Elizabeth Jakcho, wife of Paul from Prešov. In 1499, the town council of Prešov accused her of slander and disgraceful insult of the town authorities, arrested her, confiscated her property and condemned her to banishment. Elisabeth was not a woman who could come to terms with her lot and give up easily. In the following four years, she wrote numerous complaints and appealed to several church authorities, including the bishop of Eger, two cardinals, and papal legates and, after that failed, she appealed to the king. On the latter's request, high church authorities delegated four local parish priests to re-examine the case and hear the witnesses. After a lengthy procedure, also hindered by Elizabeth's occasional failure to appear in court, the delegated parish priests from Košice and Prešov, due to the lack of new evidence, resolved the case by forbidding Elisabeth to continue with her accusations against the town authorities of Prešov and confirming the original verdict of the latter.

And what did Elizabeth do or say to be accused of slander and condemned to banishment in the first place? She publicly accused a pregnant woman of

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<sup>36</sup> AMBJ, n. 4023.



adultery, stating that, if the baby were a boy, the father was Thomas Plawniczer, the judge of Prešov, and if it were be a girl, the father must be Stephanus Sartor, a burgher from the same town.<sup>37</sup>

After the defeat at Mohács in 1526, when the Catholic hierarchy was decimated, many of the lower clergy were won over by the Protestants. By the middle of the sixteenth century, the new faith prevailed in most Hungarian towns. Stimulated by the ideas of the Protestant theologians, town authorities turned their attention to family life, sexual behaviour, and the conduct of ordinary people, trying to enforce what they saw as basic standards of Christian morality. It is in this period that urban justice became extremely severe, with the town authorities increasingly imposing the capital penalty for a broad range of crimes such as murder and homicide, violent behaviour in public, sacrilege (stealing from churches), adultery, bigamy and incest. Town courts often dealt with cases of fornication and did not hesitate to force the couple that fornicated to marry in prison. The promise to take a girl for a wife was taken seriously and almost impossible to be taken back.

Nevertheless, it seems that the church courts and jurisdiction were not completely forgotten, even in the period when the Reformation was at its highest in Hungary. Apart from cases that can be seen as controversies or clashes between creeds or followers of the Catholic and Protestant faith, such as the excommunication of priests as heretics or because they had concubines or were married, other cases illustrate the existence and functioning of the church courts.

In 1572, Barbara, the daughter of Johann Raimensattl, a burgher of Bratislava, was violated and deprived of her virginity by the blacksmith Andreas Horn. The man at first denied her allegations, but after investigation and interrogation of witnesses, he confessed. The victim claimed that, apart from that he had done her no harm, he wanted to marry her. The town council, perhaps at a loss as to how they should decide, and not certain whether the case belonged to the church court or not, finally transferred it to the chapter of Bratislava.<sup>38</sup> It is not known how the church court resolved the case, though.

Similarly, in the 1587 case of Joannes Rewez the verdict of the court is unknown. All that is known is that Joannes appealed to the church court of the Bratislava chapter to get a separation from his wife, Anna Zenthkiraly, because of her animosity towards him and her attempt to kill him by magic.<sup>39</sup>

Several aspects of division of jurisdiction between ecclesiastical and secular urban courts still remain unclear, as there is only limited evidence in the municipal archives. In an undated letter from the end of the fourteenth century, the archbishop of Esztergom announced to the urban community of Bratislava

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<sup>37</sup> AMP, n. 809, 824, 826, 848, 851, 855, 856, 865, 866, 870.

<sup>38</sup> Slovak National Archives in Bratislava, Private archive of the Bratislava chapter, *Privata Capsa* 25/1/42.

<sup>39</sup> *Ibidem*, *Capsa* 84/11.

that in spiritual matters it was the court of the chapter that should decide.<sup>40</sup> How this rule was reflected in practice, however, is a subject for further research.

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In conclusion, it seems that both church and town courts claimed jurisdiction in cases where an ecclesiastical person was involved in litigation on a secular matter. The power of the church courts reached its peak in the middle of the thirteenth century. From then onwards, the kings (Sigismund, Mathias Corvinus and Wladislas II) slowly and gradually limited the jurisdiction of the church courts in favour of the secular courts by exempting some matters from church authority.<sup>41</sup> In general, the kings tried to favour secular courts and limit church jurisdiction. As a result, the number of cases with questionable jurisdiction increased and the king had to intervene, as was demonstrated by the examples of conflicts noted above, especially between the town council of Bratislava and the Bratislava chapter. In the fourteenth and fifteenth centuries there were many areas where both secular and church courts thought it fit to handle the matter. Similarly, a plaintiff or an accused, if not satisfied with the process or result of a litigation, would not only turn to the local secular authority, but also to church courts and church authorities, sometimes even royal courts and the king, or to the papal Penitentiary, in the hope that these other courts or authorities would be better disposed to his or her interests.

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<sup>40</sup> AMB, n. 6517. Lehotská, *Inventár*, 101.

<sup>41</sup> Eugen Bidovský, "Orgány stredovekého súdnictva v Uhorsku 1000-1526" [Institutions of medieval judiciary in medieval Slovakia (1000-1526)], *Slovenská archivistika* 19, n. 2 (1976), 151-176.

# The Long Arm of Papal Authority

Edited by

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# MEDIUM AEVUM QUOTIDIANUM

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# **The Long Arm of Papal Authority**

**Late Medieval Christian Peripheries  
and Their Communication  
with the Holy See**

Edited by

**Gerhard Jaritz, Torstein Jørgensen, Kirsi Salonen**

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## ABBREVIATIONS RELATED TO THE COLLECTIONS OF THE VATICAN SECRET ARCHIVES

ASV = Archivio Segreto Vaticano

*Arm.* = Armadio

*Congr. Vescovi e Regolari, Visita Ap.* = Congregazione dei Vescovi e Regolari,  
Visita Apostolica

*Instr. Misc.* = Instrumenta Miscellanea

*Penitenzieria Ap., Reg. Matrim. et Div.* = Penitenzieria Apostolica, Registra  
Matrimonialium et Diversorum

*Reg. Vat.* = Registra Vaticana

*Reg. Lat.* = Registra Lateranensia

*Reg. Suppl.* = Registra Supplicationum

*Reg. Aven.* = Registra Avenionensia

RPG = Repertorium Poenitentiariae Germanicum

## PREFACE

The present publication contains selected papers from two international conferences: the first was held at the Centre for Medieval Studies, University of Bergen (Norway), in October, 2003<sup>1</sup> and the second at the Department of Medieval Studies, Central European University, Budapest (Hungary), in January, 2004.<sup>2</sup> The purpose of these meetings was to gather researchers interested in the history and significance of the papal curia and, in particular, the Apostolic Penitentiary, in the later Middle Ages. The main emphasis was placed on a comparative approach and on the role of peripheral areas of Western Christendom in their communication with the Holy See.

There are various kinds of centre-and-periphery hierarchies.<sup>3</sup> There are geographic, social, economic, and cultural peripheries and centres. "The general textbooks ... address materials from the geographical and social peripheries of privileged cultures only as adjuncts to their central narrative. ... The history of Scandinavia and Eastern Europe become excursus to a central narrative."<sup>4</sup>

However, concerning the communication of the Holy See with various areas of Christendom in the Middle Ages, the impact of 'peripheries' has attracted a new interest in recent years. Since the opening of the archives of the Apostolic Penitentiary to researchers in 1983 relatively few scholars have exploited the sources, but recently their number has increased. Most of them have studied the supplications to the Penitentiary of petitioners from their own home countries and edited material on a national basis. The German Historical Institute, under the leadership of Ludwig Schmugge, has already published several volumes of entries concerning German-speaking territories. Also, the Norwegian and Icelandic material has recently been released by Torstein Jørgensen and Gastone Saletnich. Similar enterprises are in process in several other countries: Poland, Denmark, Sweden and Finland, England and Wales. The examination of territo-

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<sup>1</sup> "The Late Middle Ages and the Penitentiary Texts: Centre and Periphery in Europe in the Pre-Reformation Era."

<sup>2</sup> "Ad Confines. The Papal Curia and the Eastern and Northern Peripheries of Christendom in the Later Middle Ages (14<sup>th</sup> – 15<sup>th</sup> c.)."

<sup>3</sup> For this and the following, see Teofilo F. Ruiz, "Center and Periphery in the Teaching of Medieval History," in *Medieval Cultures in Contact*, ed. Richard F. Gyug (New York: Fordham University Press, 2003), 252.

<sup>4</sup> *Ibidem*, 248.

ries on the geographic peripheries in their relation to Rome has been a main focus in these studies.

The archival material of the Penitentiary and the communication of the papal curia with the various regions of late medieval Europe should, however, not be studied only on national levels. There is an increasing need for such studies to be supplemented by comparative searches for differences and analogies in how Christians from different corners of Europe used the papal offices and were treated by them. It is well known that even though the regulations of canon law were in theory the same for everyone, regional differences in interpreting and applying them emerged in the Late Middle Ages. The need to turn to the papal authority in matters of canon law varied depending on the role of local bishops and the presence or absence of papal legates or collectors, who often had the power to deal with similar matters *in partibus*. Also, people in the central territories of Christendom had different opportunities for turning to the papal curia with their requests than those living on the peripheries of the Christian world.

Questions like these played the central role in the discussions of the two conferences noted above. In this book we will render an overview of the present status of this new field of research. As an introduction, Piroska Nagy deals with the question of how to apply centre-periphery models to a comparative analysis of the sources. Kirsi Salonen uses the Penitentiary registers from the period of Pope Pius II to analyse the supplications, their provenance, and the role of peripheries.

Two peripheral parts of late medieval Europe and their significance concerning the communication with the Holy See represent the main part of the publication: Northern Europe and East Central Europe. Comparative analyses of Scandinavian and Scottish source material from the Penitentiary Registers are made by Torstein Jørgensen, Kirsi Salonen, and Irene Furneaux. The studies on East Central Europe are introduced by an inquiry concerning the general importance of the area for the papal curia (Jadranka Neralić), and an overview of the communication of the Holy See with Albania (Etleva Lala). Piroska Nagy and Kirsi Salonen offer a quantitative analysis of East Central Europe and the Penitentiary (1458–1484), followed by contributions on individual territories, such as the Czech lands (Lucie Doležalová) and Dalmatia (Ana Marinković). The contribution by Gastone Saletnich and Wolfgang Müller indicates that in any studies of the role of peripheries one must not neglect the more central areas. Blanca Szeghyová and Ludwig Schmugge show that local archives and their contents are an indispensable additional source for comparative analyses.

Many friends and colleagues have helped in preparing this book for print. We are pleased to thank the personnel of the Penitenzieria Apostolica, especially Padre Ubaldo Todeschini, for reading the manuscript and suggesting useful corrections. We are also much obliged to the skilled staff of the *Sala di Studio* in the Vatican Archives, who patiently brought us volume after volume of the reg-

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Finally, we wish to thank the academic institutions which in a more direct way have promoted this project: the Centre for Medieval Studies at the University of Bergen, the Department of Medieval Studies at the Central European University in Budapest, the Institut für Realienkunde of the Austrian Academy of Sciences and the Academy of Finland, and the Department of History at the University of Tampere.

Bergen, Budapest, and Tampere, November 2004

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