

ECCLESIASTICAL JURISDICTION IN MEDIEVAL BOHEMIA AND MORAVIA IN THE PRE-HUSSITE ERA: A JURISPRUDENTIAL PERSPECTIVE

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As Zdeňka Hledíková, a leading historian of the medieval Church, has shown in her rich literary work, the development of episcopal jurisdiction over clergymen, independent of secular power, was crucial for the gradual constitution of the clergy as a distinct social group in the Bohemian lands, taking place from the 13th century onwards. Given its historical relevance, this paper will focus on ecclesiastical jurisdiction and its presence in legal sources. The introduction will include a brief discussion of the concept of iurisdiction. Subsequently, the provincial statutes of Arnost of Pardubice will be discussed in greater depth, followed by procedural manuals of domestic provenance analyzed in the last part of the paper.

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1. Introduction: Scope and sources

According to Zdeňka Hledíková, Czech medievalist and leading ecclesiastical historian, the growth of episcopal jurisdiction over clergymen and the increasing independence of church courts from secular rulers were both crucial prerequisites for the gradual constitution of the clergy as a distinct social group, a transformation which took place in the Bohemian lands from the 13th century onwards.¹ Given its historical relevance, a fact highlighted in the seminal work of Hledíková, ecclesiastical jurisdiction as reflected in legal sources from Bohemia and Moravia will be the focus of the present paper. Before going further, however, the term “jurisdiction” needs clarification. In the following pages, “jurisdiction” refers to the power to hear and decide on all civil and criminal cases brought before a court, which was exercised at different levels of the church hierarchy, sometimes

1 A succinct overview is provided by HLEDÍKOVÁ; JANÁK and DOBEŠ. *Dějiny správy v českých zemích: od počátků státu po současnost*. Praha 2005, pp. 176-177. See also, the collection of papers HLEDÍKOVÁ. *Svět české středověké církve*. Praha 2010.

in competition with the lay judicial system, thereby raising the question of superiority.²

The aforementioned concept of jurisdiction is deeply rooted in the long tradition of jurisprudence,³ and more importantly, finds support in historical evidence from the medieval Kingdom of Bohemia. Such Bohemian sources are indispensable for understanding the judiciary, as the historical organisation of church courts displayed remarkable variability from country to country, and common canon law left a wide berth for territorial adaptation.⁴ In Bohemia and Moravia, the figure of an ecclesiastical judge – along with prerogatives collectively labelled as *iurisdictio*—was explicitly detailed in church statutes, court manuals for teaching and legal practice, and formulary collections of documents circulating within the church administration. One remarkable piece of evidence considered practical, and therefore added to the formulary known as *Cancellaria Arnesti*, relates to the appointment of an official as the archbishop's alter ego for the execution of justice.⁵ It is here that the medieval notion of

- 2 As defined in DUMAS. *Histoire de la juridiction ecclésiastique*. In NAZ, Raoul, ed. *Dictionnaire de droit canonique* 6. Paris 1957, col. 236.
- 3 A lively introduction to this topic is provided by TIERNEY. *Religion, Law, and the Growth of Constitutional Thought, 1150–1650*. Cambridge 1982, pp. 30 et seq. For more, see, e.g., COSTA. *Iurisdictio: Semantica del potere politico nella pubblicistica medievale (1100–1433)*. Milano 2002; SZYMOSZEK. „*Iurisdictio*“ w poglądach glosatorów. Warszawa 1976; CALASSO. „*Iurisdictio*“ nel diritto comune classico. In *Annali di storia del diritto*, 1965, vol. 9, p. 89; VAN DE KERCKHOVE, Martinien. La notion de juridiction chez les Décretistes et les premiers Décretalistes (1140–1250). In *Etudes franciscaines*, 1937, vol. 49, pp. 420 et seq., all with references to the sources.
- 4 DONAHUE, ed. *The records of the medieval ecclesiastical courts: reports of the Working Group on Church Court Records. Part I, The Continent*. Berlin 1989, pp. 23–25; IDEM. The Ecclesiastical Courts: Introduction. In HARTMANN, and PENNINGTON, eds. *The History of Courts and Procedure in Medieval Canon Law*. Baltimore 2017, pp. 249–250. For a further justification of this methodological approach, focusing on local church laws, see: HELMHOLZ. The universal and the particular in medieval canon law. In LANDAU and MÜLLER, eds. *Proceedings of the Ninth International Congress of Medieval Canon Law*. Munich, 13–18 July 1992. Città del Vaticano 1997, pp. 641–659.
- 5 TADRA, ed. *Cancellaria Arnesti. Formelbuch des ersten Prager Erzbischofs Arnest von Pardubitz*. Nach einer Handschrift der k. k. Universitätsbibliothek zu Prag. In *Archiv für österreichische Geschichte*, 1880, vol. 61, p. 344 (no. 30): “*eum officialem curie nostre predictae fecimus et constituimus dantes et concedentes sibi tenore presencium plenam et omnimodam potestatem causas audiendi et diffiniendi, item personas nobis subiectas suspendendi, interdicens et excommunicandi, clericos capiendi et incarcerandi, advocatos et procuratores recipiendi et revocandi et generaliter ad omnia et singula faciendi, que nos ipsi circa subditos nostre diocesis facturi essemus.*” About *Cancellaria Arnesti*, see HLEDÍKOVÁ. *Arnošt z Pardubic: arcibiskup, zakladatel, rádce*. Praha 2008, pp. 120 et seq. Another notable but more vaguely phrased charter is printed by PALACKY, ed. *Ueber Formelbücher, zunächst in Bezug auf böhmische Geschichte: nebst Beilagen: ein Quellenbeitrag zur Geschichte Böhmens und*

jurisdiction is expressed vividly in this statement, that the newly installed judge is empowered to hear and pass judgment on the cases; suspend, interdict, and excommunicate all subject persons; seize and arrest clerics; accept and reject advocates as advising lawyers and proctors as subaltern courtroom assistants;⁶ and perform the same judicial tasks as the head of the diocese.

Regarding the studied time period, one can say that it is rather narrow, coinciding with the pre-Hussite era from roughly the middle of the 14th century, when the Prague archbishopric and Charles University were established, to the revolutionary year of 1419, which brought about profound transformations in the country's religious and cultural landscape. Before such changes, the church administration in Bohemia and canon law science at Prague University had reached their peak under the rule of the Luxembourg dynasty, leaving behind a wealth of source material.⁷

The present paper relies on judicial manuals as they have been proven to provide detailed insights into the complexities of the Romano-canonical procedure.⁸ Nonetheless, it is also true that readers of these books in Bohemia and

der Nachbarländer im XIII, XIV und XV Jahrhundert. Erste Lieferung. Prag 1842, pp. 171-172 (no. 212): "*vos tam diu, quam de generali concilio ... nos ad propria non contingerit redire, iudicem et officialem curiae nostrae constituimus, et volumus, ut omnes causas per honorabilem virum magistrum Ul. scolasticum Pragensem coeptas et nondum finitas finire et decidere, et omnes alias de novo emergentes incipere et finire possitis.*" This document is discussed by HLEDÍKOVÁ, *Cancellaria Johannis de Dražic*. In *Acta Universitatis Carolinae: Philosophica et historica* (Z pomocných věd historických no. 9), 1991, no. 2, p. 43 (no. 5), and EADEM, *Biskup Jan IV. z Dražic (1301–1343)*. Praha 1991, p. 34. For more about the officialate, see esp. KUBÍČKOVÁ, *K počátkům pražského oficialátu*. Praha 1925, and more recently ELBEL, *Oficialát v olomoucké diecézi ve středověku (od počátků v 50. letech 13. století do 50. let 15. století)*. In KRAFL, ed. *Sacri canones servandi sunt. Ius canonicum et status ecclesiae saeculis XIII–XV*. Praha 2008, pp. 324–342, with an overview of historiography.

- 6 The difference between *advocati* and *procuratores* is addressed in the statutes for the archiepiscopal court from 1356, MENČÍK, ed. *Několik statutů a nařízení arcibiskupů pražských Arnošta a Jana I (1355–1377)*. Praha 1882, pp. 6–11 (no. 2). Compare KUBÍČKOVÁ, *K počátkům*, pp. 43–44, and BALÍK et al. *Dějiny advokacie v Čechách, na Moravě a ve Slezsku*. Praha 2009, pp. 25–26.
- 7 As outlined by KRAFL, *Dějiny církevního práva v českých zemích ve středověku*. Olomouc 2022, pp. 83–85, 139 et seq.; HLEDÍKOVÁ, *Svět*, pp. 340 et seq., or with a focus on courts EADEM, *Das schriftliche Vermächtnis der kirchlichen Gerichte in der mittelalterlichen Prager Diözese*. In NICOLAJ, ed. *La diplomatica dei documenti giudiziari (dai placiti agli acta - secc. XII–XV)*. *Atti del X Congresso internazionale della Commission Internationale de Diplomatique*, Bologna, 12–15 settembre 2001. Roma 2004, pp. 499 et seq.
- 8 See, esp. FOWLER-MAGERL, *Ordines iudicarii and Libelli de ordine iudiciorum: from the middle of the twelfth to the end of the fifteenth century*. Turnhout 1994; EADEM, *Ordo iudiciorum vel ordo iudiciarius. Begriff und Literaturgattung: Repertorien zur Frühzeit der gelehrten Rechte*. Frankfurt am Main 1984, or, more succinctly, in COING, ed. *Handbuch*

Moravia were expected to have some familiarity with the judicial organisation, and that much remained unspoken. So it seems advisable for researchers to take local church legislation as a starting point, due to the fact that regulations of this kind tailored global canon law to suit the circumstances of the Bohemian church and thus filled in the gaps in the procedural literature.⁹

2. Legislative foundations: Statutes

Among the sources of particular church law in medieval Bohemia, the codification of the first Archbishop of Prague, Ernst/Arnošt of Pardubice, stands out. A similar conclusion was reached not so long ago by Pavel Krafl, a distinguished editor and expert in church history, who aptly observed that despite its prominence, legal historians have more or less neglected this piece of legislation passed by the Bohemian archbishop.¹⁰ Krafl's critical remark also applies to the provisions on the church judiciary, codified by Ernst of Pardubice. Having been treated in the literature only briefly thus far,¹¹ these provisions are attractive objects of study.

After graduating from law schools in Bologna and Padua and being appointed archbishop, Ernst of Pardubice proclaimed his code at the provincial assembly of the clergy in Prague in 1349.¹² This body of provisions, calling itself "statutes," was intended to amend Bohemian church law, which had become antiquated due to the elevation of the Prague bishopric to an archbishopric only a few years earlier (1344).¹³ Within the framework of *ius particulare*, the new statutes enjoyed exclusivity and superiority, surpassing the prior local church legislation and also maintained higher legal power than all synodal laws issued subsequently for the smaller administrative units in the province of Bohemia. The legislative monument to the archbishop's reform efforts then stayed in effect in Bohemia

der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte 1. Mittelalter (1100–1500). Die gelehrten Rechte und die Gesetzgebung. München 1973, pp. 383 et seq.

- 9 More generally, see: PERRON. Local Knowledge of Canon Law, c. 1150–1250. In WIN-ROTH and WEI, ed. *The Cambridge History of Medieval Canon Law*. Cambridge 2022, pp. 290 et seq.
- 10 KRAFL. Arnoštova provinciální statuta z roku 1349 – významná česká právní památka. In BOBKOVÁ et al., ed. *Arnošt z Pardubic (1297–1364): osobnost – okruh – dědictví = postać – środowisko – dziedzictwo*. Praha; Pardubice; Wrocław 2005, pp. 59 et seq.
- 11 OTT. Působení práva církevního na rozvoj řízení soudního vůbec a v českých zemích zvlášť. In *Právník*, 1877, vol. 16, pp. 146 et seq.; IDEM. *Beiträge zur Rezeptions-Geschichte des römisch-canonischen Processes in den böhmischen Ländern*. Leipzig 1879, pp. 18 et seq.
- 12 See the biography by HLEDÍKOVÁ, *Arnošt*, and studies gathered in HLEDÍKOVÁ, *Svět*.
- 13 Edition: POLC and HLEDÍKOVÁ, ed. *Pražské synody a koncily předhusitské doby*. Praha 2002. Commented on by VYSKOČIL. *Arnošt z Pardubic a jeho doba*. Praha 1947, pp. 289 et seq.

and Moravia until the Hussite Revolution after 1419, receiving recognition even from anti-Catholics.¹⁴

Content-wise, the Prague statutes consist of 86 articles arranged systematically according to *Liber extra* by Pope Gregory IX (1234), which was an authoritative collection of decretals. In other words, papal letters formulating decisions in ecclesiastical law. Given the regulation's vast extent, covering all important aspects of legal life in the Bohemian church, Ernst of Pardubice, as a lawgiver, could hardly avoid the topic of administration of justice.

Inspired by the Mainz Statutes from 1310 that had previously applied to Bohemia, Ernst laid down a set of fundamental rules for the functioning of the clerical courts.¹⁵ The first and foremost question that may arise from reading these statutes is who derives judicial authority from the church office conferred upon him to fulfil the role of ordinary judge in a diocese. The answer is contained—perhaps surprisingly—in the rubric “On the archdeaconry” (Art. 10), where the dividing line between general and special jurisdictions is drawn.¹⁶

On the one side, the sphere of competence for archdeacons was narrowly delineated as an exception to the rule.¹⁷ Provided they were present in their residences and either they or their court advisers were knowledgeable in law, archdeacons could hear and decide matrimonial affairs and disputes over usury. However, if they exceeded their authority, the pronouncement was void by law. On the other side, bishops and their representatives who had the title of “official” still played a main role, acting as judges with universal jurisdiction and retaining superiority in the court organisation of the diocese.¹⁸

14 KRAFL, *Dějiny*, p. 119.

15 For comparison, see: POLC and HLEDÍKOVÁ, *Pražské synody*, pp. 25-26 and passim in notes. On the contrary, the correspondences with general canon law are merely formal, as observed by ŠMÍDOVÁ MALÁROVÁ. Římské právo v provinciálních statutech Arnošta z Pardubic z roku 1349. In *Mediaevalia Historica Bohemica*, 2021, vol. 24, no. 1, p. 13. Edition of the Mainz statutes: SCHANNAT and HARTZHEIM, ed. *Concilia Germaniae IV. Ab Anno MCCXC. Ad MCCCC*. Köln 1761, pp. 174-223. Also available at Corpus synodaliū. Local Ecclesiastical Legislation in Medieval Europe. [online]. More about it in UNGER. *Generali concilio inhaerentes statuimus: die Rezeption des Vierten Lateranum (1215) und des Zweiten Lugdunense (1274) in den Statuten der Erzbischöfe von Köln und Mainz bis zum Jahr 1310*. Mainz 2004, pp. 166 et seq., with older references.

16 This provision follows the example of SCHANNAT and HARTZHEIM, *Concilia Germaniae IV*, p. 178-179.

17 For more on archdeacons, whose jurisdiction has changed over time, see: KRAFL, *Dějiny*, pp. 139-141.

18 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 123: “*Permittimus ut archidiaconi iuxta antiqua statuta ecclesie Maguntine per consuetudinem approbata, personaliter in suis sedibus residentes, si iuris habeant peritiam sive assessores peritos, causas matrimoniales et usurarum audire et diffinire valeant, causis aliis diecesanis episcopis et ipsorum officialium examini*

As prescribed by the statutes, the archdeacon was responsible for two domains. The first was usury, conceived as express lending at interest, which, in line with Roman law, presumed that the loaned item was defined by weight, number, or measure.¹⁹ In addition, any transaction undertaken in the hope of profit over and above a just price was equally prohibited as usurious (Art. 71). Whenever this occurred, perpetrators were to be treated as heretics and reported to the bishop or his official who forced them to pay back the profits through ecclesiastical penalties.²⁰ For the second domain, the archdeacon had the power to interfere in marital relationships and adjudicate marriage cases such as clandestine, second and otherwise forbidden matrimonies, where judicial assessment was explicitly forbidden to parish priests and rural deacons, seemingly in response to the practice of the contrary (Art. 61).²¹

Apart from the classification of church judges, there is also a separate article in the statutes (Art. 25) that discusses the area of ecclesiastical jurisdiction more broadly. Following scholarly tradition, the section is titled *De foro competenti*, and relies on older synodal legislation, as is evident from its conformity with

reservatis. Iudicata per eos, preterquam in casibus supradictis, sint irrita ipso iure et nichilominus per loci diecesanum a suis officiis suspendantur."

- 19 Compare recently ŠMÍDOVÁ MALÁROVÁ, *Římské právo*, pp. 20-21, or URFUS. *Právo, úvěr a lichva v minulosti: uvolnění úvěrových vztahů na přechodu od feudalismu ke kapitalismu a právní věda recipovaného římského práva*. Brno 1975, pp. 45 et seq. Of the vast literature on the usury, see at least: VLADÁR. *Vymáhání kánonickoprávneho zákazu úroků v stredoveku a ranom novoveku*. In *Studia theologica*, 2019, vol. 21, no. 2, pp. 43 et seq., with further references. The concept of fungible things that are weighed, measured or counted is thoroughly analyzed by RÜFNER. *Vertretbare Sachen? Die Geschichte der res, quae pondere numero mensura constant*. Berlin 2000, pp. 20, 24 et seq.
- 20 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 154: "*Usurarium pravitatem, qui plerumque mercatorum famam inquinant, dum sub mercationis velamine diversis adinventis fraudibus plus secum contrahentes dampnificant, quam illi qui nullo quesito colore directe mutant ad usuras, detegere cupientes et ne etiam iuris ignorantiam simulatam circa hoc possint pretendere et sic suos errores de cetero frivolis rationibus excusare declaramus et dicimus, quod cum usura tantum committatur in mutuo, mutuum tamen in his tribus tantum consistit, que determinantur numero pondere et mensura; non solum is qui expresse rem huiusmodi eo pacto vel principaliter ea spe mutat ut aliquod emolumentum temporale ultra sortem recipiat, quantumcumque sit parvum, sive sit fructus sive proventus rei pignorate in sortem non computat, usurarius est censendus. Sed et ille qui mercedem quamcumque, que venditionis tempore communi estimatione minus valet et quam tunc venditurus erat carius vendit, solutionem pretii differens ea vice et qui statim solvit pretium cuiuscumque rei empte pro minori quam tunc valeat lucra causa, eiusdem rei traditione dilata ad terminum in quo constat ipsam rem plus valere, usurarii sunt censendi et qui tales esse probari possunt, ad notitiam diecesanorum vel eorum officialium perferantur ut per eos ad restitutionem usurarum ipsi vel eorum heredes districtione canonica compellantur."*
- 21 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 149: "*Cognitionem vero causarum matrimonialium plebani et decani rurales sibi penitus noverint interdictam."*

the Mainz Statutes²² and those from Kremsier/Kroměříž from 1318.²³ In the opening sentence, it appears that Ernst of Pardubice most likely adapted an idea from the *Decretum Gratiani*,²⁴ stating that ecclesiastical and secular orders will collapse into confusion if each of their distinct jurisdictions ceases to be respected. Therefore, statutes held that separation of the church and lay courts is an imperative that cannot be sidestepped.²⁵

To establish clear boundaries, the legislator drew attention to persons involved in different roles in proceedings before the court, anticipating three situations with possible jurisdictional conflicts. First, all ecclesiastical judges were forbidden to summon laypeople before their consistory at the request of a cleric or layman in a secular or purely civil matter or to interfere in the hearing of such cases. An exception applied only to so-called *miserabiles*, i.e. litigants worthy of special protection under the law or those denied justice before a secular judge.²⁶ Second, from the opposing perspective, secular judges could not summon clerics in any criminal or civil issue or laypeople regarding movable or immovable church property, nor could they rule on any of these cases. Third, a cleric as a plaintiff could not harass his adversary by bringing a legal case before an incompetent tribunal. If he nevertheless did so, he was condemned to pay the expenses and was no longer able to sue over the same matter. Regarding judges, whether clerics or laymen, sanctions for disobedience were more severe and resulted in excommunication.²⁷

22 SCHANNAT and HARTZHEIM, *Concilia Germaniae IV*, p. 184.

23 KRAFL, ed. *Synody a statuta olomoucké diecéze období středověku*. Praha 2014, pp. 267-268.

24 C 11. q. 1. c. 39. FRIEDBERG and RICHTER, ed. *Corpus Iuris Canonici I*. Graz 1959, col. 638: “*Nam si sua unicuique episcopo iurisdictio non seruat, quid aliud agitur, nisi ut per nos, per quos ecclesiasticus ille ordo custodiri debuit, confundatur?*” Compare HILLING. Die Bedeutung der iurisdictio voluntaria und involuntaria im römischen Recht und im kanonischen Recht des Mittelalters und der Neuzeit. In *Archiv für katholisches Kirchenrecht*, 1925, vol. 105, pp. 450-452, and VILLEMEN. *Pouvoir d'ordre et pouvoir de juridiction. Histoire théologique de leur distinction*. Paris 2003, p. 32. The historical background is explained by PENNINGTON. Johannes Teutonicus and Papal Legates. In *Archivum Historiae Pontificiae*, 1983, vol. 21, pp. 185 et seq.

25 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 129: “*Quia tam ecclesiasticus quam secularis ordo confunditur cum unicuique sua iurisdictio non servatur, hinc est quod spiritualia et secularia iudicia esse convenit inpermixta.*”

26 For more on these cases, see: e.g., HELMHOLZ. *The Spirit of Classical Canon Law*. Athens 1996, pp. 116 et seq.; TIERNEY. *Medieval Poor Law. A Sketch of Canonical Theory and Its Application in England*. Berkeley; Los Angeles 1959, esp. pp. 5 et seq.

27 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 129: “*Quare omnibus ecclesiasticis iudicibus districtius inhibemus ne laicos ad instantiam quorumcumque clericorum vel laicorum pro causis secularibus seu mere civilibus ad suum consistorium citari faciant aut de cognitione*

To this it must be added that the provincial codification of 1349 limited the category of clerics and at the same time, reserved the privilege of being tried in ecclesiastical courts (*privilegium fori*) to not only those rightfully ordained to the ministry in the church (Art. 8 and 58), but also those who maintained tonsure and wore clerical clothing (Art. 28).²⁸ In response to the abuse of judicial immunity, widespread among lower clerics, this article, drawn from papal decretals and the statutes of Mainz,²⁹ was repeated once again by the Prague provincial statutes from 1361.³⁰

Interestingly enough, only a manuscript from Brno, one of the oldest copies of the statutes, has a higher level of generalisation when dealing with judicial authority. This is achieved by replacing the title *De foro competenti* with an interlinear gloss that repeats a principle inherited from Roman law stating that no authority other than the defendant's court exercises jurisdiction over any action brought against him.³¹

Apart from the set of competence norms, the institution of appeal may also be the key to understanding the judicial organisation and its hierarchy.³² In our context, the downside is that appeals are described only in fragmented

causarum huiusmodi se aliquatenus intromittant nisi forte miserabilium personarum vel in defectum iudicis secularis. Nec e contra iudices seculares clericos pro quibuscumque causis criminalibus vel civilibus nec etiam laicos super rebus vel possessionibus ecclesiarum quocumque ex titulo eas possideant, ad suum iudicium faciant evocari vel eas audeant iudicare. Alioquin tam ecclesiasticus quam secularis iudex metas sue potestatis excedens excommunicationis sententia innodetur et actor clericus, qui reum indebite coram non suo iudice fatigavit in expensis condempnetur et super eadem causa de cetero nullatenus audiatur."

28 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 131: "Si vero cum hoc abiiciunt [sc. clerici] habitum clericalem etiam quoad personas perdunt privilegium clericale. Decet etiam ut clerici coronam seu tonsuram clericalem, patentibus auribus, cum habitu deferant clericali."

29 SCHANNAT and HARTZHEIM, *Concilia Germaniae IV*, pp. 185-186.

30 POLC and HLEDÍKOVÁ, *Pražské synody*, pp. 179-180. Compare HLEDÍKOVÁ, *Arnošt*, pp. 117-118, and POLC. Kapitoly z církevního života Čech podle předhusitského zákonodárství. In HLEDÍKOVÁ and POLC, ed. *Pražské arcibiskupství 1344–1994: sborník statí o jeho působení a významu v české zemi*. Praha 1994, pp. 39-40.

31 Moravský zemský archiv Brno, G 12 – Cerroniho sbírka II, no. 360, inv. no. 475, fol. 5r.: "Nota actor sequitur forum rei." For more about the manuscript and its glosses, see: DUDÍK, ed. *Statuten des ersten Prager Provincial-concils vom 11. und 12. november 1349*. Brünn 1872, p. 18. Regarding the *actor sequitur* rule, see: NÖRR. *Romanisch-kanonisches Prozessrecht: Erkenntnisverfahren erster Instanz in civilibus*. Heidelberg 2012, pp. 61-62; LI TEWSKI. *Der römisch-kanonische Zivilprozeß nach den älteren ordines iudicarii I*. Kraków 1999, pp. 115-118; MÜNCHEN. *Das kanonische Gerichtsverfahren und Strafrecht I. Das kanonische Gerichtsverfahren*. Köln 1874, pp. 34 et seq., 47 et seq. Regarding Roman law, see: KASER and HACKL. *Das römische Zivilprozessrecht*. Zweite Auflage. München 1996, pp. 246, 588, with references to sources.

32 SEDANO RUEDA. Die Appellation als Mittel der Konfliktlösung. In VON MAYENBURG, ed. *Konfliktlösung im Mittelalter*. Berlin: 2021, pp. 224 et seq.

accounts in the statutes. In place of his predecessor from Mainz,³³ the archbishop of Prague and his official became the superior instance over the courts of the bishops in the suffragan dioceses so that appeals and other devolutive means of review³⁴ were to go to Prague and not to Mainz, as had previously been the custom in Bohemia and Moravia (Art. 4).³⁵ Coupled with the instance procedure, the principle of obedience forbid subordinate judges to obstruct petitioners' access to the higher courts (Art. 13),³⁶ while appellants were not to abuse their right of defence and thereby diminish the honour of the first instance judges (Art. 27). This warning, borrowed from the statutes of Mainz,³⁷ was for those who settled for the suspensive effects of their petition without actively participating in further proceedings before the court of appeal. In this case, a sentence challenged in bad faith was to have been upheld and enforced.³⁸

3. Jurisprudential development: Procedural treatises

Having consulted the provincial legislation in church courts, it is time to move forward to explore the image of the judiciary in learned literature of Bohemian

33 SCHANNAT and HARTZHEIM, *Concilia Germaniae IV*, p. 177.

34 The expression *alias legitime devolutas* is unclear. It probably has to do with supplications, viewed by some as an alternative to the appeal. More in LITEWSKI, *Der römisch-kanonische Zivilprozeß*, pp. 533-535; MÜNCHEN, *Das kanonische Gerichtsverfahren*, pp. 568-571.

35 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 120: "*Olym ecclesia Maguntina diuturna servata consuetudine introduxit, quam demum perpetuis servandam temporibus statuti provincialis serie declaravit ut archiepiscopus Maguntinus vel eius officialis* [a better reading would be "officialis" as proposed by DUDÍK, *Statuten*, p. 36] *causas appellationum vel alias ad Maguntinam sedem legitime devolutas subditis suorum suffraganeorum in toto vel in parte possit committere et eos ad suscipiendas huiusmodi causas compellere. Nos, considerantes predictas consuetudines et statutum pro subditorum litigantium commodo introductas et ante erectionem nostre Pragensis ecclesie et in Pragensi et Olomucensi diecesibus observatas, eas in provincia nostra inviolabiliter conservandas et tenendas de cetero hoc sacro approbante concilio diffinimus.*"

36 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 124: "*Ne inferiores prelati superiorum suorum iurisdictionem eludant, episcopi, archidiaconis, decanis et aliis prelati seu eorum officialibus in virtute sancte obedientie et sub interminatione maledictionis eterne districtius inhibemus ne subditis suis seu eis qui litigant aut litigaverint coram eis inhibitionem faciant aut aliquod impedimentum prestant directe vel indirecte, quominus appellationem vel alias suas causas ad superiorum examen deducere valeant aut proferre.*"

37 SCHANNAT and HARTZHEIM, *Concilia Germaniae IV*, p. 185.

38 POLC and HLEDÍKOVÁ, *Pražské synody*, p. 130: "*Iuris beneficio appellans nonnumquam abutitur qui revocatione per appellationis iudicem attemptatorum post sententiam obtenta contentus, de iustitia forsitan principalis cause dubitans, appellationem suam prosequi pretermittit. Ut igitur parti appellanti et honori iudicis a quo appellavit provideatur de remedio opportuno, presenti constitutione statuimus quod si appellans ipse, iusto impedimento cessante suam appellationem non prosequatur, ex tunc iudex ipse a quo appellavit eum in pristinas reducat sententias quousque iudicatis pareat vel appellationem suam debite prosequatur.*"

provenance. To be precise, the source base is procedural treatises, also known as *ordines iudicarii*. These are easy to secure since, as far as is known, only two of them have survived from the pre-Hussite period: *Processus iudiciarius secundum stilum Pragensem*³⁹ and *Circa processum iudicarium in causis delegatis, subdelegatis et ordinariis primo premitatur*.⁴⁰ Both works owe their existence to the Prague University of Law, which enjoyed a short heyday in the pre-Hussite era and whose main task was to supply capable personnel for the higher church administration. Written as an aid for students and practitioners of canon law, these treatises refer to disputes most likely based on real trials, with dynamics discussed from a doctrinal point of view, and samples of a variety of court documents attached.

Moreover, these law books share a focus on the basic network of persons involved in the proceedings before the court. In doing so, they shed light on the roles of the plaintiff, the defendant, and especially the judge, portrayed as the driving force behind everything that occurred in the courtroom.⁴¹ One major difference between the two preserved *ordines iudicarii* of Bohemian origin, apparent at first glance, lies in the extent of theorising.

This paper shall concentrate on *Processus iudiciarius* as the older and more practice-oriented court book, while the more eloquent but less relevant *Circa processum* will be consulted only as a supplementary source. Consequently, the spotlight will be on *Processus iudiciarius* by Nicolaus Puchnik/Mikuláš Puchník (d. 1402), which appeared in the late 1380s when Puchnik was active in Prague as both an ecclesiastical judge and a professor of canon law.⁴²

39 Our chief manuscript is Zemský archiv v Opavě – pobočka Olomouc, Sbirka rukopisů Metropolitní kapituly Olomouc, no. CO 309 from the library of the metropolitan chapter in Olomouc (hereinafter cited as CO 309). Its advantages are that it is complete and has the closest connection with Bohemia and Moravia. Compare BUDSKÝ, *Mikuláš Puchník: život a právnícké dílo*. Praha 2016, pp. 30, 63 et seq.; BOHÁČEK, *Processus iudiciarius secundum stilum Pragensem*. In BERAN, ed. *Sborník historických statí k 75. narozeninám akademika V. Vojtíška: Akademiku Václavu Vojtíškovi k 75. narozeninám pracovníci archivu ČSAV*. Praha 1958, pp. 5 et seq.

40 The manuscript under scrutiny here is Moravský zemský archiv Brno, E 6 – Benediktini Rajhrad (1045–1950), no. G f 2 (hereinafter cited as G f 2), one of the best and most complete copies, easily readable and accessible in the Moravian Land Archive in Brno. More about it in KEJŘ, *Dějiny pražské právnícké univerzity*. Praha 1995, pp. 123 et seq.; ŠVÁBENSKÝ, *Nový rukopis „Circa processum iudicarium“*. In *Acta Universitatis Carolinae: Historia Universitatis Carolinae Pragensis (Příspěvky k dějinám Univerzity Karlovy)*, 1977, vol. 17, no. 2, pp. 7 et seq.

41 In general, see: SZYMOSZEK, *Iudex w literaturze procesowej 12–13. wieku*. Wrocław 1992, pp. 56, 108–109 or more recently STORTI, *Judging and Settling Disputes in the Middle Ages*. In *Vergentis*, 2018, vol. 6, pp. 37 et seq.

42 BUDSKÝ, *Mikuláš Puchník*, pp. 11 et seq. with further reading, (some papers by Budský on

According to the *libellus*, i.e. the complaint that contains the accusation and its justification, the trial reported in *Processus iudiciarius* took place before the court of the Prague official.⁴³ The proceedings brought together a priest named John and a nameless layman, who, being an heir burdened with a pious legacy, refused to pay the priest a sum of money bequeathed to the church by the layman's relative. Although the details are partially anonymous, a comparison with court charters⁴⁴ shows that, in all probability, none other than Puchnik himself dealt with the lawsuit when he held the position of official.⁴⁵ Despite a preference for the general term *iudex*, one can rightly assume that when mentioning judges, the source relates primarily to the "officialate."

The Romano-canonical process consisted of two stages: first a preparatory stage and then the adjudicatory, simply because preparing the case for a hearing was a prerequisite for rendering a final judgment. This was also true for the Prague official, who could not move forward to hear Priest John's case on its

this topic are also available in English version to make them more accessible to an international audience).

- 43 CO 309, fol. 186v: "*Tenor libelli sequitur. Coram vobis honorabili viro domino Nicolao N. curie ep Archiepiscopalis officialis procurator et procuratorio nomine discreti domini Jo. plebani ecclesie talis loci ac ipsius ecclesie nomine contra et adversus B. laicum de tali loco et contra quamlibet aliam personam pro ipso legitime in iudicio intervenientem in iure. Cum querela proposuit et dicit, quod licet bone memorie P. laicus et talis loci positus et ex in extremis [sic] in lecto egritudinis langwens corpore et rationis compos et sanus exitus pro sui ac suorum predecessorum animarum remedio in omnibus bonis suis in et de post mortem suam relinquendum X sexagenas grossorum Pragensis monete pro fabrica et edificacione ecclesie et in utilitatem ipsius convertendas plebano et ecclesie supradicte donaverit, legaverit et testatus fuerit solvendum per bonorum suorum successores et dictus B. laicus successerit in omnibus bonis dicti C. testatoris, eodem mortuo testatore ipsaque bona tenuit, rexerit et possedit, teneat, regat et possideat pacifice et equite. Cum dictus B. ex parte dicti testantis voluntatis monitus liberrime sepissime condixit et continue condixit, negligit peritus in dispendium animarum pro quarum andthidato et remedio huiusmodi pecunia noscitur deputata sed cum studio ipsorum pie voluntatis defunctorum debeant execucioni demandari scilicet testamenta petit procuratorem et procuratorio nomine, quo supradictum laicum cogi et conpelli ad dandum et solvendum X sexagenas grossorum g Pragensium plebano et ecclesie memorate ex causa prelibata scilicet testamenta vestra diffinitiva sententia mediante vestrum officium humiliter implorando.*"
- 44 Edition: TEIGE. *Základy starého místopisu Pražského (1437–1620) I. Staré město pražské*. Praha 1910, pp. 466–467 (no. 104). An abbreviated version is available in JENŠOVSKÁ, ed. *Regesta Bohemiae et Moraviae aetatis Venceslai IV. (1378 dec.–1419 aug. 16.) I–2. Fontes archivi capituli metropol. eccl. Pragensis (1383–1387)*. Praha: 1971, p. 409 (no. 1706); ERŠIL and PRAŽÁK, ed. *Archiv pražské metropolitní kapituly I. Katalog listin a listů z doby předhusitské (1419)*. Praha 1956, p. 140 (no. 499).
- 45 Compare also: HLEDÍKOVÁ. Z diplomatické praxe pražského oficialátu ve druhé polovině 14. století. In *Sborník archivních prací*, 1972, vol. 22, no. 1, p. 154; BUDSKÝ, *Mikuláš Puchník*, p. 32.

merits without ruling on the objection over a lack of competence raised by the lay defendant. By challenging the church's authority, this procedural means provoked an exchange of arguments between the court and the defence that is worth a closer look.⁴⁶

When a proctor of the accused party rejected the official's competence, he did so with the proviso that this did not prorogate church jurisdiction and set out why his client did not have to respond to the *libellus*. Firstly, he pointed to the fact that the dispute's subject matter was money. Secondly, given that the defendant was a layman, his proctor thought it appropriate to invoke the principle taken from the Code of Justinian into the medieval law of decretals that the plaintiff follows the defendant's court.⁴⁷ Thirdly, he refused to settle the dispute before a clerical judge as he saw no special reason for this, such as voluntary submission of the disputants to church jurisdiction. On these grounds, the defence concluded that the ongoing controversy over a pious donation was a temporal cause and fell to the secular forum. Therefore, it was proposed that the plaintiff should be referred to a lay judge and ordered to pay the expenses.⁴⁸

46 *Tenor excepcionis* is found in the manuscript CO 309 on fol. 187r. A similar form of objection is also inserted in G f 2, fol. 191v. Unfortunately, here it is based on facts rather than the law. This document aims at invalidating the delegation and thus denying the church jurisdiction of the judge-delegate because the plaintiff concealed information about his origin, namely that he was *in sacerdotio genitus*. Compare MUTHER. *Zur Geschichte des Römisch-canonischen Prozesses in Deutschland während des vierzehnten und zu Anfang des fünfzehnten Jahrhunderts*. Rostock 1872, p. 57.

47 X 2.2.8. FRIEDBERG and RICHTER, ed. *Corpus Iuris Canonici II*. Graz 1959, col. 250: "*Quum sit generale, ut actor forum rei sequatur, conveniens est, ut apud iudices saeculares raptiores prius conveniantur*"; X 2.2.5. FRIEDBERG and RICHTER, *Corpus Iuris Canonici II*, col. 249: "*Si vero presbyter, vel clericus alius aliquem laicum de rebus suis vel ecclesiae impetierit, et laicus res ipsas non esse ecclesiae vel presbyteri aut clerici, qui eum exinde impetit, sed suas proprias asseverat, laicus ipse debet de rigore iuris super hoc ad forensem iudicem trahi, quum actor semper forum rei sequi debeat, licet in plerisque partibus aliter de consuetudine habeatur*". Besides, see the Ordinary Gloss to X 2.2.5. s.v. *Actor forum rei* etc. NALDI, Antonio et al., ed. *Corpus iuris canonici: in tres partes distinctum. Pars secunda*. Lyon 1671, col. 544.

48 CO 309, fol. 187r: "*Protestatur procurator et procuratorio nomine B. laici de tali loco, quod in vestram iurisdictionem non consentit per quamvis actum, factum aut faciendum sed ipsam declinando nullatenus in se prodigare [sic] et prolongare intendit et protestacione salva et habita in quolibet actu pro repetita facto vel faciendo contra quendam libellum, si sic dici meretur per partem plebani talis loci contra laicum B. oblatum dictus procurator excipiendo proponit et dicit, quod huiusmodi libello non est de iure respondendum, ut per vos dominum honorandum dictus laicus est cogendus eidem libello respondere ex eo et pro eo, quia in eodem libello pei petitur pecunia, que est res materie temporalis spectans ad cognicionem iudicis secularis sed cum iudex [some manuscripts add "*non est negligens in exhibenda iusticia*", cf. BUDSKÝ, *Puchnik*, p.126] nec est se per eadem requisitus et reus est laicus et res, que petitur est secularis, ut prefertur, quare cum [sic, some manuscripts add "*actor regulariter sequatur*"*

In his handbook, Puchnik took this case as an opportunity to explain procedural defences and the possibility of review by a court of appeal while not failing to note—likely from his own experience—that the accused always looks for escape routes to avoid conviction.⁴⁹ What is more valuable to us is the plaintiff's response, which continues the "dialogue" between the parties and also—in contrast—pleads in favour of the church's judicial competence.

The proctor, acting on behalf of the claimant priest, offered counterarguments based on the aforementioned decretal collection *Liber extra*. One of the canons gathered in the title *De foro competenti* supports the idea that things consecrated to God can no longer be turned to human use.⁵⁰ Therefore, since the church was suing for money for the needs of the church, the proctor insisted that no layman, not even a lay judge, could rightfully dispose of it. Another canon allegedly in favour of the petitioner deals with church malefactors and stipulates that either type of court can try perpetrators such as these. If these malefactors are suspected of sacrilege, however, church plaintiffs have the choice of where they want to pursue that claim.⁵¹ Quoting canon law, the plaintiff, through his representative, concluded that the counterparty was subject to ecclesiastical jurisdiction as a malefactor who unlawfully withheld property donated to the church. In his view, only an ecclesiastical judge had the power to adjudicate wills favouring the church and, concerning the present case, to compel the layman defendant to restore the disputed money to its pious purpose. Finally, in addition to downplaying the objection of incompetence as frivolous and contrary to law, the plaintiff's response proposed not to avoid responsibility for the resolution of the dispute and to compel the defendant to continue the proceedings.⁵²

forum rei, petit dictus procurator"], cf. BUDSKÝ, Puchnik, p.127] *B laicum ad iudicium seculare remitti et actorem sibi in litis expensas ob indebita vexacionem condemnari vestra sententia mediante iuris aliis beneficiis in omnibus semper salvis.*"

49 CO 309, fol. 187r: "Nam reorum est semper fugas querere."

50 X 2.2.16. FRIEDBERG and RICHTER, *Corpus Iuris Canonici II*, col. 254: "*Quum autem valde sit iniquum [et ingens sacrilegium.] ea, quae collata sunt pro remedio peccatorum venerabilibus ecclesiis, vel relictas, aut eis iustis modis aliis acquisita, [a fidelibus et viris catholicis, a quibus servari ea converit,] aliis usibus applicari, propter quod merito invasores ipsarum rerum tanquam sacrilegi, [nisi eas restituant, per ecclesiarum rectores, quum ecclesiasticum sit crimen sacrilegi] sunt anathemati usque ad satisfactionem congruam supponendi.*"

51 X 2.2.8. FRIEDBERG and RICHTER, *Corpus Iuris Canonici II*, col. 250: "*Verum quoniam saeculares iudices in exhibenda iustitia personis ecclesiasticis saepe in iudicio sunt remissi, iam per consuetudinem in favorem ecclesiae est introductum, ut malefactores suos, qui sacrilegi sunt censendi, venerabilium locorum rectores possint sub quo maluerint iudice convenire.*"

52 CO 309, fol. 187v: "*Tenor replicacionis etc. Contra quandam cartham loco excepcionis pro parte laici et contra dominum plebanum oblatam, procurator dicti plebani nomine pro-*

Agreeing with the plaintiff, the judge ordered the defendant to respond to the lawsuit before the court and only subsequently could the hearing on its merits commence.⁵³ As the canon process continued to the adjudicatory phase, the question of jurisdiction no longer played as significant a role. For now, it is enough to say that, in the course of collecting evidence, the plaintiff suggested that the case be handled as *causa favorabilis*,⁵⁴ so the judge should have condemned rather than absolved.

The rationale was that the essence of the controversy was a testamentary bequest for the church and, identical to deciding marriage and personal status matters, a court convened over the execution of a will was supposed to be on the petitioner's side.⁵⁵

There is no point in continuing with the story of the trial, which ended with the dismissal of the claim and the claimant being ordered to pay the expenses, though with the possibility of an appeal within 10 days to the Roman Curia.⁵⁶

curatorio replicando proponit et dicit, quod huiusmodi cartha cum sua materia est frivola, frustratoria et inanis et vacua ratione, iurique contraria et adversa, qua de iuris dispositione exsufflatur ut favilla nam, quod semel Deo dicatum est namque ad humanos usum redire sed non debet in C. conquestus de foro competenti [X 2.2.16.]. Sed pecunia, que in libello nomine ecclesie petitur est ad divinum cultum deputata, ergo laicorum usibus aplicari non debet, immo nec de ipso iudex secularis quidquam disponere debet, quam rei ecclesiastice quilibet malefactor coram iudice spirituali poterit convenire et in C. cum sit generale eodem titulo de foro competenti [X 2.2.8.] qui rem ecclesie deputatam abstrahit ipsius ecclesie dinoscitur malefactor, ideo per iudicis [sic] ecclesiasticum est compellendus, quod rem debitam usui ecclesiastico restituat et assignat, insuper quia de causa testatmentorū ecclesie solus iudex ecclesiasticus cognoscat dictus, itaque laicus ad iudicem non est remittendus secularem. Quare procurator predicti plebani petit cogi et compelli laicum ad respondendum libello plebani predicti."

53 CO 309, fol. 187v: "*siquid deliberacione super deductis iudex interloquitur in hunc modum: Sentencia interlocutoria: Interloquendo mandamus laico, quod respondeat libello plebani predicti.*"

54 This topic is briefly addressed in LEFEBVRE. *Les pouvoirs du juge en droit canonique: Contribution historique et doctrinale à l'étude du canon 20 sur la méthode et les sources en droit positif*. Paris 1938, pp. 294-295; WERNZ. *Ius decretalium: ad usum praelectionum in scholis textus canonici sive iuris decretalium V. De iudiciis ecclesiasticis*. Prati 1914, p. 457, and recently in greater detail by MAUSEN. *Personae miserales et causae favorabiles: victimes-nées? La réponse de la procédure médiévale*. In HOAREAU-DODINAU; MÉTAIRI Guillaume and TEXIER, ed. *La victime I. Définitions et statut*. Limoges 2008, pp. 88 et seq.

55 CO 309, fols. 193r-193v "*procurator dicti plebani replicando proponit et dicit ... Sed in presenti causa nedum actor est honestus, verum causa est favorabilis, quia testamentalis et ecclesie et in tali causa iudex semper potius debet condenpnare, quam absolvere. Tres enim sunt cause favorabiles puta matrimonialis, liberalis et testamentalis in quibus iudex debet favere actori potius, quam reo.*"

56 CO 309, fol. 194r: "*Christi nomine invocato pro tribunali sedentes et habentes pre oculis solum Deum per hanc nostram diffinitivam sentenciam pronunciamus, decernimus et decla-*

Instead, a few words shall be used to draw attention to the complaint forms attached at the end of the treatise, which go beyond inheritance law and reveal additional information about the extent of church jurisdiction.⁵⁷

The list of pleas submitted to ecclesiastical judges is rather disparate and fragmentary, sometimes casting doubts on the division of competence between temporal and spiritual courts. This is why the reader needs to be aware of the particular and common church law, defining jurisdiction with respect to either the status of the persons involved or the nature of the case. Thus, unless Puchnik's court book points explicitly to spiritual or related affairs, the participation of clerics in the process should be presumed.

Judging by the *libelli* enumerated in the final passages of the text, the Bohemian church typically had authority when one of the following areas of litigation was involved:⁵⁸ (1.) Property ownership was disputed between a monastery and a dean; (2.) An object was stolen from a plaintiff's house; (3.) A cleric's honour was offended by defamatory statements; (4.) Confirmation of a legitimate marriage was petitioned by a wife whose husband had married a second time to another woman and lived with her; (5.) A depositor requested from the depositary to return the book kept in his custody or pay its value; (6.) A loan was not paid off within the arranged deadline and so the debtor was sentenced to settle the debt plus a fine; (7.) A clergyman was attacked violently by a layman—even if the victim was not wearing clerical clothing or maintaining tonsure, the crime was punishable by the church. The aggressor was sanctioned with an astronomical penalty—probably meant as a warning—and automatic excommunication prescribed by canon law.⁵⁹

ramus, prefatum B. laicum ab inpeticione dicti domini Jo. plebani dicto [sic] B-laicum talis fore absolvendum et eciam absolvimus finaliter et diffinitive in hiis scriptis condenpnantes nichilominus dictum plebanum dicto B laici [sic] in expensis, quarum taxacio vobis in posterum reservamus."

57 CO 309, fols. 197v-198v.

58 Similar forms as those registered by Puchnik are found in G f 2, fols. 217v-218v, equipped with instructive headlines: *Forma libelli in causa testamentarii*, *Forma libelli super receptione panni vel pro emptione*, *Libellus iniuriarum*, *Libellus matrimonialis*, *Libellus mutui*, *Libellus iniuriarum*. These documents are supplemented by *Forma libelli in causa beneficiarii*, which is missing in Puchnik's treatise.

59 C. 17 q. 4 c. 29. FRIEDBERG and RICHTER, *Corpus Iuris Canonici I*, col. 822: "*Si quis suadente diabolo huius sacrilegii uicium incurrerit, quod in clericum uel monachum uiolentas manus iniecerit, anathematis uinculo subiaceat.*" For further information, see, e.g., KOTEC-KI. Przestępstwo "violentas manuum inieccio in personas ecclesiasticas" w prawodawstwie papieskim XII wieku. In MIKUŁA, ed. *Culpa et poena. Z dziejów prawa karnego*. Kraków 2009, pp. 63-81, or KÉRY. *Gottesfurcht und irdische Strafe: der Beitrag des mittelalterlichen Kirchenrechts zur Entstehung des öffentlichen Strafrechts*. Köln 2006, pp. 601 et seq.

4. Conclusion

It is worth repeating that the focus of this paper is pre-Hussite Bohemia, while the aim is to raise the subject of ecclesiastical jurisdiction, understood by scholars as an adjudicative power of the church occasionally in competition with lay courts. By examining church statutes, court manuals, and formulary collections, one can establish how the jurisdiction of church judges was once perceived and also specify who exercised judicial power and under which circumstances. Nevertheless, this is only one tiny step towards drawing a comprehensive picture of the spiritual courts and their impact on the formation of the clerical elite in medieval Bohemia, which requires expanding the source base and including other types of documents, such as charters and court files.

Figures

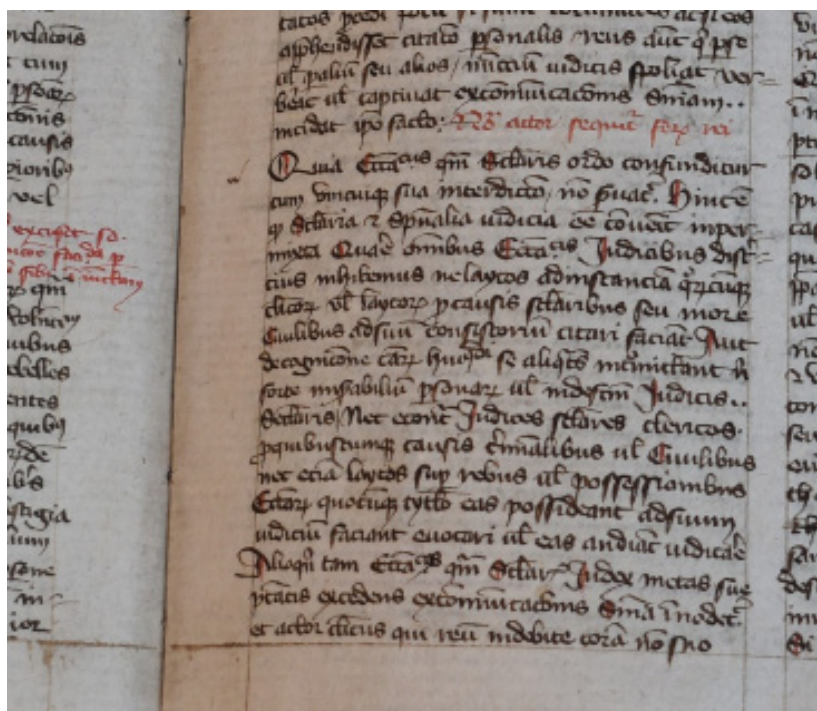


Fig. 1: Juristic gloss on the Prague provincial statutes from 1349, referring to the rule actor sequitur forum rei. Moravský zemský archiv Brno, G 12 - Cerroniho sbírka II, no. 360, inv. no. 475, fol. 5r.

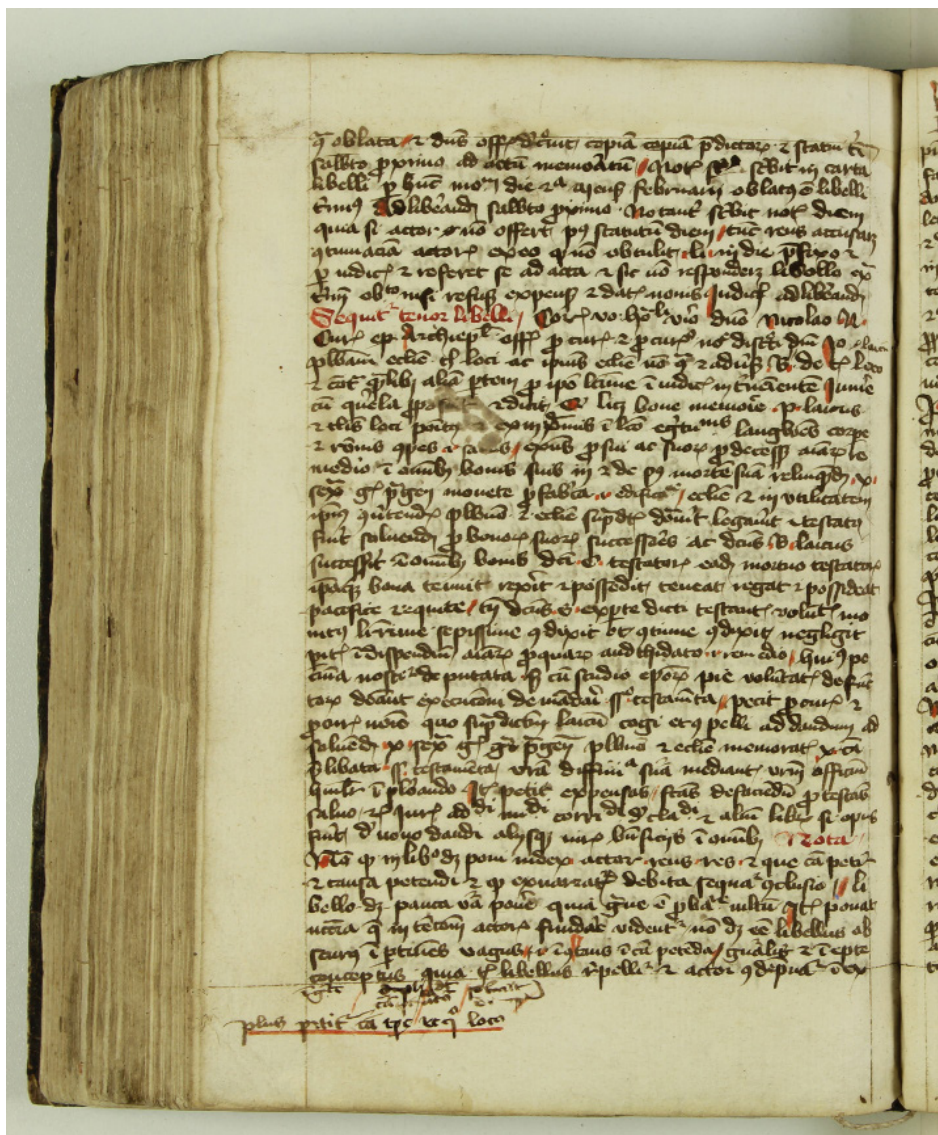


Fig. 2: The content of the plaintiff's plea (Tenor libelli) in the court book *Processus iudiciarius*. Zemský archiv v Opavě - pobočka Olomouc, Sbírká rukopisů Metropolitní kapituly Olomouc, no. CO 309, fol. 186v.

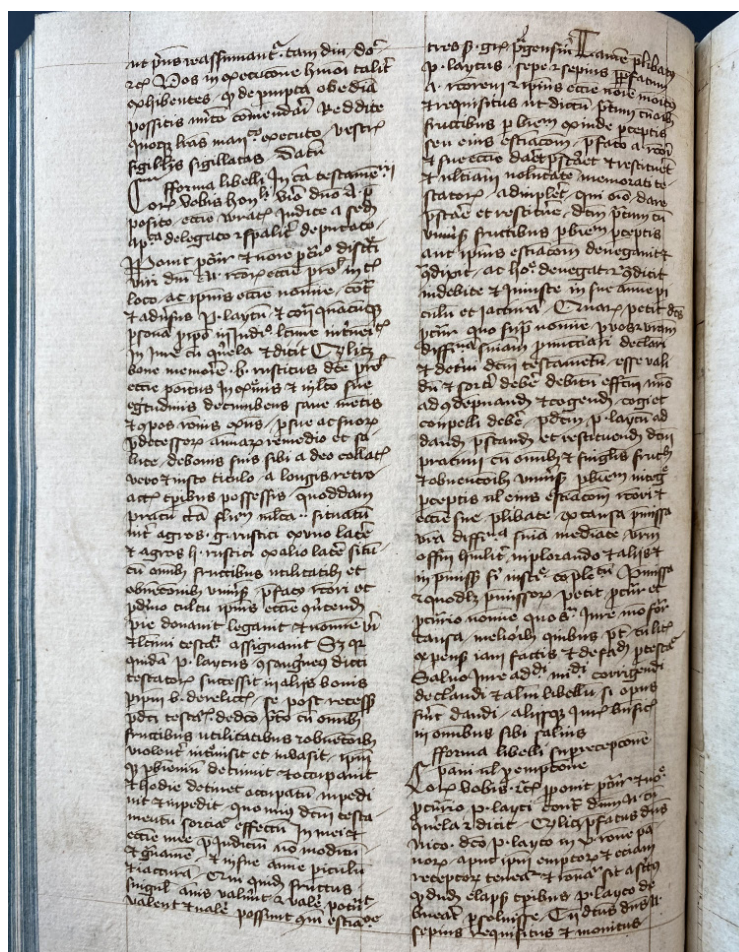


Fig. 3: Testamentary suit (Forma libelli in causa testamentarii) in the treatise Circa processum. Moravský zemský archiv Brno, E 6 - Benediktini Rajhrad (1045–1950), no. G f 2, fol. 217v.

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