

The Inquisitors in the Judicial Practice of Cluj at the End of the 16th Century

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AS A result of the 16th-century political and economic changes, by the second half of the century the local government of the free royal town of Cluj (Kolozsvár, Klausenburg) had been established. In matters of administration, jurisdiction and lawmaking the community of the citizens had managed their affairs according to their own regulations, being obliged to obey only the authority of the prince. The court of the town, that had the rights to proclaim capital punishment (*jus gladii*), exercised jurisdiction over its citizens; furthermore over every foreigner that committed a crime within the town-walls. The first judge (*iudex primarius*) and the royal judge (*iudex regius*) constituted the first instance of the town court in the hierarchy of the judicial institutions of Cluj; their decisions were censored by the inner council of the twelve jurors. The town notary, the town attorneys (*procuratores*), the executioner, the grab (*poroszló*), the summoners (*törvénytisztogatók*), and in exceptional cases even the members of the assembly of the *centumviri* (council of the hundred men) had as well certain duties in the judicial practice of the town. In this typical institutional framework of the early-modern European towns had emerged at the end of the 16th century the institution of the inquisitors (*directores causarum*) in Cluj.

Previous research has treated the activity and function of the institution only superficially. András Kiss merely noted its existence and summarized the range of its activities.¹ In what follows we would like to enlarge the knowledge concerning the judicial practices of the town in the era of the Principality, by investigating the reasons and circumstances of the establishment of the institution, its role in the jurisdiction of the town, and its influence on the latter.

The Establishment of the Institution

THE FIRST order of the general assembly of the town concerning the regulation of their activities dates from March 1587; however, one can find data attesting their judicial practices from the previous years as well. The two inquisitors of the town, called "*inquisitores malefactorum*", are already mentioned in the witch trials of the year 1584.² In the first years of their activity their competence seems to be identical with that of the town attorneys: they plead the town mainly in cases involving criminal law.

Regarding the circumstances that brought forth the establishment of the institution, we must emphasize the growing effort of the town officials to tighten the control over the community of the town in order to insure increased security and order. That is because in the second half of the 16th century, due to the arrival of a great number of immigrants – refugees from the territories of the former medieval Kingdom of Hungary occupied by the Ottoman Empire, as well as several merchants and servants – in the town known for its security and its prosperous economic, commercial and religious life, the rate of delinquency increased.³ Consequently the council of the hundred tried to maintain the order by yearly repeated enactments and by the establishment of a more effective institutional system.⁴ Thus, this typical environment for the 16th century had served as a soil for the emergence of the institution of the inquisitors.

In the establishment of the institution a major role was played by the process that started in the canon law in the time of pope Innocent III, who reintroduced the inquisition procedure in the Constitutions of the Fourth Lateran Council (1215). In short time the inquisition procedure was adopted in the secular criminal law as well. This meant that, as opposed to private prosecution, since that time public institutions could initiate and conduct the proceedings of a trial as well. The adoption of the measure in the secular law was eased by the endeavours of the centralizing governments to control the judicial power within their territories by replacing the private with public authority and by the officialization and bureaucratization of the judicial power. By the introduction of the inquisitorial procedure the state had initiated and assumed control over prosecutions, and in the meantime, by using different methods – like torture – it acquired the necessary information to successfully prosecute the enemies of the government and to gain or maintain control over the society. As Laura Ikens Stern stated, we are witnessing an "erosion of the concept of crime as a private matter"; moreover "as the concept of crime changed from crime as private matter to crime as a public matter, the public institutions became responsible for more and more parts of the procedure."⁵ In Florence and other Italian city-states this process already started at the end of the 13th century,⁶ while on the territories of the German law it

first appeared at the end of 15th and the beginning of the 16th centuries, in the law codices of the time, attesting the reception of the Roman law.⁷ Until the middle of the 16th century the judicial practice of Cluj had been marked by the adversarial system, which meant that the trials were started only through private initiation.⁸ From the year 1572 onwards there is evidence showing that the government of the town – as public authority, represented by advocates – initiated the prosecution of criminals.⁹

The personality and the activity of György Igyártó had a determinant influence on the further evolution of this process and on the establishment of the institution of the inquisitors. As a well-known private attorney of the citizens in the 1580's, he had also represented the magistrate in the court in public affairs. Due to his activity the number of public prosecutions in the judicial practice of the town had considerably increased.¹⁰ However, his authority and influence served him in most selfish affairs as well: he summoned to court people he had been in conflict with.¹¹ Furthermore, in the year 1586 many such cases were brought to light in which in return for money he betrayed his clients and took the part of their opponents.¹² As a matter of fact Igyártó's abuses led the council to the conclusion that the public prosecution of the criminals could only be effective if the elected inquisitors were not engaged at the same time as attorneys in private cases; thus, the chances of serving private interests in opposition to the town's interest could decrease considerably.

The Duties of the Inquisitors

THE ORDER of the assembly of *centumviri* given on the 14th of March 1578 can be regarded as the first attempt of the town's law-makers to delineate the duties of the inquisitors. *“Beholding the flood of sin which took over the town, two important men were chosen, namely András Eötweös [and] Andreas Beuchel, to guard in the name of the town the sacred honour of God, on whose guidance they have given their oath. Those citizens charged with evil deeds shall be cited, and if their sinfulness is revealed they shall be arrested indiscriminately [by them]. They should prove against them by the testimonies of their meek neighbours, and as the privileges of the town show, if two conclusive witnesses testify against them, they shall be punished accordingly. If there will not be seven witnesses to testify against them, the charged ones will have the possibility to free themselves by an oath deposed with seven compurgators. Other privileges of the town shall be guarded by them as well, namely they shall see after the heritage of those departed without offspring.”*¹³ Thus, the inquisitors were charged to take immediate action against criminals in cases that did not involve private accusation.

Meanwhile their activity was continuously monitored by the *centumviri*. The latter occasionally even summoned them to take part in the pursuit, arrest and citation to court of the criminals. A committee formed by well-known attorneys or members of the inner council – former first judges and jurors – was constituted as well to support the activity of the inquisitors.¹⁴ The members of the committee were: Tamás Budai, a successful goldsmith and a prominent member of the magistrate, who had been elected first judge, royal judge, juror, steward, auditor, tax rectifier and mill supervisor for several times; his brother-in-law, Stephanus Pulacher, a tailor who by the time of his nomination in the committee had been already elected as royal judge, auditor, tax collector and tax rectifier of the town; Gáspár Vicei, a member of one of the most famous families of Cluj, who had been elected juror, tax collector, tax rectifier and auditor as well; the scribe Lucas Trauzner, who, after he had left the office of the town's notary, became a reputable advocate of the principality, and eventually achieved important offices in the state government.¹⁵ The inquisitors were obliged to follow the instructions of the town's first judge as well; furthermore they were supposed to intervene at the denouncements made by private persons. In 1592 for instance, responding to the demands of the two injured parties, they brought to court two Romanians accused of serial theft and robbery.¹⁶ In 1600 the inquisitors sued Mihály Segesvári at the relation of his former master, Stephanus Pulacher, accusing him of theft and robbery committed in the town after joining the foreign armies in wartime.¹⁷ In the same year, at the relation of the wife, they arrested a man who had beaten his mother-in-law to death.¹⁸

On the other hand, there were cases that featured the inquisitors as possible criminals. András Ötvös, a former councillor, due to an unproved murder suspicion was expelled from the council of the hundred.¹⁹ Another case features Gergely Balásfi, the inquisitor elected in the year 1593, who was charged of complicity to murder.²⁰ Both conflicts arouse following their appointments as inquisitors, however, the further development of the cases is unknown. Apparently Ötvös' conflict was solved in the period of his two years long office-holding; while Balásfi had to, or was forced to abandon his office. The fact that he had been among the few inquisitors in function for merely one year seems to sustain our assumption that he had been forced to abandon his activity due to the charges raised against him.

According to the order given in March 1587, the inquisitors gained an important role in the management of the revenues of the town as well. Since the charter of Prince Stephan (István) Báthory from the year 1575 onwards the movable and the immovable goods of those citizens who died without offspring devolved upon the town.²¹ The validation of the acquired privilege, however, in numerous cases provoked a vehement opposition between the town and the treasury, or the

heirs who claimed the goods in question. The settlement of these affairs initially burdened the attorneys of the town or other members of the magistracy;²² however, after 1587 this duty had been assigned to the inquisitors. Thereafter, the assembly of the hundred had only supervised their activities, and, if needed, summoned them to intervene in cases concerning the incomes of the town.²³ In the acquisition of the goods the inquisitors frequently encountered impediments that required the intervention of the town's court. They cited mainly widowed citizens, from whom they claimed that part – one third or two thirds – of the wealth of the departed which was owed to the town either due to the lack of offspring, or according to the testament of the departed.²⁴ In many cases these suits dragged on for years, and the decision of the court often favoured the heirs.²⁵ In some cases, though, the inquisitors acquired properties even through violation of the heir's right.²⁶

The analysis of the range of activity of the inquisitors has shown that in the establishment of the institution the pattern had most certainly been provided by the state office of the prosecutor of the treasury (*director causarum fiscalium, kincstári jogüggyigazgató*). Regarding their duties, the similarities between the two institutions are clearly visible. As Zsolt Trócsányi had already pointed out, the main role of the prosecutor of the treasury had been the defence of the legal rights of the treasury, but in fact, in modern terms, he was the chief public prosecutor of the state.²⁷ In the same way the inquisitors from Cluj were in charge of the town's goods, being at the same time public prosecutors as well. The leading role of Cluj in creating a separate institution that was in charge of initiating public prosecutions should be pointed out as well, since in other Transylvanian towns of those times no such institution could be found. However, the circumstances necessary for its establishment were present in other parts of the country as well: the practice of public accusation spread also in the other jurisdictions, and other towns had equally gained the right to take over the goods of those citizens who departed without heirs. In Cluj the process must have been considerably accelerated by the favourable relationship between the officials of the town and the central government of the state.

Election, Career, Knowledge, Social Status

THE ASSEMBLY of the *centumviri* elected annually two inquisitors among themselves, consistently taking into account the existing parity system between the Hungarian and Saxon citizens in the nomination of the town officials.²⁸ Their appointment lasted for one year; however, the prolongation was quite usual.

x = Hungarian inquisitors; + = Saxon inquisitors

Thus, out of the 10 officials between the years 1587–1599, Stephanus Mintler/Palástos had been in place for six years (with an intermission of two years), while István Szabó/Jenei had been inquisitor for five consecutive years. András Ötvös, Andreas Beuchel, Márton Nyíró and Paulus Vildner had filled the office for at least two years, and merely four people were inquisitors for only one year, namely Imre Sala, Balázs Fábián, Gergely Balásfi and Nicolaus Mark.²⁹ Regarding the election of these officials, it can be noticed that in four years both inquisitors were re-elected, and in 1598 one of them occupied his office again after a few years of intermission. In two cases one of the members was re-elected, new-comers being nominated as their partners; in 1594 a former inquisitor had been appointed together with a novice. Thus, 1593 was the only year when both of the officials were elected for the first time. Hence, this information proves that the main principle followed by the *centumviri* in the election of the inquisitors was the transmission of the acquired knowledge and experience. Similarly to the attorneys, the inquisitors did not benefit of special theoretical training either, thus the bequeathing of the acquired experience and practice gained a great importance.

As members of the assembly of the *centumviri*, all the inquisitors were respected citizens, who possessed inherited property in the town and paid tax. There is scarce data concerning their personality, their knowledge in juridical and economical matters, or their experience in the hereditary practices of the town. However, by analyzing their careers as office-holders and their other activities performed before or by the time they were elected as inquisitors, we can draw certain conclusions on these matters. András Ötvös worked as a steward (*dispensator*; *sáfárpolgár*), auditor (*exactor*; *számvevő*) and tax rectifier (*dicator*; *vonásigazgató*),³⁰ similarly to Andreas Beuchel, who had taken part in the administration of the town's incomes as an auditor and tax rectifier.³¹ Balázs Fábián worked as a mill supervisor (*malombíró*) and as the butchers' supervisor (*látómester*),³² Stephanus Mintler/Palástos was the captain of a town-quarter (*capitaneus quartae*, *fertálykapitány*) and the butchers' supervisor,³³ Paulus Vildner had been judge of the

trade (*iudex fori, vásárbíró*)³⁴ and Imre Sala was a member of the goldsmith's guild and worked as hospital master (*magister xenodochii, ispotálymester*) too.³⁵ Through these offices they presumably acquired a considerable practical knowledge that could be effectively utilized in the administration of the town's income. Regarding their juridical knowledge it is known that Ötvös had become a member of the inner council even before being elected as inquisitor, and often took part at the court interrogations as the town's official emissary. In the year 1585 he represented the town at the court of justice of the prince in Alba Iulia (*Gyulafehérvár, Weissenburg*).³⁶ Nyíró and Mintler had often been engaged as arbiters (*fogott bírák*) in debates between citizens concerning properties or other assets.³⁷ István Jenei/Szabó was mentioned as clerk (*literatus, deák*), which may suggest that he had certain juridical knowledge; in the case of Gergely Balásfi it is merely presumed that he possessed juridical training as well.³⁸ In April 1583 Imre Sala was sent by the court to intervene and gather information about a debate on property rights between two citizens.³⁹

Based on these data one may affirm that these officials possessed higher knowledge than the average citizens concerning the juridical and economical matters of the town. Additionally there is no reference to any other advocacy activity in the case of either of these officials, a fact which repeatedly confirms our assumption, that the inquisitors had indeed taken part only in the trials initiated by the town as public authority. The inquisitors are nowhere to be found in the trials of the town magistrate started against other municipalities; well-known advocates from the counties or from the town were hired in those cases.

Regarding their careers after leaving the office of inquisitors, many of them were elected as tax rectifiers, tax collectors, auditors or they were assigned as arbiters. Only some of them acquired the highest positions in the town magistrate: András Ötvös became first judge and royal judge of the town, Andreas Beuchel had been elected as a member of the inner council and afterwards he became royal judge as well.⁴⁰ The sources, hence, reveal that the office of the inquisitors did not necessarily provide opportunities for spectacular and rapid professional, social or material mobility for their office-holders. Even if András Ötvös eventually managed to access important state offices, it happened mainly owing to his wealth and his economical and social relations. Although all of them were members of the council of the hundred, implying prestige, honour and notable positions, they did not necessarily belong to the highest elite, nor to the most determinant characters of the town's management. The two persons that do not fit the pattern were the inquisitors between 1587 and 1588, András Ötvös and Andreas Beuchel. They were elected, however, in the period when the assembly of the *centumviri* was trying to delineate the competence of the inquisitors, and by the election of more influential characters they attempted to urge the development of the institution.

The Inquisitors in the Judicial Practice of the Town

IN WHAT follows, we will try to demonstrate the influence of the institution on the judicial practice of the town through the investigation of lawsuits initiated by the inquisitors. The registers of the *centumviri* reveal that the inquisitors were required to intervene in cases like homicide, adultery, fornication, slander, bigamy, or against the disturbers of the town's peace and order.⁴¹ Furthermore the *centumviri* firmly requested their involvement in the pursuit, arrest and conviction of the wine smugglers as well.⁴² Occasionally they intervened against those who refused to pay taxes on town estates and services.⁴³ At the beginning of 1602 the inquisitors were asked to bring to court all those citizens who during the recent war times had left the town by joining the enemy and returned there only after the danger had passed.⁴⁴

The judicial records of the town provide further data on the activity of the inquisitors.⁴⁵ For the beginning we have to focus on the relationship between the inquisitors and the advocates of the town, and on the appearance of the inquisitorial procedure in the judicial activity of the town. As mentioned before, the latter is linked to the person of György Igyártó, who as the town's advocate had issued 19 trials between 1584 and 1586 in cases involving witchcraft, homicide, fornication, adultery, theft, and arson. In the same period the inquisitors themselves have acted six times against people who committed homicide, fornication, rape, blasphemy and acquired illegally amnesty from the prince. Thus, we might draw the conclusion that in the above mentioned period the competences of the town attorneys and of the inquisitors had not yet been clearly distinguished, causing numerous overlaps in their activities. It is, however, obvious, that due to their joined action the percentage of the procedures started through public initiation had increased in the town-court. Hence, the spread of this type of procedure resulted directly in the increasing number of criminal suits, a process in which besides the town attorneys the inquisitors played a major role as well.

The records of the 1590s show that, according to the ordinance of the council enacted in 1587, the inquisitors had indeed taken over the initiative in every public initiated trial. The analysis concerning the types of lawsuits initiated by the inquisitors reveals the following:

The inquisitors focused on the crimes that endangered the security and public order of the town's society, mainly the security of the human life, the family and public morality, and to a lesser extent they dealt with trials concerning the material belongings of the citizens.

While comparing the number of the trials initiated by the inquisitors to the overall number of the trials of the same type, one can easily notice that some types have occurred exclusively due to the intervention of the inquisitors; moreover, in other cases – like in charges of fornication, adultery and homicide – the number of the cases had doubled. Thus, before the appearance of the public initiated procedures, the principals of such crimes were more likely to escape the penalty than afterwards. The most illustrative is the case of sexual crimes – fornication and adultery –, in which the inquisitors were the suitors in almost two third of the cases. There are several adultery cases, in which one of the parties had been charged with adultery, while the other with the concealment of the crime; thus, in such cases the initiation of a private procedure was highly improbable.⁴⁶

Investigating all these aspects strictly in respect of the homicide trials, the following image emerges:

A – total number of trials; **B** – number of the public initiated trials (p - procurators)⁴⁷;
C – percentage of the trials initiated by the inquisitors

For the beginning we must point out that from the 1580s, in parallel with the spread of the public initiated procedures, the number of homicide charges had suddenly increased. The inquisitors together with the advocates of the town, initiated the procedures as public prosecutors in 25% of the cases; meanwhile, due to their appearance, new, previously unknown types of trials (infanticide, murder and robbery) occurred before the court. In the last decade of the century, after the inquisitors had entirely taken over the control of the inquisitorial procedures, we cannot, however, notice a growth in number of the procedures, but the rate of their presence in these procedures had doubled and further increased the number of new type of trials. They had brought to court for the first time parents accused with filicide, and summoned to court a former inquisitor and member of the *centumviri*, Gergely Balásfi, with the accusation of hiring a murderer.

Concerning the outcome of the cases initiated by the inquisitors, we investigated the sentences given by the court. Of the fourteen homicide trials in five cases the sentences are missing. Two cases of assassination and robbery and one of murder ended with the accused persons being sentenced to death. Three maids accused with infanticide were banned out of the town, because, although the charges of infanticide couldn't be confirmed, the fact that they had given birth to children attested their illicit relationships. Three men accused of beating their child to death had been condemned to death in first instance, but in appeal the jurors changed the sentences, based on the lack of evidence, giving them the opportunity to save themselves by oath. These figures show that in 66% of the cases the accused were condemned, and in the rest of the cases only the lack of evidence spared the life of the accused.

The same pattern emerges if examining all the trials initiated by the inquisitors in the 1590s. Without taking into account the unknown sentences, 70% of the cases ended with the condemnation of the accused, and only in 30% of the cases the defendant got the opportunity to free himself by oath. It must be emphasized that in these latter cases the culprits got the chance to free themselves only due to the lack of evidence, not because their innocence had been proven.

Nevertheless we know of a single case in which the defendant swore on his innocence being discharged this way, while in all the other cases the historical records are missing. These data reveal the effectiveness of the initiatives of the inquisitors, and although not all their cases ended up with conviction, they succeeded in facing the accused with justice, an act that could become an exemplary measure for other eventual criminals as well.

In most of the cases their intervention was of crucial importance due to the fact that often the circumstances of the crime – the time and the location, the extermination of the victim, the lack of the witnesses – considerably facilitated the escape of the criminals and limited the interference of private accusers to a great extent. In cases of domestic violence the presence of the inquisitors had also proven to be determinant taking into consideration the fact that the intervention of private accusers in such cases was highly improbable. Hence, by their interventions the protection of the family, and in broader terms, through the family, the protection of the whole society as well had benefited.

The introduction of the inquisitorial procedure, besides having increased the number of the homicidal cases and having introduced new types of suits, also resulted in certain changes in the private initiated cases. Namely, in the late 1590s, in cases of feticide or murders with robbery, besides the inquisitors private persons appeared as well as demandants.

Finally, the analysis of the records of the town accounts reveal further types of trials initiated by the inquisitors, such as actions prosecuted for crimes like bigamy, arson, failure to accomplish the assumed work in the vineyards of the town, or wine selling at an unjustified high price.⁴⁸

Conclusions

HOWEVER, DUE to the shortage of the historical sources it is yet impossible to determine the precise role of the institution in the judicial practice of the town, especially at the beginning of its activity; nevertheless, there is enough data to attest that the appearance of the inquisitors stimulated greatly the development of the judicial practice of the town. Their appearance coincides with the spread of the inquisitorial procedure, but their role gained importance most probably after the year 1587, when their competences and duties had been accurately delineated by the *centumviri*. The inquisitors were charged to take up the efforts of the town's magistrate that had been trying since the middle of the century to provide an institutional frame for the persecution and the punishment of those criminals who endangered the order of the town and the society. The growth in number of both the type of the crimes prosecuted and the number

of criminal trials started through private or public initiation at the court of the town proves a more effective impeachment of the criminals; furthermore, it clearly indicates the growing role of justice in the disciplining process of the society. The fact that in the last decade of the 16th century only 10% of the trials started at the court of the town were initiated through public initiation also indicates that the *replacement of private by public authority* in this disciplining process was only at its beginnings.⁴⁹

The changes occurred in the judicial practice of the town due to the spread of the inquisitorial procedure and the establishment of the institution of inquisitors can be listed among other political, social and religious changes noticeable in the second half of the 16th century. These are all closely linked to the town's endeavour to become independent from Sibiu (Hermannstadt, Nagyszeben) and from the whole Saxon *Universitas* in every aspect of the town-life, actually to the eventual effects of this endeavour. From the end of the 1550s, when in terms of the appealing authority of the town's court the magistrate managed to gain independence from the Saxon *Universitas*, an extensively and profoundly normative domestic jurisdictional system was required. Thus the establishment of the institution of inquisitors is most certainly one of the results of these rationalizing and reorganizing actions taken within the judicial apparatus of the town.



Translated by DALMA GÁL

Notes

1. [András Kiss], "Primăria municipiului Cluj-Napoca" (The archive of the municipium of Cluj-Napoca), in *Îndrumător în Arhivele Statului. Județul Cluj* (Guide to the National Archives. Cluj county) vol. 2 (Bucharest, Direcția Generală a Arhivelor Statului din Republica Socialistă România, 1985), 64; Idem, "The First and Last Witchcraft Trial in Kolozsvár", in *Studies in the History of Early Modern Transylvania*, ed. Gyöngy Kovács Kiss (Boulder, Colorado: Social Science Monographs; Highland Lakes, New Jersey: Atlantic Research and Publications, Inc; New York: Columbia University Press, 2011), 509, 520.
2. The first case in which they are mentioned reveals that together with a town attorney – György Igyártó – they set free a woman charged with witchcraft in exchange for a certain sum of money. In the same year the inquisitors were mentioned again, when they summoned to court a man charged with rape. Romanian National Archives Cluj County Branch, Cluj-Napoca (Direcția Județeană Cluj ale Arhivelor Naționale, Cluj-Napoca; hereafter cited as: Nat. Arch. Cluj), The Town Archive of Cluj (Arhiva orașului Cluj; hereafter cited as: TAC), *Court Protocols* (Protocoalele de judecată; hereafter cited as: CP), II/7, 350–352, 586. – László Pakó, "A korrupt boszorkányüldöző. Igyártó György prókatori tevékenységéről" (The corrupt witch-hunter.

- On the advocatorial career of György Igyártó), *Erdélyi Múzeum* 73, no. 3–4 (2011): 96.
3. Kiss, “Witchcraft”, 500–505.
 4. In the second half of the century the town council annually repeated its orders against the nightly disturbers of silence, sleigh-riders, pub attendants, gamblers, loafers, blasphemous people, bullies, and against suspicious and vicious women. The prohibitions regarding feasting and mask-wearing on the streets of the town can be listed in the same category. Nat. Arch. Cluj, TAC, *Regestrum Centumvirovorum* (Protocoalele adunărilor generale; hereafter cited as: *RCv*), I/1, 13; I/3, 11^v, 108, 141^v–142, 143, 154, 161^v, 183–183^v, 197^v, 241, 249^v; I/4, 3, 6, 15^r–15^v; I/5, 1^v, 2, 3, 6, 21^v, 22, 31, 35^v, 49^v, 57, 61^v, 63, 64^r, 84, 88, 98, 105, 106–106^v, 111^v, 113^v, 115, 116, 116^v, 122^v, 137^v–138, 146^v, 148^v, 156^v, 180, 183^v, 184, 214; Elek Jakab, *Kolozsvár története* (The History of Cluj), vol. 2. (Budapest: Kolozsvár város közönsége, 1888), 113–114, 187–188, 349; András Kiss, “Farsangolás Kolozsvárt – 1582-ben” (Carnival in Cluj in 1582) in Idem, *Források és értelmezések* (Sources and interpretations) (Cluj-Napoca and Bucharest: Kriterion, 1994), 103–109.
 5. Laura Ikins Stern, *The Criminal Law System of Medieval and Renaissance Florence* (Baltimore and London: The Johns Hopkins University Press, 1994), 5–6, 299; Eadem, “Inquisition Procedure and Crime in Early Fifteenth-Century Florence,” *Law and History Review* 2 (Fall 1990): 299; Brian P. Levack, “State-building and Witch Hunting in Early Modern Europe,” in *Witchcraft in Early Modern Europe. Studies in Culture and Belief*, eds. J. Barry, M. Hester, G. Roberts (Cambridge: Cambridge University Press, 1996), 97, 104.
 6. Ikins Stern, *The Criminal Law*, 228; Eadem, “Inquisition,” 298; Eadem, “Public Fame in the Fifteenth Century,” *The American Journal of Legal History* 2 (Apr 2000): 198.
 7. The codices of the *Wormser Reformation* (1498), the *Constitutio Criminalis Bambergensis* (1507) and the *Constitutio Criminalis Carolina* (1532) were already based on the dichotomy of the adversarial and the inquisitorial procedures, and their dominant procedure was the inquisitorial. György Bónis, *Buda és Pest bírósági gyakorlata a török kiűzése után 1686–1708* (The judicial practice of Buda and Pest after the expulsion of the Turks 1686–1708) (Budapest: Akadémiai kiadó, 1962), 71–72.
 8. Kiss, “Witchcraft”, 509. After the analysis of the criminal dispositions of the *Statuta Iurium Municipalium Saxonum in Transylvania* from 1583, Günther H. Tontsch pointed out at the same time that even the statutory criminal law of the Saxons still preserved a private character in a great number of crimes, although in the rest of the Transylvanian law in the 16th century the intervention of the state, the so-called “publicizing” of the criminal prosecution, denotes generalizing trends. Günther H. Tontsch, “Dispozițiile penale ale statutelor municipale săsești din anul 1583” (The criminal regulations of the Saxon municipal statutes from 1583), *Studia Universitatis Babeș-Bolyai. Series Iurisprudentia* 18 (1972): 84.
 9. *RCv* I/3, 67^v. – There is evidence of a case issued between 1556 and 1566, and another from the year 1570 when the inner council instructed two town attendants to sue those who had committed adultery. In my opinion, these attempts are private suits

- launched to the impulse of the town, rather than public initiated procedures. *CP* II/5, 87–90, 104–105.
10. He initiated lawsuit against delinquents who jeopardized the morality, security, life and properties of the town dwellers. Amongst the charges there were as follows: fornication, adultery, pandering, witchcraft, mendicancy, fraud, theft, assault, robbery, arson, infanticide. *CP* II/7, 206–209, 215–223, 222a-b, 225–228, 243–252, 254–259, 261–266, 268, 270–272, 275–278, 281, 285–287, 301–303, 453–454, 455, 458–459, 491–493, 502, 559, 561–574, 603, 608a-b; Andor Komáromy, *Magyarországi boszorkányperek oklevéltára* (Charters of Hungarian witch-trials) (Budapest: Magyar Tudományos Akadémia, 1910), 27–71; Nat. Arch. Cluj, TAC, The Town Accounts of Cluj (Socotelile oraşului Cluj; hereafter cited as: *TA*), 3/XXIV, 12; 3/XXV, 1–3.
 11. He brought Anna Rengő in front of the court charging her of organizing illegal carnivals in the town. Thus a long conflict emerged between them. Rengő accused him of poisoning his wife, of adultery, furthermore of the murder of his own son, who was born from his illicit affair. In response between 1582 and 1583 Igyártó summoned to court with the charge of witchcraft, adultery, pandering, slander, theft and false testimony the witnesses that testified against him in the above mentioned case. *CP* II/7, 106–108, 126–127, 137–140, 142–143; Kiss, “Farsangolás,” 103–109; Komáromy, *Magyarországi boszorkányperek*, 23–26; László Pakó, “Bíróság elé került boszorkányvádaskodás Kolozsvárt, 1592–1593” (Witchcraft accusation at the court of Cluj, 1592–1593), *Korunk* 5 (2005): 98–107.
 12. From April 1586 onwards there is evidence on legal actions launched by Igyártó against Lukács Beregszászi, against the attendant of the latter and against Zsófia Teremi. According to the testimonies, Igyártó was involved in several cases where he himself acted as the legal representative of both parties, or made secret arrangements with the opponents of his own clients; moreover, he even abandoned his own client taking the part of the opponent. As the town’s procurator he had set free prisoners and dropped the charges against them in return for material goods. *CP* II/7, 583–594, 584c-j, 615–621; Pakó, “A korrupt boszorkányüldöző,” 97–100.
 13. *RCv* I/5, 24^v–25.
 14. *RCv* I/5, 65.
 15. For further information on their careers, see: Ágnes Flóra, “«From Decent Stock»: Generations in Urban Politics in Sixteenth-Century Transylvania,” in *Generations in Towns: Succession and Success in Pre-Industrial Urban Societies*, eds. Finn-Einar Eliassen and Katalin Szende (Newcastle upon Tyne: Cambridge Scholars Publishing, 2009), 223–224; Eadem, *Prestige at Work. Goldsmiths of Cluj/Kolozsvár in the Sixteenth and Seventeenth Centuries* (Saarbrücken: VDM, 2009), 44, 51–52; András Kiss, “Egy XVII. századi irodalom pártoló polgár” (A bibliophile citizen from the 17th century), in Idem, *Források*, 189–190; Veronka Dáné, “A Trauznerek a fejedelemség korában” (The Trauzners in the time of the Transylvanian principality), in *Emlékkönyv Kiss András születésének nyolcvanadik évfordulójára* (Festschrift on the 80th birthday of András Kiss), eds. Sándor Pál-Antal, Gábor Sipos, András W. Kovács, and Rudolf Wolf (Cluj-Napoca: Erdélyi Múzeum-Egyesület, 2003), 81–89.
 16. *CP* II/8, 136–139; *TA* 5/XIV, 9.

17. CP II/9, 400–401, 419a–c, 419.
18. CP II/9, 416.
19. László Pakó, “Hatalmi konfliktus vagy területi összefogás? A kolozsvári százférfiak tanácsa és a városi igazságszolgáltatás a 16. század második felében” (Conflict of power or corporative bond? The assembly of the *centumviri* and the jurisdiction of Cluj in the second half of the 16th century), *Erdélyi Múzeum* 72, no. 3–4 (2010): 82–83.
20. CP II/8, 246–251.
21. Elek Jakab, *Oklevéltár Kolozsvár történetének második és harmadik kötetéhez* (Charters to the history of Cluj) (Budapest: Magyar Kir. Egyetemi könyvnyomda, 1888), 97–98 (charter no. L.)
22. In an ordinance from February 1580 the *centumviri* had appointed either the town’s procurators, or the jurors for the management of these tasks. RCv I/3, 211.
23. In April 1588 they asked the inquisitor to summon the widow of an apothecary, because together with her lover they had lavished the fortune of her orphan; the fortune, which, in case of the child’s death, would have fallen into the property of the town. RCv I/5, 220.
24. The accounts of the inquisitors from the years 1590–1598 provide several examples. TA 4/XVI, 15; 5/III, 22; 5/XI, 21, 23; 5/XIV, 9–12; 5/XVII, 22; 5/XX, 167–182; 6/V, 18; 6/XI, 28; 6/XIX, 28; 7/IV, 27; 7/X, 1; 7/XVI, 95–98; 8/IV, 31.
25. TA 5/XX, 177, 181.
26. In the autumn of 1592 a widow appealed the town court, determined to prove the blood-relationship between her and Balázs Nagy, by right of which she could claim goods that had been previously taken by the inquisitors. CP II/8, 284–285. For other similar cases from 1593 and 1600 see: CP II/8, 386; II/9, 447.
27. Zsolt Trócsányi, *Erdély központi kormányzata 1540–1690* (The central government of Transylvania 1540–1690), A Magyar Országos Levéltár kiadványai III: Hatóság és hivataltörténet no. 6 (Budapest: Akadémiai kiadó, 1980), 363.
28. For further information about the parity system in the election of the town officials, see: Ágnes Flóra, “A Portrait of the Urban Elite of Kolozsvár in the Early Modern Period,” in Kovács Kiss, *Studies in the History*, 452–453.
29. Due to the scarcity of the documents in the cases of Sala, Ötvös, Beuchel, Fábíán, Mintler and Szabó even longer periods spent in the office might be considered.
30. TA 3/II, 22; 3/VI, 8, 11; 3/X, 8, 10; 3/XXIX, 1; 4/II, 1a; 6/V, 1a; RCv I/4, 2; I/5, 19^v, 20^v, 47, 49^v, 59^v, 104^v, 126, 146^v; Pál Binder: *Közös múltunk* (Our Common Past) (Bucharest: Kriterion, 1982), 301.
31. TA 3/XXIII, 1; 3/XXIX, 1; 5/XVII, 1; 6/XIX; RCv I/5, 29, 30^v, 60^v, 61, 62, 87^v, 104^v, 114.
32. TA 3/VI, 12; 3/X, 12; 3/XIV, 14; 3/XX, XXIII, 12; RCv I/3, 160, 204^v, 249^v; I/5, 2^v, 58.
33. RCv I/5, 58.
34. RCv I/5, 2^v, 11^v, 50^v, 63; TA 4/XXI, 49; 6/VIII, 214.
35. TA 3/XV, 21; 3/XXIII, 12; RCv I/5, 3 (data by courtesy of Enikő Rüszt-Fogarasi); Ágnes Flóra, “Kolozsvári ötvösregesztrum (1549–1790)” (The register of the goldsmith

- guild in Cluj 1549–1790), in *Lymbus. Magyarságtudományi Forrásközlemények* (2003): 34.
36. *RCv* I/3, 248^v; I/4, 2; I/5, 1^v; *CP* II/7, 16, 25, 27, 401, 491, 503, 507, 528; *TA* 3/XXII, 5, 63.
37. Márton Nyíró is mentioned in the year 1593 as he witnessed, together with Gergely Vas, a division between the wife of Lukács Kötélverő and István Zsemlesütő concerning their great grandmother's heritage. *CP* II/8, 328. In November 1590, after their divorce, Illés Fodor and his former wife Angalit had divided their wealth in the presence of the following arbiters: Stephanus Mintler/Palástos, Péter Fejér and György Szabó. András Kiss, *Oklevéltár Kolozsvár történetéhez* (Charters to the history of Cluj) (manuscript by courtesy of András Kiss.)
38. Zsolt Bogdándi, "A kolozsvári Balásfiak. Egy deákcsalád felemelkedése a 16. században" (The Balásfi family from Kolozsvár. The rise of a clerk family in the 16th century), *Református Szemle* 6 (2003): 809.
39. *CP* II/7, 180.
40. *RCv* I/5, 49, 179^v, 200^v, 246^v, 273^v; I/6, 2; *TA* 6/XXIX, 76; Binder, *Közös múltunk*, 283–284.
41. *RCv* I/5, 31, 198, 269; Sándor Kolosvári and Kelemen Óvári, *Corpus statutorum Hungariae municipalium. A magyar törvényhatóságok jogszabályainak gyűjteménye* (The collection of the laws of Hungarian legal authorities), vol. 1 (Budapest, Magyar Tudományos Akadémia Történelmi Bizottmánya: 1885), 231–232.
42. *RCv* I/5, 113^v–114, 115, 214^v, 269.
43. *RCv* I/5, 134, 255^v.
44. *RCv* I/5, 205^v.
45. Our research is based on the records issued between the years 1582–86, 1590–94, and 1597–1600.
46. In the year 1593 both Mihály Kis and his wife were brought to court by the inquisitors due to the fact that, although the husband had reported to the authorities the adultery committed by his wife, they fled the town together. *CP* II/8, 369–370; *TA* 5/XX, 170, 176; 5/XXI, 17. In 1600 the inquisitors summoned István Asztalos, his wife and two other women to court. The women were cited because in the absence of the husband they have met young men in his house; and Asztalos was summoned because he failed to denounce the women to the authorities, although he was aware of their deeds. *CP* II/9, 394–395, 404.
47. No indication means that the inquisitors were the accusers.
48. *TA* 5/XIV, 10, 12; 5/XX, 170, 173–174; 6/XVII, 133–134.
49. As a comparison, in Florence between 1425 and 1428 71.8% of the trials from the court of the town were started through public initiation. Moreover, previous research has also shown that the process of replacement of private authority in initiating the prosecutions had already been in progress by the middle of the 14th century. Ikins Stern, *The criminal law system*, 203–204.

Abstract

The Inquisitors in the Judicial Practice of Cluj at the End of the 16th Century

The two inquisitors of the town (*inquisitores malefactorum*) are mentioned for the first time in the judicial protocols of the town in 1584, but the first regulation of their duties dates from March 1587. The establishment of the institution was marked by a series of circumstances: the growing efforts of the town officials to tighten the control over the community of the town, the introduction of the inquisitorial procedure, and the judicial activity of a town-advocate called György Igyártó. The inquisitors were charged to take action against criminals in cases that did not involve private accusation, and gained an important role in the management of the town's revenues as well. The two inquisitors were annually elected among the *centumviri*. Their activity focused on the crimes that endangered the security and public order of the town's society – mainly the security of the human life, the family and public morality – and to a lesser extent on trials concerning the material belongings of the citizens. The data presented shows that the appearance of the institution stimulated greatly the development of the judicial practice of the town. They were charged to take up the efforts of the town's magistrate to provide an institutional frame for the persecution and punishment of the criminals. The growth in number of both the type of the crimes prosecuted and the number of criminal trials started through private or public initiation at the court of the town proves a more effective impeachment of the criminals; furthermore, it clearly indicates the growing role of the justice in the disciplining process of the society. These changes can be listed among other political, social and religious changes of the second half of the 16th century, that are closely linked to the town's endeavour to gain full independence in every aspect of the town-life.

Keywords

Early Modern Transylvanian legal system, judicial practice of Cluj, inquisitorial procedure, social disciplining, inquisitor, town-advocate, town magistrate, homicide