The Sacra Romana Rota

1. What was the medieval Sacra Romana Rota?

The Sacra Romana Rota, or officially *Audientia sacri palatii*, was the supreme court of the papal curia. The origins of this still functioning tribunal can be found already in the 12th century, but its jurisdiction was officially defined much later, in 1331, through the promulgation of the constitution *Ratio iuris* by Pope John XXII (pontiff 1316–34). The jurisdiction of the Rota increased over the whole period of Middle Ages and the tribunal reached the peak of its influence at the turn of the 15th and 16th centuries. In the course of the 16th and especially 17th centuries the popes diminished little by little the jurisdiction of the Rota and entrusted its tasks to various "congregations" that were established in the spirit of reforming the papal administration.[1] The influence of the Rota decreased throughout the 17th and 18th centuries until the tribunal lost the remainder of its juridical competences in 1870, when Italian troops conquered the Papal States and incorporated the territory into the Kingdom of Italy. In 1908, when Pope Pius X (pontiff 1903–14) reorganized the papal administration, the Sacra Romana Rota was re-established with the promulgation of the constitution *Sapienti Consilio*.[2] This article focuses on the history and functioning of the Rota during the period of its highest influence, the 15th and 16th centuries.

In the late Middle Ages and on the Eve of the Reformation, the Sacra Romana Rota had a twofold competence. First and foremost the Rota was the highest tribunal of appeal in the ecclesiastical court system. It was possible to appeal to the Rota after a sentence pronounced by a local ecclesiastical court. Typically these cases were first handled at local episcopal or archiepiscopal courts and the Rota functioned as the last resort for those who thought that they would not get justice locally. The 15th and 16th-century source material of the Sacra Romana Rota shows that Christians from all over Christendom appealed to the Rota. The litigation handled by the Rota in the capacity of tribunal of appeal all fell within the competence of ecclesiastical jurisdiction generally.

[1] About the historical development of the papal administration, *Niccolò Del Re*, La Curia Romana: lineamenti storico-giuridici. Quarta edizione aggiornata ed accresciuta. Sussidi eruditi 23. Edizione di Storia e Letteratura (Roma, 1998).
[2] The development of the jurisdiction of the Rota in different Christian centuries is described in details in *Stefan Killermann*, Die Rota Romana. Wesen und Wirken des päpstlichen Gerichtshofes im Wandel der Zeit. Adnotationes in ius canonicum 46 (Frankfurt a.M., 2009), *passim.* See also *Per Ingesman*, Provisioner og processer. Den romerske Rota og dens behandling af danske sager i middelalderen (Århus, 2003), p. 85 – 110; *Kirsi Salonen*, Papal Justice in the Late Middle Ages: The Sacra Romana Rota. Church Faith and Culture in the Medieval West. (Abingdon, 2016), p. 18 – 31.

In practice this included disputes concerning the church or ecclesiastical institutions or their rights, quarrels involving persons belonging to the clergy or issues which were of a purely ecclesiastical nature, such as individuals' rights to choose their burial place or validity of a marriage. Secondly, the Rota functioned as a tribunal of first instance for persons who were subjects of the diocese of Rome or of the Papal States. If necessary, in these cases the appeal took place in the Rota too. The Rota sources demonstrate that Christians used the tribunal also for this purpose. The Rota's jurisdiction in the second role as local ecclesiastical tribunal included – in addition to disputes of ecclesiastical nature – also certain civil issues, *causae profanae*, including for example property litigations between lay people.

Due to the double competency, the activity of the Rota was intertwined both with the activities of the other papal tribunals functioning in the Roman curia and with the activities of the network of lower level ecclesiastical tribunals. In the first case, the jurisdiction of the Rota was defined in respect of the other curial tribunals so that the Rota could not handle criminal cases, which were reserved for the authority of the tribunal called *Audientia Camerae*, or cases related to the authority of ecclesiastical tribunals to pronounce sentences locally, which were handled by the *Audientia litterarum contradictarum*. In the second case, the Rota can be considered as a kind of model tribunal for the local ecclesiastical courts. The litigants could appeal from local sentences to the Rota but at the same time the local courts must follow the principles defined by the supreme papal court.[3]

The organization of the Rota was basically very simple, the main actors being judges (*auditores*) and notaries. Auditors played the main role in the tribunal because their task was to judge in the litigation. The Rota auditors were professional lawyers of high qualification. The constitution *In apostolicae dignitatis* of Pope Martin V (pontiff 1417–31)[4] defined in detail the requirements for candidates who desired to become auditors. According to the constitution, the auditors had to be famous doctors of jurisprudence (either canonists or legists (i.e. civilians) – or preferably experts in both laws) and they must have taught law at a university for at least three years. Additionally, they had to have a permanent position that would guarantee them a yearly income of at least 200 gold florins and it was a prerequisite that they had conducted a decent life and had a good reputation. These high expectations meant that only a few men were eligible as auditors. After the renewal of the activity of the Rota in 1472 by Pope Sixtus IV (pontiff 1471–84) the number of auditors was

[3] *Salonen,* Papal Justice, p. 13 – 17.
[4] Edited in *Michael Tangl* (ed.), Die päpstliche Kanzleiordnungen von 1200 bis 1500 (Innsbruck, 1894), p. 133 – 145.

restricted to twelve. In principle, the twelve auditors resolved individually each litigation but in difficult cases or in cases of doubt they could consult the opinion of their peers.[5]

Each of the twelve auditors had in their service four notaries, who took care of the practical side of the activity of the tribunal. Their task was to write down, for the whole duration of a process, the acts in each litigation process entrusted to them by the responsible auditor and to make sure that all relevant documents for the process were composed in a correct way. Additionally, the notaries often assisted the auditors in the interrogation of witnesses or examination of documents handed over to them. The professional requirements for notaries were quite strict too. Notaries had to be at least 25 years old and they had to have experience acting as notaries somewhere else in addition to which they had to be men of good reputation. Originally, the notaries were directly employed by the auditors but the constitution *Sicut prudens pater* of Sixtus IV from 1477[6] changed this system. From then on, the notaries were employed directly by the curia and they were no longer dependent on the auditors.[7]

In addition to auditors and notaries who were officially employed by the papal curia the persons litigating in the Rota used the services of advocates and procurators. Advocates represented their clients and took care of their interests before the tribunal, while procurators helped the advocates and their clients in more practical issues. For example they ensured that correct documentation was handed over to the notaries in due time. The advocates and procurators were not employed by the Rota but received their salaries directly from their clients. Additionally, the Rota processes created work for other persons working at the papal curia, for example copyists writing down necessary documents and messengers carrying them around.[8]

The premises of the Sacra Romana Rota were located at the heart of the ecclesiastical administration, in the papal palace. The first mentions of a location especially designed for the Rota are from the times of the Avignon papacy, when Pope Benedict XII (pontiff 1334–42) reserved premises both for the Rota and for the *Audientia litterarum contradictarum* in the papal palace he

[5] About auditors, *Emmanuele Cerchiari*, Capellani Papae et Apostolicae Sedis Auditores causarum sacri palatii apostolici seu Sacra Romana Rota ab origine ad diem usque 20 septembris 1870. Relatio historica-iuridica, Vol. I. Relatio; Vol. II. Syntaxis Capellanorum Auditorum; Vol. III. Documenta; Vol. IV. Formae et Indices (Rome, 1919–1921), *passim*; *Ingesman*, Provisioner og processer, p. 112 – 122; *Salonen*, Papal Justice, p. 32 – 37.
[6] Edited in *Cerchiari*, Capellani Papae III, p. 191 – 195.
[7] About notaries, *Ingesman*, Provisioner og processer, p. 123 – 131; *Salonen*, Papal Justice, p. 37 – 39.
[8] About other persons working for the Rota, *Ingesman*, Provisioner og processer, p. 131 – 134; *Salonen*, Papal Justice, p. 39 – 41.

had let build in Avignon.[9] During the Roman papacy, instead, the Rota had its premises (*palatio causarum apostolica*) close to St. Peter's Basilica in the Vatican. The Rota auditors met there for their common gatherings, *audientiae*, during which they resolved and discussed the litigation processes. However, the activity of the Rota took place also elsewhere, since the Rota notaries used to work at home or in the building where the auditors they were working for were living. The Rota sources, for example, give evidence how the notaries interrogated witnesses in the house of the responsible auditor.[10]

2. The birth and development of the Sacra Romana Rota

The Sacra Romana Rota – as all other contemporary papal offices and tribunals – was never officially founded through a papal constitution or bull but it simply developed little by little into the highly influential tribunal which it was at the Eve of Reformation. The history of the Rota is directly connected to the need to reform and centralize the papal administration, and to the development of canon law in the late 12th century but especially in the course of the 13th century.

Even though the popes had handled various juridical controversies in their role of supreme judge in Christendom since the first Christian centuries, the history of the Rota cannot be directly connected to so early period even though this has been suggested sometimes.[11] It is possible to connect the history of the Rota to the high Middle Ages, when the practice of bringing juridical issues before the Holy Father became more common. Many 11th-century pontiffs are known as active developers of the papal administration and consolidators of juridical powers of the papacy. One of them was Gregory VII (pontiff 1073–85) who specified in 1075 in *Dictatus papae* that all *causae maiores* were from that date onwards reserved to the papal jurisdiction. His 12th century successors, in particular Alexander III (pontiff 1159 – 81) and Innocent III (pontiff 1198–1216), are known as fervent developers of canon law and thereby also of papal jurisdiction. In fact, some scholars attribute the creation of the Sacra Romana Rota to Pope Innocent III because it was during his pontificate that the resolution of juridical problems brought before the pope – who was

[9] Concerning the papal palace in Avignon and the premises of the Rota there, see *Gabriel Colombe,* Au palais des papes d'Avignon. Recherches critiques et archéologiques, XXI. La "rota" de la Grande Audience (Paris, 1921); *Gabriel Colombe,* A propos de la 'rota' de l'Audience au Palais d'Avignon (Marseille, 1926); *Gabriel Colombe,* Au palais des papes d'Avignon. Nouvelles recherches critiques et archéologiques, XXIII. Le quartier de l'auditeur général (Paris, 1941).
[10] ASV, *S. R. Rota, Manualia Actorum* 12, fol. 70r: "… in domo habitationis reverendi patris domini Johannis episcopi Nucerinensi…". *Salonen,* Papal Justice, p. 73 – 75.
[11] *Killermann,* Die Rota Romana, p. 14 – 20.

overburdened with so many different kinds of issues to resolve – was for the first time systematically delegated not only to judicially qualified cardinals collaborating with the pontiff but also to papal chaplains.[12]

In the course of the 13th century, the papal chaplains took over the handling of juridical issues at the papal curia.[13] As the handling of numerous cases became a full-time occupation for them, the papacy had to take care of their livelihood. Originally, the papal chaplains received their income from an ecclesiastical benefice they were appointed to, but when they became permanent papal judges this temporary solution of providing a livelihood had to be reconsidered. The jurist-pope Innocent IV (pontiff 1243–54) was especially active in resolving the problem and, indeed, the sources from his pontificate mention for the first time the *auditores generales causarum palatii*, which indicates a move towards a more stable and permanent institution of papal judges and thereby the existence of an institutional predecessor of the Rota.

The 12th and 13th-century developments both in papal administration and jurisdiction meant the concentration of the highest ecclesiastical powers in juridical matters into the hands of the pope, who due to his extensive activities could not take care of resolving the cases personally and therefore delegated them to the authority of various officials of the papal curia. This was the first step towards the birth of the Rota as a permanent and official ecclesiastical tribunal. But the Rota did not receive an official status before the promulgation of the constitution *Ratio iuris* of Pope John XXII on 16 November 1331.[14] Even though the *Ratio iuris* cannot be considered as the founding document of the Rota, since it only established the practices already existing in the tribunal, the constitution is extremely significant for the history of the Rota because it clarifies and specifies for the first time many matters which earlier had remained undefined. It also had long-lasting effects, because the constitution remained in force until the early modern period. Other Avignon popes improved the activity of the Rota through a handful of constitutions regulating the functioning of the papal curia. Worth mentioning are for example the constitution *Decens et necessarium* of Pope Benedict XII promulgated on 26 October 1340[15] and *Quamvis a felicis* of

[12] *Killermann,* Die Rota Romana, p. 21 – 51; *Ingesman,* Provisioner og processer, p. 86 – 91; *Salonen,* Papal Justice, p. 19 – 21.
[13] *Agostino Paravicini Bagliani,* Il 'Registrum causarum' di Ottaviano Ubaldini e l'amministrazione della giustizia alla Curia Romana nel secolo XIII, in: *Erwin Gatz* (ed.), Römische Kurie. Kirchliche Finanzen. Vatikanisches Archiv. Studien zu Ehren von Hermann Hoberg II. Miscellanea Historiae Pontificiae 46 (Rome, 1979), p. 635 – 657 at 644 – 654.
[14] Edited in *Tangl* (ed.), Die päpstliche Kanzleiordnungen, p. 57 – 67.
[15] Edited in *Tangl* (ed.), Die päpstliche Kanzleiordnungen , p. 118 – 124.

Pope Gregory XI (pontiff 1370–78) promulgated on 1 March 1375[16], in which the role, status and tasks of the Rota advocates and procurators were defined.[17]

In 1377, Pope Gregory XI returned to the Eternal City from the 'Babylonian Captivity' of the papacy in Avignon, and Rome became the centre of Western Christendom again. Together with the pontiff, the whole papal administration moved back to Rome and from this year on we can talk literally about the Roman Rota. The period of the Western Schism (1378–1417) hit the Roman Rota hard because when the successor of Gregory XI, Pope Urban VI (pontiff 1378–89), was not universally recognized as the head of the Church, the ecclesiastical administration – and thereby also the Rota – was split into two. A large part of the officials of the Rota left Rome and Pope Urban and joined the French Antipope Clement VII (antipope 1378–94). The difficulties faced by the Roman Rota due to the escape of a large number of skilled personnel meant, ironically, a step forward because the Rota officials in Rome had to develop the functioning of the tribunal and train new personnel, which led to the compiling of manuals and guidebooks for their assistance.[18] One of the most famous guidebooks was *Stilus palatii abbreviatus*, composed by Dietrich von Nieheim around 1380.[19]

The period of the conciliar movement of the 15th century meant another important step in the history of the Rota. The new universally recognized Pope Martin V began to rebuild the papacy according to the requirements for a considerable reform of the Church made by the participants of the Council of Constance (1414–18) who had supported the election of the new pontiff. The first task of Pope Martin V was thus to improve the functioning of the central administration of the Church in Rome. The reform attempts resulted in two constitutions, *In apostolicae dignitatis* (promulgated on 1 September 1418)[20] and *Romani pontificis* (1 March 1423)[21], which played an important role in regulating the activities of the Rota too. Despite the reform idea behind these constitutions, they did not bring great improvements to the functioning of the Rota but mainly confirmed what had been stipulated in the *Ratio iuris* in 1331 and *Quamvis a felicis* in 1375. In the

[16] Edited in *Tangl* (ed.), Die päpstliche Kanzleiordnungen, p. 128 – 131.
[17] *Killermann,* Die Rota Romana, p. 51 – 66; *Ingesman,* Provisioner og processer, p. 91 – 99; *Salonen,* Papal Justice, p. 21 – 25.
[18] *Salonen,* Papal Justice, p. 26.
[19] Edited in *Georg Erler* (ed.), Der Liber cancellariae apostolicae vom Jahre 1380 und der Stilus palatii abbreviatus Dietrichs von Nieheim (Leipzig, 1888), p. 217 – 234; *Brigide Schwarz,* Statuta sacri causarum apostolici palacii auditorum et notariorum. Eine neue Quelle zur Geschichte der Rota Romana im späten Mittelalter, in: *Johannes Helmrath – Heribert Müller – Helmut Wolff* (eds.), Studien zum 15. Jahrhundert. Festschrift für Erich Meuthen II (München, 1994), p. 845 – 867.
[20] Edited in *Tangl* (ed.), Die päpstliche Kanzleiordnungen, p. 133 – 145.
[21] Edited in *Tangl* (ed.), Die päpstliche Kanzleiordnungen, p. 146 – 160.

spirit of conciliarism, the constitutions of Martin V, however, introduced one important novelty, namely the prohibition of selling offices, including those of Rota notaries.[22]

When the Roman papacy could not meet the reform requirements of the Council of Constance, a new council was convoked in Basel after the death of Pope Martin in 1431. The Church was again divided into more separate fractions and a new schism emerged, during which the Rota was again divided into two competing parts. The Roman Rota was loyal to Pope Eugene IV (pontiff 1431–47), while the council Rota functioned in Basle. This was a period of uncertainty in the history of Rota.[23]

The spirit of the conciliar movement continued after the end of the second conciliar period. From the mid-15th century onwards, popes began again to govern from Rome and attempted to eliminate the malfunctioning of the papal administration and the ineffectiveness of papal tribunals. The first successful step in reforming the Rota was taken by Pope Sixtus IV by promulgating two constitutions. In the *Romani pontificis* (14 May 1472)[24] he limited the number of auditors to twelve instead of fourteen, and in the *Sicut prudens pater* (29 November 1477)[25] he renewed the employment principles of the Rota notaries.[26] In addition to Sixtus IV, other late medieval popes also intended to renew the papal curia, but reforming ideas of Pius II (pontiff 1458–64) and Alexander VI (pontiff 1492–1503) were not put into practice.[27]

Pope Innocent VIII (pontiff 1484–92) instead succeeded in renewing the curial administration and his constitution *Finem litibus*, promulgated on 10 January 1488, brought a significant change in the activity of the Rota.[28] Apart from confirming the existing constitutions regulating the activities of the Rota, the most important innovation of the *Finem litibus* was that the Rota received powers to handle civil processes originating from the territory of the Papal States if the plaintiffs were orphans or widows, or if the litigation concerned a financial dispute below the value of 500 gold florins. The constitution specified that the Rota should handle these cases according to the same principles as it handled benefice litigation, e.g. according to the model of the summary process. The specific aim of

[22] *Killermann,* Die Rota Romana, p. 21 – 51; *Ingesman,* Provisioner og processer, p. 99 – 105; *Salonen,* Papal Justice, p. 26 – 29.
[23] *Ingesman,* Provisioner og processer, p. 105 – 106; *Salonen,* Papal Justice, p. 28 – 29.
[24] Edited in *Luigi Tomassetti* et al. (eds.), Bullarium Romanum. Bullarium diplomatum et privilegiorum sanctorum romanorum pontificum Taurinensis edition. Tomus V ab Eugenio IV (an. MCCCCXXXI) ad Leonem X (an. MDXXI) (Augustae Taurinorum, 1860), p. 207 – 209.
[25] Edited in *Cerchiari*, Capellani papae III, p. 191 – 195.
[26] *Salonen,* Papal Justice, p. 37 – 38
[27] *Ingesman,* Provisioner og processer, p. 107 – 108; *Salonen,* Papal Justice, p. 28 – 29.
[28] Edited in *Tomassetti* et al. (eds.), Bullarium Romanum V, p. 339 – 341.

the *Finem litibus* in this respect was to make the handling of processes faster, simpler and, thereby, cheaper for litigants. The constitution of Pope Innocent was the last one increasing or affecting the activities of the Rota in the late Middle Ages/Early Modern period. Therefore it is correct to say that the evolution of the Rota ended with his pontificate. By then, the previous reforms and constitutions had expanded the Rota's powers and turned it into the most important tribunal within the Church.[29]

The history and development of the Sacra Romana Rota is thus closely connected with the development of the papal administration. The authorities of the tribunal increased together with the increased power of the papacy and later declined alongside the increasing criticism towards the Church despite the reform attempts. Unlike the other supreme tribunals in European countries, the Rota was not involved in any legislative development or reform even though some of the Rota auditors were leading ecclesiastical jurists, like Guillaume Durand (c. 1230–96), the famous author of the *Speculum iudiciale* (1271). Likewise, the development of the Rota was not directly connected with the development of ecclesiastical legislation such as the promulgation of the *Liber Extra* by Pope Gregory IX in 1234.

3. Jurisdiction of the Sacra Romana Rota

The jurisdiction of the Rota has its origins in the authority of the pope to resolve juridical questions in the role of the leader of the Christian Church as it existed already in the first Christian century. We know that the Bishop of Rome was consulted in various disputes, as when the deposed priests of Corinth appealed to Clement I (pontiff 92?–99?) in Rome. This early appeal has, strictly speaking, nothing to do with the history of the Rota, but it demonstrates that the pope was considered from an early date onwards as the supreme judge in important ecclesiastical matters.[30]

Appealing to the papacy in juridical issues emerging in the dioceses of the expanding Church became regulated at the beginning of the fifth century, when Pope Innocent I (pontiff 401–17) wrote to Victricius, Bishop of Rouen, in 404 that in the *causae maiores*, e.g. in the most significant juridical cases, appealing to the pope should be the next step after the cases had first been handled by the local bishops. This made the Roman pontiff the supreme ecclesiastical judge above the jurisdiction of episcopal judges. Later papal decisions allowed private persons to appeal to the pope

[29] *Salonen*, Papal Justice, p. 29 – 31; *Ingesman*, Provisioner og processer, p. 108.
[30] *Killermann*, Die Rota Romana, p. 14 – 15; *Salonen*, Papal Justice, p. 18.

if they had to solve legal issues related to ecclesiastical legislation, such as questions about the validity of a marriage. The number of juridical issues brought before the popes remained, however, very modest until the 11th and 12th centuries.[31]

In 1075 Pope Gregory VII stated in his 27-point edict, *Dictatus papae*, that all *causae maiores* were reserved to the papal jurisdiction and that any Christian was free to appeal to the pope if they had legal issues, be they ecclesiastical or civil, to solve.[32] The papal jurisdiction remained, however, at this point still very unspecified, partly because the ecclesiastical legislation of that time was still very imprecise. It was only during the 12th and 13th centuries that the regulations of canon law began to develop those various matters that later became the jurisdiction of the Rota. For example, ecclesiastical legislation regarding marriages began to develop considerably only as a consequence of the Fourth Lateran Council (1215).[33] Similarly the papal regulations concerning the appointment of persons to ecclesiastical benefices, which was the most frequent reason to litigate in the Rota, developed fully only during the Avignon papacy (1309–77).[34] Important steps in the development of the idea of the pope as the supreme judge in Christendom were taken in various Church Councils that stipulated in the spirit of unifying the ecclesiastical norms that certain issues were considered so important that they could be resolved only by the pope himself. The first such decision was taken by the Second Lateran Council (1139), which decided that all those who were guilty of priestly homicide had to come personally to Rome to plead their case and to ask for absolution.[35] The number of reserved cases increased in the course of the Middle Ages and by the 15th century the handling of a considerable number of different kinds of issues was reserved to the papal authority. The diverse responsibilities of the pontiffs meant that they soon were unable to resolve all cases personally. They solved this problem by delegating some of their powers of decision to the officials of the curia, which in the case of juridical issues resulted with the birth of permanent papal tribunals.

[31] *Killermann,* Die Rota Romana, p. 15 – 20.
[32] *Killermann,* Die Rota Romana, p. 21.
[33] About the ecclesiastical legislation about marriage, see *James A. Brundage,* Law, Sex, and Christian Society in Medieval Europe (Chicago, 1987).
[34] About the papal benefice reservation policy, see *Peter Linden,* Der Tod des Benefiziaten in Rom. Eine Studie zu Geschicte und Recht der päpstlichen Reservationen. Kanonistische Studien und Texte 14 (Bonn, 1938); *Andreas Meyer,* Zürich und Rom. Ordentliche Kollatur und päpstliche Provisionen am Frau- und Grossmünster 1316–1523. Bibliothek des Deutschen Historischen Instituts in Rom 64 (Tübingen, 1986), p. 26 – 49.
[35] Constitution no. 15 of the Second Lateran Council, which is commonly known as *Si quis suadente* [*diabolo*] is edited in *Giuseppe Alberigo* et al. (eds.), Conciliorum Oecumenicorum Decreta (3rd edn., Bologna, 1973), p. 200.

The role of the Rota in resolving juridical questions entrusted to the pope was twofold. Firstly, the Rota could take over the role of the pope as the supreme judge in appeal cases that had earlier been handled by local ecclesiastical tribunals or judges. In this role, the Rota was the supreme tribunal of the Church to the authority of which any Christian could appeal if they were not content with the decision of their local tribunals. In this role the jurisdiction of the Rota included all those ecclesiastical matters that were included in the jurisdiction of the local ecclesiastical tribunals. In practice it meant that the Rota could handle as tribunal of appeal all legal issues in which clerics, ecclesiastical institutions such as parishes, monasteries or chapters were involved or disputes in which there was question about matters regulated by canon law. If compared to the jurisdiction of diocesan tribunals, this means that the Rota could handle cases as marriage disputes, violence against the clergy, litigations about money or property among many other legal issues.[36]

Secondly, the Rota could act as a first instance local ecclesiastical tribunal for those Christians who were subjects of the diocese of Rome (where the pope was the supreme judge as the bishop of Rome) or of the Papal States (in the territory of which the pope was the supreme judge as the head of the state). In this role the Rota could handle all cases typically handled in ecclesiastical tribunals. Additionally, as the consequence of the constitution *Finis litibus* of Innocent VIII in 1488, the Rota could handle in this role also civil cases if the plaintiffs were widows or orphans or if the litigation concerned financial matters not over 500 gold florins.[37]

Unlike in the case of various other medieval or early modern supreme tribunals or other papal offices, there are no sources that would include detailed information about what kinds of different disputes the Rota had the powers to handle. Neither do the sources inform us about such an important matter as what kinds of decisions the Rota should take in different kinds of disputes and why. This is somewhat peculiar because the Rota was without doubt one of the most important and influential tribunals of its time. At the same time the lack of such sources is indicative of the functioning of the papal system of justice. According to the principles of papal administration, the pope could decide upon what kinds of cases could be handled in the papal curia and he (through a representative) was in principle also responsible for accepting or rejecting an appeal to have a case handled by the Rota. When the decision-making was clearly reserved to one person, there was no

[36] About litigations in the local ecclesiastical courts, see for example *Charles Donahue, Jr*, Law, Marriage, and Society in the Later Middle Ages. Arguments About Marriage in Five Courts (Cambridge, 2007); *Richard H. Helmholz,* Marriage Litigation in Medieval England (London, 1974).
[37] *Ingesman*, Provisioner og processer, p. 108; *Salonen,* Papal Justice, p. 30 – 31.

need to write down exact instructions or information on cases belonging to the jurisdiction of the Rota – or not. If the pope considered a case to be worth bringing to the Rota, then it was referred to the Rota auditors.

There are, however, a few groups of sources which can reveal details about the cases handled by the Rota in the Middle Ages up until the beginning of the 16th century and inform us about the jurisdiction of the Rota. Firstly, the 14th-century *decisiones* of the Rota, which were later printed, contain important information about the jurisdiction of the Rota at that time. Gero Dolezalek, who has studied these collections, has been able to draw several important conclusions about the activity of the Rota in the 14th century on the basis of the *decisiones*.[38] The *decisiones*, for example, allow the analysis of what kinds of litigations were brought before the Rota and Dolezalek has calculated that in the years between 1352 and 1365 approximately 72% of Rota processes concerned benefice matters, 8% other kinds of ecclesiastical issues, 10% last wills and 5% property issues, while the rest could be defined as 'various' disputes.[39] These numbers tell very clearly that almost three 14th-century Rota processes out of four concerned benefice disputes, while the proportions of different kinds of other issues remained relatively small.

Another source material that presents a clear picture of the jurisdiction of the Rota is the *manualia* of the Rota. Perhaps the most important source group for studying the activity and jurisdiction of the Sacra Romana Rota is the *Manualia Actorum* series, which is nowadays kept in the Vatican Secret Archives and which contains material from the years 1464–1800.[40] The volumes in the *manualia* series are not attributed to the Rota itself but to individual auditors so that each of the four notaries of the twelve auditors kept a separate *manualia* in which he recorded the cases entrusted to

[38] Some of the fourteenth-century *decisiones* of the Rota are preserved. At first, the *decisiones* material circulated in the form of manuscripts among the personnel of the Rota but at a certain point the manuscripts began to travel outside the curial circles. After the invention of book printing, the *decisiones* collections were edited: *Decisiones Thomae Falstoli* (years 1336–37), *Decisiones antiquores* (collected in the 1360s), *Decisiones antiquae* (collected from 1372 onwards), *Decisiones Aegidii Bellemerae* (years 1374–75), *Decisiones novae* (years 1376–81). About the oldest *decisiones* collections and their publishing history, see *Gero Dolezalek – Knut Wolfgang Nörr*, Die Rechtsprechungssammlungen der mittelalterlichen Rota, in: *Helmut Coing* (ed.), Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte I (München, 1973), p. 847 – 856. See also *Gero Dolezalek*, Die handschriftliche Verbreitung von Rechtsprechungssammlungen der Rota, Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 58 (1972), p. 1 – 106; *Gero Dolezalek*, Questiones motae in Rota. Richterliche Beratungsnotizen aus dem 14. Jahrhundert, in: Stephan Kuttner – Kenneth Pennington (eds.), Proceedings of the Fifth International Congress of Medieval Canon Law. Monumenta Iuris Canonici, Series C: Subsidia 6 (Città del Vaticano, 1980), p. 99 – 114; *Richard Puza*, Res iudicata. Rechtskraft und fehlerhaftes Urteil in den Decisionen der Römischen Rota. Grazer Rechts- und Staatswissenschaftliche Studien 29 (Graz, 1973).

[39] *Dolezalek*, Questiones motae, p. 112. When interpreting these numbers, it is important to keep in mind that Dolezalek was able to determine the type of the litigation in only one case out of six, sixty-one processes out of the whole corpus of 353 processes.

[40] ASV, *S. R. Rota*, *Manualia Actorum*, *passim*.

him. The *manualia* are not copy books of the tribunal in the classic sense of court records, meaning that all documents and witness' statements relevant to each process would be noted down in them. Instead, the *manualia* contain procedural entries in chronological order (day by day) briefly noting what happened each day in different processes. The entries include almost nothing about the details of the litigations, about the decision-making process or about the sentence, so that the *manualia* entries do not allow a close analysis of one certain litigation process and its details. The entries, however, contain enough information about the processes to allow us to understand what kind of litigation was in question and what the geographical distribution of the provenance of the processes was – and that is extremely valuable information for understanding the jurisdiction of the Rota.[41]

The analysis of the material in the *manualia* series[42] has also demonstrated that in the 15th and 16th centuries the Rota was mainly a tribunal handling benefice litigations, while other kinds of juridical issues represented a minority. According to the *manualia* entries, 80% of the more than 5,400 Rota processes in the corpus used for this study concerned various kinds of disputes over benefices. These were all litigations between two (or sometimes more) clerics who claimed their rights to the same ecclesiastical position. The litigations concerned all kinds of ecclesiastical offices from simple *sine cura* benefices to positions of parish priests with the cure of souls and to the highest ecclesiastical offices like provostship or archdeaconate in cathedral churches. The second commonest kind of dispute before the Rota seems to have been property litigation, which covered 14% of all Rota disputes. These litigations concerned typically three different kinds of issue: money, immovable or movable property and rights to certain income. Somewhat surprising is the result that marriage disputes, which formed the most common litigation category in the episcopal courts[43], were very rarely carried to the authority of the Rota. In fact, according to the *manualia* entries, marriage disputes covered only 1% of all Rota litigations. In these cases the task of the Rota was to judge whether a contested marriage was valid or void, just as so many local ecclesiastical courts did. The rest of the disputes handled by the Rota, c. 5% of all processes, were very heterogeneous. These processes include disputes over ecclesiastical authority or prestige, such as

[41] *Salonen,* Papal Justice, p. 5 – 6; *Hermann Hoberg,* Indice 1057. Sacra Romana Rota. Manualia Actorum et Citationum (Città del Vaticano, s.a.); *Hermann Hoberg,* Die Protokollbücher der Rotanotare von 1464 bis 1517, Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 39 (1953), p. 177 – 227.

[42] The following analysis is based on the study of all existing material in the Rota *manualia* from four sample years, 1466 (including 275 processes), 1486 (171 processes), 1506 (1,265 processes) and 1526 (1,703 processes), as well as on the *manualia* of one Rota auditor, Johannes de Ceretanis from the years 1471–92 (2,025 processes). The *manualia* from these years and from Johannes de Ceretanis include roughly 27,000 entries concerning 5,439 Rota processes. ASV, *S. R. Rota, Manualia Actorum*, 1, 1A, 2, 3, 6, 9, 12–16, 24, 57–68, 139–50, *passim.*

[43] *Donahue,* Law, Marriage, and Society; *Helmholz,* Marriage Litigation; *Kirsi Salonen,* The consistory court of Freising in the late Middle Ages, Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 96 (2010), p. 226 – 257.

the right of patronage or presentation to an ecclesiastical benefice and the right to make visitations, or the right over ecclesiastical jurisdiction in a certain territory. In some processes there was also a question about disputes deriving from ecclesiastical legislation, such as the right to a burial place or the right to build churches or transfer ecclesiastical institutions from one place to another. Furthermore there are disputes regarding ecclesiastical punishments, the authenticity and validity of papal letters as well as misbehaviour of clergy.[44]

A comparison between the information in the *decisiones* from the 14th century on the one hand and in the *manualia* from the 15th and 16th centuries on the other hand shows that the jurisdiction and the activities of the Rota did not change significantly during these centuries. For the whole period of its major activity, the tribunal dealt mainly with benefice disputes, while other kinds of processes played only a secondary role in its daily activities. The slight increase of processes related to property issues towards the end of the 15th century results most probably from the constitution *Finem litibus* of Pope Innocent VIII (1488), which extended the powers of the Rota to handle civil litigations of subjects of the Papal States.

The absence of certain kinds of disputes in the entries in the Rota *manualia* also give evidence of the activity of the Rota in comparison to other supreme courts. For example, the *manualia* do not include any reference to disputes regarding political issues, neither do they mention any kind of legislative activities. This is a clear testimony to the fact that the Rota was judging juridical issues entrusted to it according to the regulations of canon law, and sometimes also civil law, but it was certainly not a legislative body. The Rota sources also demonstrate that unlike other European supreme courts, the Rota had no means to control the execution of its decisions. If the local authorities were unwilling or unable to execute the sentences of the Rota, the tribunal had no tools (other than the sentence of excommunication, often used in the late Middle Ages but ineffective) to force the unwilling locals to comply.

The entries in the Rota *manualia* demonstrate also how the activity of the Rota was based on the principles of the Romano-canonical procedure and how the practice in the tribunal followed the requisite norms. Although the regulations of canon law formed the basis for the activity and decision-making of the Rota, the canon law rules were too general to fully describe the various phases in specific litigation processes. Therefore there existed manuals and guidebooks that

[44] *Salonen*, Papal Justice, p. 99 – 124.

described the litigation processes and their phases in more detail and offered help in practical matters. These manuals, which were meant generally for the use of all ecclesiastical tribunals, were called for example *ordines iudiciarii*, *libelli de ordine iudiciorum* or other.[45]

There also existed special guidebooks for the Rota, which described how the different kinds of litigation processes were supposed to proceed and what they entailed. These works are very important for understanding how the Rota processes were carried on in practice. The comparison of the description of various types of litigation processes in these works with the Rota sources demonstrates how the Rota observed very carefully all the different phases, *termini*, during the litigation processes and how these phases correspond well with the practice defined in Romano-canonical procedure.[46]

All Rota processes began with a petition to the pope. In the petition, the plaintiff explained his juridical issue and justified legally his request to have his case handled by the Rota. One of the most common justifications used in the petitions was that the plaintiff could not get just justice locally because his adversary was too powerful and hence the local court could not make impartial decisions. If the pope – or the vice-chancellor to whom this task was entrusted from the 1330s until 1492, when the task was referred to one of the papal offices, the *Signatura justitiae* (discussed further below) – found the petition correct and agreeable, he took a positive decision, signed the petition and referred the handling of the process to one of the Rota auditors. With the signature of the decision-maker, the original petition turned into a legal document called a commission (*commissio causae*). This document was thereafter carried by a papal runner (*cursor*) to the auditor to whom the handling of the litigation was entrusted.[47]

The handling of the process began immediately after the chosen auditor had received the commission. The auditor appointed one of his notaries as responsible for the process until the end of its handling. The task of the notary was to take care of the acts of the process, to ensure that the documentation was copied into the copybooks and to compose the necessary documents during the different phases of the process. The first task of the notary was to copy the content of the commission into the *acta* of the process. This act was thus noted down in the *manualia*. When these

[45] *Ingesman*, Provisioner og processer, p. 157 – 160; *Salonen*, Papal Justice, p. 8 – 9, 42 – 43.
[46] *Ingesman*, Provisioner og processer, p. 161 – 162; *Salonen*, Papal Justice, p. 43 – 47.
[47] *Ingesman*, Provisioner og processer, p. 162; *Salonen*, Papal Justice, p. 47 – 49.

practical matters had been taken care of, the handling of the litigation in the Rota began by summoning the parties before the auditor for agreeing upon the terms of the litigation. [48]

The litigation process followed carefully the various phases or terms of different forms of litigation process defined in the Romano-canonical procedure.[49] The number of necessary phases varied somewhat according to what kind of litigation was in question because certain kinds of litigations could follow the phases of the shorter summary procedure. For example, benefice litigations consisted typically of ten different phases of which each had its own pre-defined duration. One litigation phase did not necessary mean only one meeting before the auditor but a phase – for example the phase of interrogating necessary witnesses – could consist of several meetings and last for a considerable period. The most voluminous processes in the material upon which this essay is based consist of over one hundred manual entries.[50]

When all phases of the litigation from the first term called *terminus ad dicendum contra commissionem* (= term for declaring against the commission) were over and the auditor had heard both litigating parties and their witnesses, he could proceed to the last phase of the process, namely its closing. If the auditor considered the resolving of the case to be difficult, he could consult his peers before he made his final decision. For the consultation, the responsible auditor composed a short summary of the litigation called *ponens*, which his colleagues studied carefully for their common discussion. The consultation could end with voting about the decision and the responsible auditor had to respect the opinion of the majority. When the auditor had made his decision, he summoned the litigants to the last term in the process called *terminus ad audiendum et videndum diffinitivam in dicta causa ferri sententiam* (= term for hearing and seeing the definitive sentence in the said process) during which the auditor officially pronounced the sentence. If none of the litigants objected, the case was closed and the *sentencia transit in rem iudicatam*.[51]

If the party who lost the case did not want to give up, he had two possibilities. He could either make an appeal in the case (*appellation*) or if there was some formal error in the sentence, he could contest it (*querela nullitatis*). In both cases the process could be reconsidered only after a petition for that purpose had been presented to and approved by the pope or his representative. Popes

[48] *Salonen,* Papal Justice, p. 47.
[49] The different phases are described fully in *Ingesman,* Provisioner og processer, p. 161 – 169.
[50] *Salonen,* Papal Justice, p. 161 – 163.
[51] *Ingesman,* Provisioner og processer, p. 167 – 168.

usually approved all such petitions if they were formally correct, and the process could continue when the new commission of the case was handed over to the auditor to whom the pope had decided to entrust the process. An appeal could not be handled by the same auditor who had previously handled the case. The ideal was to entrust the appeal cases to more experienced auditors. In one litigation process it was possible to appeal twice. The third sentence pronounced by the Rota was considered definitive.[52]

The Rota sources give us a picture of a tribunal, which handled cases according to the Romano-canonical process exactly as it should do. At the same time, a closer analysis of the Rota sources reveals a number of points indicating that the tribunal was not very effective in its activities. First, the *manualia* entries show that a large part of Rota processes were not carried on up to the closing of the case. Indeed, a large number of Rota processes (70%) were dropped at very early stages of the process. This is not a surprising result when it is compared to the practice in other ecclesiastical – and secular – courts, where a large number of processes never reached the final stage simply because the litigants reached an agreement outside the courtroom and dropped the case. This result, however, was somewhat surprising in the context of earlier Rota scholarship because the Rota has typically been described as an ineffective tribunal where the corrupt auditors did not do their job because of which poor litigants had to wait for years, sometimes for decades, before their case was closed, if ever. Recent studies about the Rota have shown, however, that the ineffectiveness of the tribunal was not only caused by the personnel of the tribunal but that also litigants had their fair share in it. Sources from the 15th and 16th centuries demonstrate that some plaintiffs simply initiated a litigation process in order to intimidate their adversaries and if they succeeded in this, they dropped the case as soon as they had gained what they wanted.[53]

A second observation towards the ineffectiveness of the Rota is related to the execution of the sentences of the Rota at the local level. As said before, the tribunal had very little means to ensure that its decisions were executed locally. The only way for the Rota to enforce its sentences was to threaten with excommunication those who refused to collaborate and obey. But since the power of excommunication as effective punishment had decreased in the late Middle Ages due to its excessive use for wrong, often political or personal, purposes, threatening it no longer effectively

[52] *Ingesman,* Provisioner og processer, p. 169; *Salonen,* Papal Justice, p. 54 – 55.
[53] *Salonen,* Papal Justice, p. 155 – 168.

guaranteed the desired outcome.[54] This can also be seen in the Rota sources. It is plausible that the large rate of abandoned cases reflects the distrust of litigants in reaching their goal through a litigation process. The Rota archives contain examples of benefice litigations, in which it becomes evident that the plaintiff who was fighting for a certain benefice against a locally strong opponent simply dropped the case after he eventually realised that even if the sentence of the Rota would be favourable for him, the local authorities would never execute the sentence.[55]

Finally, the Rota cases also could finish unresolved because the ecclesiastical norms of procedure allowed the litigants to make an appeal in a case even before the final judgement. It was possible to appeal in any interlocutory decree made by an auditor. This had the consequence that the handling of the case could be transferred almost at any point to the authority of another auditor because of an appeal. It is impossible to judge from the Rota sources how frequent this kind of practice was but in principle if the litigants made frequent appeals in a process, the litigation could be transferred from one auditor to another and on to another and so on – with the consequence of long processes, which never ended.[56]

Even if the Rota did not wholly succeed in dispensing justice on behalf of the papacy because of the above-mentioned problems, its activity had far-reaching consequences for European legal culture. The most important reason for this was the *decisiones* of the 14th-century Rota auditors, which form a unique source material for European legal history. Contrary to what might be assumed, the *decisiones* do not contain sentences pronounced by the tribunal but rather deliberations of the Rota auditors before taking decisions in different kinds of litigations. These deliberations and explanations have significantly affected the decision-making in various other European tribunals because the *decisiones*, which were originally meant for the internal use of the Rota only, began to spread around Europe especially after the invention of book printing at the end of the 15th century. The Rota *decisiones* were soon used as models according to the principles of which local courts began to make their decisions.[57] Thereby it is not wrong to call the Rota one of the most influential tribunals of the late medieval and early modern world. Furthermore it is arguable, even if there are

[54] *Gero Dolezalek*, Reports of the "Rota" (14th - 19th centuries), in: *John H. Barker* (ed.), Judicial Records, Law Reports, and the Growth of Case Law (Berlin, 1989), p. 69 – 99 at 70.
[55] A good example of this is the case of Henricus Meyer, a German priest and curialist who aimed at receiving the position of a parish priest in Finland, where the local authorities did not want to accept a foreigner. *Salonen*, Papal Justice, p. 82 – 96.
[56] *Dolezalek*, Reports of the "Rota", p. 70.
[57] *Dolezalek – Nörr*, Die Rechtsprechungssammlungen. See also *Dolezalek*, Die handschriftliche Verbreitung; *Dolezalek*, Questiones motae; *Puza*, Res iudicata.

no direct sources telling about such a practice, that the ecclesiastical tribunals at the local level were also following the principles of the Rota when they took decisions, because the local courts were typically part of the process of executing locally the sentences pronounced by the Rota auditors.

4. The role of the Rota in the papal administration

In the late Middle Ages, the supreme leaders of the Catholic Church were the Council and the pope. Since Church Councils were not summoned frequently, the pope was in practice the main responsible authority for administering and leading the Church. As the supreme leader of the Catholic Church, the pope possessed full powers (*plenitudo potestatis*) to deal with issues related to the Church or Christians, be they administrative, juridical, theological or even practical issues of the everyday life of the faithful. The only limitation to the papal powers was that the Pope could not make decisions that were in conflict with the Holy Scripture or ecclesiastical norms stipulated by the Councils. Taking care of ecclesiastical jurisdiction and legislation was an important part of the papal responsibilities and therefore the Rota was an essential part of the papal system of administration.[58]

In principle, the pontiff as the head of the Church could make decisions independently without consulting anyone. In practice, however, the popes usually consulted the cardinals close to him before taking important decisions. The central administration of the Catholic Church took place in regular meetings between the pope and the collegium of cardinals in the curia. These meetings were called the consistory and all cardinals residing in the papal curia were supposed to take part in them. Because the issues referred to the authority of the pontiff were too numerous, since the high Middle Ages, the consistory no longer discussed routine cases but it rather concentrated on the more important issues such as creating new cardinals, appointing bishops or resolving crucial political conflicts with European monarchs. In principle juridical issues did not more belong any longer to the activity of the consistory, but if the pope considered a dispute as a *causa maior*, the consistory could take the case to itself.[59]

In the Middle Ages, the everyday business of the Church was carried out in various curial offices, which stood at the service of Christians from all over the Christian West. The curial administration

[58] *Dolezalek*, Reports of the "Rota", p. 69; *Salonen*, Papal Justice, p. 13.
[59] *Salonen*, Papal Justice, p. 13.

– except for its financial side – functioned so that Christians who desired something from the curia turned to the pope with a request (*supplicatio*). These requests could concern several different kinds of matters from appointments to ecclesiastical offices, granting various privileges, absolutions, dispensations or licences, to handling litigations with papal authority. The petitions were always addressed to the Holy Father but in practice the cases were normally handled by officials of various offices of the papal curia without bringing the issues to the attention of the pontiff.

Each papal office had its special branch of responsibility within the central administration of the Church. Each office was typically led by a prelate, often of the rank of cardinal, who supervised the functioning of his subordinates. The employees of various papal offices consisted of officials with various tasks: scribes or notaries writing down documents, procurators and runners bringing documents and information from one place to another, abbreviators, taxators and sealers participating in the preparation and expedition of the papal letters as well as regents, auditors or other persons with decision-making powers.[60]

The most central office for the economic administration of the papacy was the Apostolic Chamber (*Camera apostolica*). The Chamber, whose historical roots can be traced back at least as far as the 10th century, worked under the guidance of the chamberlain (*camerarius*), one of the most powerful prelates in the papal curia with the rank of a cardinal. The officials of the Chamber took care of the income and expenses of the curia and were responsible for book-keeping. The Chamber was not only entrusted with controlling the papal economy. It also had powers to dispense justice in controversies related to the activity of the Chamber, no matter whether raised civil or criminal questions. For this purpose, the Chamber employed a special official, the Chamber auditor (*auditor camerae*), who was responsible for handling juridical issues.[61]

The Chamber auditor handled issues entrusted to his authority in a manner analogous to that of the Rota auditors. The competence of the Chamber auditor included not only control of such economic matters of the papacy as the malversation of papal collectors sent all over Christendom, but also

[60] *Salonen,* Papal Justice, p. 13.
[61] Concerning the activity and powers of the Apostolic Chamber, *Adolf Gottlob,* Aus der Camera Apostolica des 15. Jahrhunderts. Ein Baitrag zur Geschichte des päpstlichen Finanzwesens und des endenden Mittelalters (Innsbruck, 1889); *Paul Maria Baumgarten,* Aus Kanzlei und Kammer. Erörterungen zur kurialen Hof- und Verwaltungsgeschichte im XIII., XIV. und XV. Jahrhundert (Freiburg i.Br., 1907); *Guglielmo Felici,* La Reverenda Camera Apostolica. Studio storico-giuridico (Città del Vaticano, 1940); *Del Re,* La Curia Romana, p. 285 – 297. About the tribunal of the Apostolic Chamber, see *Emil Göller,* Der Gerischtshof der päpstlichen Kammer und die Entstehung des Amtes des procurator fiscalis im kirchlichen Prozessverfahren, Archiv für katholisches Kirchenrecht 94 (1914), p. 605 – 619.

other areas of the authority of the Chamber such as public safety in the papal city or the misconduct of personnel of the papal curia. He could thus pronounce sentences for clerics in Rome who had been involved in criminal acts or assaulted someone, for example. Additionally, the Chamber auditor could prosecute persons who were suspected of lying or using false testimonies while litigating in other curial tribunals such as the Rota.[62] In principle, the Chamber auditor handled first instance cases, while appeal cases were entrusted to the authority of the chamberlain. After the reorganization of the roles in the Chamber under Pope Martin V, appeal cases were handled by a special tribunal established within the Apostolic Chamber called the *Audientia camera*. The members of this tribunal consisted of the most eminent members of the Chamber.

The Apostolic Chancery (*Cancelleria apostolica*) was another central curial office and the oldest one of them, dating back to the fifth or maybe even the fourth century. It was responsible for all practical aspects of papal administration. Originally, the main function of its officials was to compose letters issued in the name of the pope, but after the curial reorganization in the 12th and 13th centuries, its task was to take care of the multiple everyday practicalities of the ecclesiastical administration. Under the guidance of the head of the Chancery, the vice-chancellor (*vicecancellarius*),[63] the officials of the Chancery took care of all papal correspondence: they prepared the papal letters, sealed them and supervised their delivery to the addressees. The officials of the Chancery were also responsible for keeping the papal archives but, in addition to these practical matters, they could grant certain types of dispensations and privileges to Christians.[64]

The activities of the Chancery were intertwined with the activity of the Rota too. By the 1380s at the latest, the vice-chancellor had obtained from the pope the powers to decide whether a litigation process could be accepted to be handled by the Rota and to assign the accepted processes to the authority of one of the Rota auditors. In practice these powers allowed the vice-chancellor to

[62] *Göller,* Der Gerischtshof; *Ingesman,* Provisioner og processer, p. 382.
[63] There was no chancellor in the late Middle Ages. Originally the cardinal leading the office was called the chancellor and his subordinate the vice-chancellor, but after Pope Honorius III decided in 1227 that the head of the Chancery did not have to be of the rank of a cardinal, the head of the office was called 'vice-chancellor'. This title remained in use until 1325, when Pope John XXII decided to entrust the office again to one of the cardinals. *Del Re,* La Curia Romana, p. 437 – 438.
[64] Concerning the activity and powers of the Apostolic Chancery, *Baumgarten,* Aus Kanzlei und Kammer; *Paul Maria Baumgarten,* Von der Apostolischen Kanzlei. Untersuchungen über die päpstlichen Tabellionen und die Vizekanzler der Heiligen Romischen Kirche im XIII., XIV. und XV. Jahrhundert. Görres-Gesellschaft zur Pflege der Wissenschaft im katholischen Deutschland. Sektion für Rechts- und Sozialwissenschaft 4 (Köln, 1908); *Christopher R. Cheney,* The Study of the Medieval Papal Chancery (Glasgow, 1966); *Del Re,* La Curia Romana, p. 435 – 446.

monitor the activity of the tribunal but he did not have powers to interfere with the decisions taken by the auditors in individual cases.[65]

This practice lasted until 1491, when Pope Innocent VIII separated from the Chancery a section called the *Signatura iustitiae*. The pope entrusted to this newly established office the task of studying the petitions regarding juridical processes and of deciding whether litigations would be handled by the Rota. It could also decide to whom of the Rota auditors the cases was referred. In addition to these activities, the officials of the *Signatura iustitiae* were entrusted with the task of monitoring the activity of the Rota.[66]

The Apostolic Dataria (*Dataria apostolica*), too, was separated from the Chancery, but already during the pontificate of Martin V in the 1420s. As one may deduce from its name, this office presumably had its origins in an official of the Chancery called the *datarius*, whose task it was to date the incoming and outgoing letters in the curia. After the Dataria became an independent office, its officials acquired more and more responsibilities. They were the first to receive almost all petitions directed to the pope and their task was to examine the content of the requests. The only exceptions to this were the letters handled by the Apostolic Penitentiary as well as the requests to have one's litigation handled by the Rota, which were received by the officials of the Penitentiary and the vice-chancellor/*Signatura justitiae* respectively. The rest of the petitions to the pope went through the hands of the officials of the Dataria, who ensured that the content of the petitions was canonically correct and that the papal letter composed afterwards had the right form; not to mention the task of presenting the petitions to the pope for his approval. These were important tasks, because a defect in the wording of a papal letter could lead to the complete invalidation of the whole letter and thereby to disputes and possibly even to juridical processes. From the 1480s onwards, the officials of the Dataria received further powers that allowed them to grant Christians various types of dispensations, licences and privileges.[67]

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[65] *Killermann,* Die Rota Romana, p. 78 – 79.

[66] Concerning the activity and functioning of the *Signatura iustitiae Richard Puza,* Signatura iustitiae und commission. Ein Beitrag zum Prozeßgang an der römischen Kurie in der Neuzeit, Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 64 (1978), p. 95 – 115; *Richard Puza,* Rescriptum und Commissio. Die Entscheidung der Signatura iustitiae im 16. und 17. Jahrhundert, Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 66 (1980), p. 354 – 370.

[67] Concerning the activity and powers of the Apostolic Dataria, *Del Re,* La Curia Romana, p. 447 – 449; *Léonce Celier,* Les Dataires du XVe siècle et les origines de la Daterie Apostolique. Bibliothèque des Écoles françaises d'Athènes et de Rome 103 (Paris, 1910); *Nicola Storti,* La storia e il diritto della dataria apostolica dalle origini ai nostri giorni. Contributi alla storia del diritto canonico – nuova serie di studi storico-giuridici (Napoli, 1968).

Pastoral care was one of the most essential tasks of the Church, and there was a separate office at the papal curia for taking care of the souls of Christians who had committed a crime or sin against ecclesiastical norms – or wished a special papal permit allowing them to do so in certain matters. This office was the Apostolic Penitentiary (*Poenitentieria apostolica*), whose officials had the power to grant Christians (1) absolutions from particularly grave sins typically reserved to the papal authority, (2) dispensations allowing them to act against the norms of canon law, (3) special licences allowing them to relax the normal rules for exercising one's Christianity and (4) special declarations testifying that a person was not guilty of murder or that a previously undertaken monastic profession or contracted marriage was not valid.[68] Nowadays, the Penitentiary is considered as one of the tribunals of the Holy See, but in the Middle Ages it was not a tribunal handling litigations but an office granting petitioners different kinds of graces. The activities of the Rota and the Penitentiary intersected in a few cases. Firstly, if the Penitentiary had to handle particularly tricky cases – typically requests of declaration of innocence for a clergyman who had involuntarily been involved in death or mutilation of a person – which required special legal understanding, they often consulted one of the Rota auditors, who thus acted as a legal expert for the Penitentiary. Secondly, sometimes documents issued by the Penitentiary could be used as testimonies before the Rota. For example a marriage dispensation from the Penitentiary could testify about the validity of a marriage contested because of an impediment.[69]

In addition to the above mentioned offices, two tribunals functioned in the papal curia. One of them was the Sacra Rota Romana itself, officially known as the *Audientia sacri palatii* and the other one was the *Audientia litterarum contradictarum*. The competence of the *Audientia litterarum contradictarum* included all different kinds of problems regarding juridical processes in ecclesiastical courts. This tribunal was mainly the place to which Christians could turn if they, for example, had problems with the question who could pronounce sentences locally in those processes in which the litigants or one of them had applied to the pope in order to transfer the handling of the process from one jurisdiction to another or from one person to another. If the permit granted by the

[68] Concerning the activity and powers of the Apostolic Penitentiary, *Emil Göller*, Die päpstliche Pönitentiarie von ihrem Ursprung bis zu ihrer Umgestaltung unter Pius V. Bibliothek des Königlich Preußischen Historischen Instituts in Rom 3, 4, 7, 8 (Rome, 1907, 1911); *Ludwig Schmugge – Patrick Hersperger –Béatrice Wiggenhauser*, Die Supplikenregister der päpstlichen Pönitentiarie aus der Zeit Pius' II. (1458–1464). Bibliothek des Deutschen Historischen Instituts in Rom 84 (Tübingen, 1996); *Kirsi Salonen*, The Penitentiary as a Well of Grace in the Late Middle Ages. The Example of the Province of Uppsala 1448–1527. Suomalaisen Tiedeakatemian Toimituksia – Annales Academiae Scientiarum Fennicae 313 (Helsinki, 2001); *Kirsi Salonen – Ludwig Schmugge*, A Sip from the 'Well of Grace'. Medieval Texts from the Apostolic Penitentiary (Washington D.C., 2009).

[69] Kirsi Salonen, Vom Nutzen päpstlicher Dispense vor lokalen gerichten. Beispiele aus der päpstlichen Pönitentiarie, in: *Andreas Meyer* (ed.), Kirchlicher und religiöser Alltag im Spätmittelalter. Akten der internationalen Tagung in Weingarten, 4.-7. Oktober 2007. Schriften zur südwestdeutschen Landeskunde 69 (Ostfildern, 2010), p. 249 – 258.

pope for transferring the case risked the rights of the other litigant, he could defend his rights for a just trial by appealing to the *Audientia litterarum contradictarum*.[70] The competences of the Rota and the *Audientia litterarum contradictarum* could overlap in certain situations. For example this could happen in cases when a litigant in a Rota process appealed to the pope in order to get his case handled by someone other than the appointed Rota auditor, but the other party in the process was opposed to this. Such a controversy could lead to a process before the *Audientia litterarum contradictarum* which established where the litigation process should continue.

The competencies of the Rota thus overlapped somewhat with the authorities of the other papal offices and tribunals but in principle it made decisions independently without interference from any of them. When talking about the papal hierarchy of administration it is, though, important to keep in mind that the papal plenitude of power made it always possible to appeal to the pope so that he would personally make the decision in a case. This could happen if the pope considered the case interesting and important enough, or if he wanted to grant a personal favour to someone he considered highly. In these cases the usual curial hierarchy was overruled.

In addition to being part of the curial system of ecclesiastical administration, the Rota was part of the ecclesiastical system of justice which spread down from the curia to the diocesan level. As said previously, the Rota functioned as tribunal of appeal for any Christian who was not content with the outcome of his or her litigation at a local ecclesiastical court. As the highest ecclesiastical court of appeal, the Rota was considered as the tribunal of the tribunals within the Catholic world.

The study of the provenance of Rota litigations has shown that this characterisation was correct because individuals from all over Christendom have turned to the authority of the tribunal. The sample material used in this study showed that most Rota processes originated from the territory of Italy (31%), followed by the processes from the Iberian Peninsula (28%). Slightly fewer but still numerous processes originated from the territory of the Holy Roman Empire (20%) and France (18%), while from Eastern Europe (2%) and the British Isles (1%) there are only a few processes, not to mention Scandinavia with only a handful of litigations (barely above 0%). On the basis of these numbers it is possible to conclude that most of the Rota processes originated from territories situated not too far away from the centre of ecclesiastical administration in Rome. This is not a

[70] Concerning the activity and powers of the *Audientia Litterarum Contradictarum, Peter Herde,* Audientia litterarum contradictarum. Untersuchungen über die päpstlichen Justizbriefe und die päpstliche Delegationsgerichtsbarkeit vom 13. bis zum Beginn des 16. Jahrhunderts I-II. Bibliothek des Deutschen Historischen Instituts in Rom 31-32 (Tübingen, 1970).

surprise, since these four territories were also the most densely populated and thereby it is understandable that more processes originated from these territories.[71] A similar trend has been noticed when studying the geographical origin of the clients of the Apostolic Penitentiary from the same time period.[72]

Even if there were clearly fewer processes from the more remote Christian territories like Scandinavia, Poland or Scotland, these territories were nevertheless represented among the Rota processes. This means that the powers of the tribunal were known and acknowledged in these less represented territories too. But it is understandable that Christians living far away from the papal curia did not necessarily begin an expensive litigation process at the curia if they did not have a very important reason for that.

5. Conclusions

The birth of the Sacra Romana Rota was part of a larger development process that took place within the papal administration beginning already in the 12th century but which came to fruition during the Avignon papacy in the 14th century. This administrative development was contemporary with the legislative development within the Catholic Church. Being a result of this development process means in the case of the Rota that it was not created on a specific day or as consequence of a certain papal constitution. The powers and activities of the tribunal developed instead little by little from the activity of judicially-engaged cardinals around the pope into a real tribunal with twelve appointed high-level jurists, auditors, who dispensed justice on behalf of the pontiff. Another significant period of development in the history of the Rota was the period of Conciliarism, when the Church Councils aimed at reforming the church and its administration – Rota included. In the spirit of the councils, Pope Innocent VIII reformed the Rota in 1488 and added to its competence also the right to handle civil cases of litigants originating from the territory of Papal States.

Unlike many other high courts in Europe, the Rota did not participate in legislative work at all. The Rota auditors made decisions in the spirit of canon – and sometimes also civil – law but the decisions of the auditors never developed into new ecclesiastical legislation or resulted in altering the old regulations of canon law. This depends on the fact that the post-1350s changes in

[71] *Salonen,* Papal Justice, p. 125 – 154.
[72] *Salonen – Schmugge,* A Sip, p. 21 – 68.

ecclesiastical legislation were typically promulgated in the form of papal constitutions or chancery regulations, mainly through the Apostolic Chancery. These regulations were never codified into a new law-book which would have completed the earlier parts of the *Corpus Iuris Canonici*.

The 1488 constitution *Finem litibus* was the first one to significantly add to the jurisdiction of the Rota since the early years of the tribunal. The comparison of the content of Rota processes in the 14th, 15th and 16th centuries demonstrated that the Rota mainly dealt with benefice litigations throughout the Middle Ages. Its other competences allowed it to handle property litigations, marriage disputes as well as other kinds of often "more profane" issues. The effect of the *Finem litibus* constitution can be seen in an increase in the number of civil litigations originating from the Papal States, but this constitution did not change the fundamental role of the Rota as tribunal in benefice litigations originating from all over Christendom.

An analysis of the provenance of Rota litigations demonstrated that the powers of the tribunal were recognized and used by litigants from the whole territory of Latin West, even though the majority of the processes originated from the densely populated territories in the central areas of Christendom: Italy, Iberian Peninsula, Germany and France. Using the Rota as a tribunal of appeal in litigations originating from every corner of Christendom is a clear testimony about the fact that Christians from everywhere knew and used the powers of the Rota.

But was the Rota successful in dispensing justice for its clients? Scholars writing about the Rota have stated earlier that the Rota was a very ineffective tribunal, partly because of corrupt judges and partly because of the inefficient system of justice in the papal curia which gained money by delaying the processes. The Rota sources have revealed, however, that this is not the whole truth. The auditors seem to have handled the processes entrusted to them relatively effectively and respected the different terms established in Romano-canonical process law. At the same time, the sources demonstrate that a large share of processes was never carried through to a final end and the sources point to a few explanations for this phenomenon. Firstly the inefficiency of the Rota in executing its sentences might have led to the fact that some litigants simply dropped the case when they realized they had no chance in obtaining locally what they wished. Secondly litigants might have reached an agreement outside the courtroom, which is a well-known practice all over medieval Europe. Thirdly ecclesiastical legislation allowed the Rota litigants to delay the processes by appealing even before the closing of the case. Partly these reasons result from loopholes in ecclesiastical legislation but it was always the litigants themselves who decided to abuse them.

Despite its lack in effectiveness and absence of legislative tasks, the Rota has been one of the most influential tribunals in the medieval and early modern world. The influence of the Rota did not result from its effectiveness but from the fact that its legal deliberations, *decisiones*, were spread and used as model for the other European (supreme) tribunals that began to develop in the period of the 15th and early 16th centuries, when the significance of the Rota was at is largest.