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*Themis Clothed in Ermine. Some Remarks on the Jurisdiction Exercised by the Rector of Krakow Academy**

Abstract

The scope of the jurisdiction of the Rector of the Krakow Academy was determined by the foundation privileges of Kazimierz Wielki and Władysław Jagiełło; the latter had subsequently been extended by the university statutes as well as by the royal and urban documents. The judicial competence of the Rector, named in legal documents as the “highest judge”, referred above all to members of the university corporation, but also to people remaining outside this structure (e.g. in some cases to the Krakow townsmen). The Rector assumed the jurisdiction the moment he had taken an oath. The students and professors of the Krakow Academy were also subject to the Rector’s judicial authority, the moment they had taken an oath. The subject range of the Rector’s jurisdiction comprised penal cases, including those relating to disciplinary issues. The jurisdiction also extended to civil law: confirmation of documents, certain institutions of inheritance law and even civil contentions relating to copyright law. The Rector adjudicated on the basis of canon law, Roman law and customary law as well as on the basis of the university statutes. The procedure was based on a shortened and simplified mode derived from canon law. The trial was of an adversarial nature and consequently, the penal and civil proceedings did not differ much one from another. All proceedings were based on the principle of oral testimonies. The hearing of evidence was based on a legal theory of evidence. The fundamental type of evidence was an oath, but other forms of evidence were also allowed, including testimonies of women witnesses. The majority of cases adjudicated by the Rector concerned the students of the Academy; proceedings against professors were also conducted. The most common offences concerned disciplinary matters, offences against morality, neglect of duties, theft of books, fights. Among the adjudicated punishments there predominated fines although one could also come across penalties of temporary imprisonment or church punishments, such as excommunication. The students and professors were protected by immunity, thanks to which they could not be held responsible before municipal and magistrates courts. As a matter of rule, one could not appeal against the verdict passed by the Rector, although there were other legal measures that enabled one to avoid punishment. During the reforms implemented by H. Kołłątaj, attempts were made to broaden the extent of the Rector’s judicial competence, yet the latter had never been implemented on a wider scale. The Rector’s jurisdiction was eventually abolished by the Austrian authorities.

Key words: Jagiellonian University, Krakow Academy, university statutes, university jurisdiction, rector, rector’s court, Kazimierz Wielki, Władysław Jagiełło, canon law, Roman law, customary law, adversarial proceedings, evidence, oath, Kołłątaj reforms

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Słowa kluczowe: Uniwersytet Jagielloński, Akademia Krakowska, statuty uniwersyteckie, sądownictwo uniwersyteckie, rektor, sąd rektora, Kazimierz Wielki, Władysław Jagiełło, prawo kanoniczne, prawo rzymskie, prawo zwyczajowe, proces skargowy, dowody, przysięga, reformy Kołłątajowskie

The rector is the most significant person in the Academy. He exercises his rule over all other individuals affiliated with the Academy, such as doctors and professors of the Academy Faculties, as well as over the pupils of the voivodeship schools. Likewise, his authority extends over those who are of assistance to the aforementioned individuals such as servants, craftsmen, and the entire group of booksellers, printers, bookbinders, and painters – all of them fall within the rule and jurisdiction of the rector.

This is what a reformer of the Academy, Hugo Kołłątaj, wrote in the second half of the 18th century. He did it while presenting a short characteristic of the jurisdictional power of the rector, the power being, in its fundamental principles, shaped as early as the Middle Ages and continuing without any larger change for four centuries.¹

Regarding the types of issues and the categories of individuals that fell under the jurisdiction of the rector of Krakow Academy, they were determined by the foundation privileges issued by Casimir the Great and Ladislaus Jagiełło.² These provisions were later developed in the university statutes and the royal decrees issued by, among others, Sigismund Augustus (1570), Stephen Bathory (1574), John Casimir (1660) as well as in the town documents. These are the records of the rector court that are excellently illustrative of the rector jurisdictional activities.³

According to what is declared in the royal and papal documents, the rector was the “major and general judge” in respect to the members of the academic corporation. In certain cases his jurisdictional functions were performed also *vis-à-vis* other individuals who were not connected with the university. Some individuals could also voluntarily subject themselves to the jurisdictional powers of the rector. In such cases, they were expected to file their declaration in the records, thereby stating that they resign from raising objections against the competence of rector’s court.⁴ Rector’s jurisdiction could also function as an arbitrary one. On such occasion, neither the rector nor the adopted by him arbiters were bound by the standard rules of procedure, and the judgment could be based on the principles of equity.

Assuming his office, each rector took an oath which was received by his predecessor. The new rector swore that he would adjudicate righteously. Students upon their matriculation and the professors on the occasion of their pledge to the statutes, declared in their

¹ Ks. Hugona Kołłątaja raport o wizytacji Akademii Krakowskiej odbytej w r. 1777, ed. J. Leniek, „Archiwum do Dziejów Oświaty i Literatury w Polsce” 1914, vol. 13, p. 203.

² S. Estreicher, *Sądownictwo rektora krakowskiego w wiekach średnich*, „Rocznik Krakowski” 1900, vol. 4, pp. 249–267, 252; B. Wyrozumska, *Przywileje fundacyjne Uniwersytetu Jagiellońskiego*, Kraków 1997, pp. 11; J. Sondel, *Semper Fidelis. Uniwersytet Jagielloński a Kościół rzymskokatolicki*, Kraków 2006, p. 93.

³ *Acta rectoralia Almae Universitatis Studii Cracoviensis*, vol. 1 (1469–1537), ed. W. Wisłocki, Kraków 1893–1897; vol. II 1536–1580, ed. S. Estreicher, Kraków 1909.

⁴ S. Estreicher, *Sądownictwo...*, p. 257; A. Winiarz, *Sądownictwo rektora Uniwersytetu Krakowskiego w wiekach średnich [in:] Księga Pamiątkowa Uniwersytetu Lwowskiego ku uczczeniu 500-letniego jubileuszu Uniwersytetu Krakowskiego*, Lwów 1900, p. 18.

oath that they would be obedient to rector's jurisdictional power.⁵ Disobedience to the rector was consequently treated as an infringement of the promise.

An attempt to bypass Rector's Court and apply directly to the Court of the Bishop threatened with the fine of 10 *grzywnas* payable in Prague groshes.⁶ What undoubtedly contributed to the rise of respect towards rector's jurisdiction and power was the fact that bishops of Krakow on several occasions transferred some part of their ecclesiastical jurisdiction to rectors this was done by Zbigniew Oleśnicki in 1448, Fryderyk Jagiellończyk in 1491, and Jan Konarski in 1512. The respect towards rector's jurisdiction was also due to the extension of rector's jurisdictional power onto individuals who did not belong to the academic corporation, for instance Krakow townsmen who despite being admonished against doing this used to rent their apartments to students and magisters.⁷ As a result, rector could impose upon the accused not only the punishment of imprisonment but also penalties of ecclesiastical nature, including excommunication. This measure could be applied *vis-à-vis* professors who proved disobedient to the will of the rector and *vis-à-vis* debtors (both students and professors) in order to force them to pay their debts.

The matters falling under the jurisdiction of the rector were basically determined by the foundation privileges. They assigned to his jurisdictional power civil disputes as well as penal cases of trivial nature and those of disciplinary character. All those subjected to rector's jurisdictional power fell under the competence of Rector's Court upon the principle of exclusiveness and – which is noteworthy – with no regard to their social position. Only the most serious offences, for which capital punishment was intended, were handed over to other courts. In such cases the clergy were subjected to the Court of the Bishop while the secular individuals fell under the competence of the Royal Court, which however in such cases was expected to adjudicate on the basis of Roman law and not on regulations arising from the Statutes. In the following centuries, in particular in the 17th century, Royal Commissarial Courts became the standard. They were called to adjudicate more serious penal cases, chiefly those with the background of student riots.⁸ Relying on rector's records, we can say that the basis of his jurisdiction was created on the basis of various systems of law of the time. Thus, the Canon and Roman law as well as the University Statutes and the legal practice might have come into play.⁹

Throughout the Middle Ages Rector's Court involved all non-litigious civil law cases. Adjudicating them comprised a considerable part of its activity. Thus, this court *inter alia* confirmed documents, instituted the proceedings for the acquisition of inheritance when the members of an academic corporation died, confirmed testaments and entered into register the contracts concluded before it. In the course of time, this Court also decided on other matters involving the interest of the Academy or its members. Being subjected to Rector's Court was remarkably attractive. Therefore, it happened sometimes that some individuals, like Krakow merchants, matriculated themselves in the Academy

⁵ S. Estreicher, *Sądownictwo...*, pp. 258–259.

⁶ *Ibidem*, p. 255.

⁷ J. Sondel, *Sąd rektorski* [in:] *idem*, *Słownik historii i tradycji Uniwersytetu Jagiellońskiego*, Kraków 2012, p. 1161.

⁸ J. Muczkowski, *Mieszkania i postępowanie uczniów krakowskich w wiekach dawniejszych*, Kraków 1842, p. 76 ff.

⁹ S. Estreicher, *Sądownictwo...*, p. 260.

only to be able to file suits against their adversaries to this Court, the adversaries coming sometimes from afar – Hungary. On the other hand, the resolution passed by the professors of the Academy in 1606 deprived Rector's Court of the jurisdiction for benefices. The competence to decide on them was assigned to the Court of the Bishop.

Regarding the civil law competence of Rector's Court, there are disputes referring to copyright that are worth mentioning. Among these disputes, one can find those against the printers who were blamed for the infringement of the exclusive rights of professors to print certain books. It was as early as in 1549 that professor of astrology Piotr of Proboszczowice, while involved in a dispute with Helena Ungerowa, obtained a rector-granted ban on printing astrological prognostics prior to the printing of their official version by the university astrologist. In 1615, Sebastian Petrycy accused printer Mikołaj Loba of breaching the contract and wilfully printing 50 copies of a translation of *Ethics* by Aristotle. Printers Franciszek Cezary and Jakub Matyszkiewicz were, in their turn, a couple of times brought before Rector's Court (1716, 1720) for infringement of Academy's privileges by the printing of calendars. In 1752 a similar charge faced Adam Klein, who dared print books the printing of which was reserved to the Academy – *Elementarz*, *Oficium*, and *Ołtarzyk* (The Small Altar)¹⁰ to be precise. From time to time, the rector settled also the disputes concerning the right to print occurring among the printers themselves. The subjection of printers to Rector's Court reached back to a decree issued by Sigismund I in 1539 and confirmed by the Crown Tribunal in 1640. The aforementioned ruler gave the rector also the right to censor newly written works. It was disputable whether Rector's jurisdictional powers applied also to musicians although in 1638 the Krakow Chapter adopted the position that the disputes concerning their activities fell within the competence of Rector's jurisdiction.

The proceedings before Rector's Court followed the pattern of a Canon trial in an abridged and simplified version. The latter was characterized by awarding the judge with a considerable portion of rights and a distinctive shortening of terms. The discussed procedural pattern did not expressly distinguish penal trial from a civil one. Hence the proceedings that were applied in penal cases were also of accusatorial nature and were instituted upon the motion of the party who was the injured most frequently. Only when there was no private prosecutor the complaint was filed with the Court by the *instigator officii rectoris*.¹¹ In rare cases Rector was authorized to prosecute the defendant *ex officio*. He was competent to do that *vis-à-vis* professors who were negligent in delivering their lectures (this being referred to as negligent "reading lessons"), carried arms or wore prohibited costumes, were blamed for disseminating scandals or insulting the university authorities, including the rector himself.

The court proceedings used to start with a presentation of the complaint – either orally or in writing – to the rector who through his beadle – publicly and in a loud voice – called the defendant to appear.¹² In the earlier history of this trial no legal assistance was admitted, particularly in cases in which students were involved. The parties had to

¹⁰ J. Sondel, *Sqd...*, p. 1164.

¹¹ *Idem*, *Sądownictwo nad scholarami Akademii Krakowskiej* [in:] *Historia integra. Księga Pamiątkowa ofiarowana prof. Stanisławowi Salmanowiczowi w siedemdziesięciolecie urodzin*, ed. D. Janicka, R. Łaszewski, Toruń 2001, p. 270.

¹² S. Estreicher, *Sądownictwo...*, p. 261.

appear in person. The failure to appear entailed severe consequences: the return of the costs of proceedings for the benefit of the adversary party. When it was the defendant who failed to appear or when he refused to reply to the complaint, it was possible to impose excommunication on him as a penalty for disobedience to the orders given by the rector in the course of trial. In penal cases, the rector could demand that surety guaranteeing the appearance of the accused at the trial be given. In case of difficulties with finding a guarantor an oath sworn by the accused could be accepted. The rector could also imprison the accused until the trial. In order to secure peace between the adversaries until the moment of passing the judgment, it was possible to institute vadium that was paid by the parties in dispute. The party who breached the thus-established conditions would lose their part of the vadium. The peace between the parties could sometimes be ordered while stipulated under the threat of ecclesiastical penalties.¹³ In civil cases, for instance in those involving a dispute over an object, the seizure of movables of the debtor was possible. As a result, the creditor could satisfy his claim by selling them. Sometimes the seizure of the future annual income of the debtor, for example that coming from the benefice, was carried out.¹⁴

The rector usually exercised his jurisdiction three times a week, more frequently in urgent cases. The rector performed his jurisdictional duties in his office in Collegium Maius or in the Collegium of Canonists.¹⁵ Unlike the proceedings characteristic of a Canon trial, those before Rector's Court were usually conducted orally. However, in more serious cases the rector used to order putting the complaint and the reply in writing.¹⁶ In the evidentiary proceedings, swearing of an oath was most frequently applied. Other evidence, like documents, testimonies of witnesses, pronouncements of experts, were also admissible. Sometimes a Court-ordered inspection was conducted, e.g. an inspection of the place made by the beadle. The evaluation of evidence was made in accordance with the legal theory of evidence, and its free evaluation by the judge was excluded. It is worthwhile to note that, unlike in a Canon trial, women as witnesses were admissible in a Rector's Court trial.¹⁷

The University Notary took records of the proceedings. He also recorded the judgment that was passed. In trivial cases the judgment was issued by the rector himself. In those more serious or complex, the judgment was made in a debate with other members of the adjudicating panel who were the university consultants. Sometimes the judgment was produced in a voting. The parties had to declare that they would accept the judgment, and that they would respect its points.

Among the penal and disciplinary cases, there dominated those of students. They were of varying significance. Thanks to professor Krzysztof Stopka's lecture delivered on the occasion of a solemn Professor's Breakfast in 2007, we could gain a deeper insight into the problem.¹⁸ It is true that, when set against the European background,

¹³ *Ibidem*, p. 263.

¹⁴ J. Sondel, *Sądownictwo nad scholarami...*, p. 271.

¹⁵ S. Estreicher, *Sądownictwo...*, p. 262; A. Winiarz, *Sądownictwo...*, p. 21.

¹⁶ *Ibidem*, p. 261.

¹⁷ A. Winiarz, *Sądownictwo...*, p. 24.

¹⁸ K. Stopka, *De disordine et disobedientia. Nieobyczajność studencka na Uniwersytecie Krakowskim w dawnych wiekach*, „Alma Mater” 2007, no. 95, pp. 14–19.

Krakow was rather a peaceful university town, but still the brawls and excesses committed by students gave rise to dissatisfaction of rulers and entailed their reaction. An intervention of King Sigismund Augustus provides an example. Moreover, the lack of discipline among students was criticized during the debates of a sejm held in Piotrków – Hieronim Ossoliński proposed an improvement of the situation through the introduction of control over the Academy.¹⁹ There occurred also cases of unrest of religious background which were intensifying around the Ascension Day. The unrest could sometimes last several days assuming tumultuous character, like in 1625, when a dispute sparked between the Academy and the Jesuits, and the students invaded the Jesuit Collegium at St. Peter's church. Also the riots of 1572 echoed far and wide. The cause of unrest might sometimes be trivial, like in 1507 in the Dormitory of the Poor or in 1552 in the Jerusalem Dormitory, when the emotions escalated over the question of dividing meat during meals. Furthermore, repeated bans on wearing secular clothes and carrying arms were issued (only a small knife used for quill sharpening was admissible). Penalties were imposed on those returning to dormitories after the locking of the gates, while playing the zither and dancing in common chambers were forbidden.

However, the professors were not sinless, either. Also in their milieu, there occurred excesses and brawls. Even more frequent was the negligence of duties. This was observable soon after the Academy had been renewed. In view of the above, the rector had to bring to accountability and punish magisters who failed to deliver lectures or sent substitutes to fulfill their duties. The rector saw to it that the deans fulfilled their obligations, and he imposed fines on them if they proved to be too tolerant to magisters; similarly, those who awarded promotions to unworthy individuals or did it without respecting the expiry of sufficient time period were fined.²⁰

A rector who energetically reacted to skipping lectures by professors was Jan Dąbrówka who performed this function in the 60s of the 15th century. In 1459, he held back a bachelor promotion in medicine for which professor of *artes liberales* Jan of Olkusz applied. This was the sanction for his missing of lectures and neglecting duties. In 1465, Rector Piotr Gaszowiec suspended professor of astrology Szymon of Śrem from giving lectures and collecting salary. This was the sanction for defying Rector's authority and for disobedience. Despite the efforts of successive, rectors there still occurred situations when a course that was expected to be continued for half a year was completed in only few weeks or even few days. Marcin of Krakow or Wincenty of Krakow were accused of this, the latter being known for "coping with three books" within one hour.²¹ Also the controller of the clock in Collegium Maius was warned against yielding to the pressure of others and obligated to conscientiously regulate time. It might happen sometimes that the absence of professors took a considerably long time. This was the case of Tomasz of Obidzin, who was expelled from his university chair since he stayed abroad, without the permission of the rector for the period of 10 years. The fact that he made a generous donation in the amount of 60 Polish zlotys for the maintenance of the library in Collegium Maius did not help him. He had to resign from teaching in the Academy. However after several centuries, we do not remember him as the one who neglected his

¹⁹ J. Sondel, *Dyscyplina* [in:] *Słownik...*, p. 350.

²⁰ A. Winiarz, *Sądownictwo...*, p. 10.

²¹ J. Sondel, *Dyscyplina* [in:] *Słownik...*, p. 352.

duties, was punished and expelled, but as a great benefactor of the Academy – *Libraria* in Collegium Maius was given his name. In the second part of the 16th century, the students of medicine complained about professors delivering their lectures in a negligent way without being sufficiently prepared. As a result, they used to complete them in a quarter of an hour. Similar complaints were filed by the students of law. Therefore the professors were advised to start their lectures punctually and continue them if the students were absent. On such occasion they should lecture in the presence of their servant. In 1561, it was Jakub Bełza a former dean of the Faculty of Law, who was brought before Rector's Court. He was blamed for lecturing by reading textbooks without understanding their content. He was deprived of the right to lecture. He took revenge on Rector Jan of Turobin, professor of Roman and Canon law, who himself was earlier expelled from the Academy for seven years. Bełza accused him of illegal collection of salary for lectures which in fact were not delivered by him. The condemning judgment issued in this case was soon reversed by the next rector – Sebastian of Kleparz.²²

Stormy disputes among the professors were also occurring, particularly between those of Collegium Minus. In 1534 its board even adopted sanctions for starting brawls and scuffles that lowered the authority of the professors' milieu. The feast given by Piotr of Poznań on the occasion of becoming a member of Collegium and assuming the function of provost was of exceptionally stormy nature. The host of the feast was not only heavily wounded by Jan Dobrosielski but also, while captured by his hair, was dragged through the entire Collegium. The perpetrator was severely punished. He was fined with 10 *grzywnas*, the fine was subsequently turned into one-month imprisonment. He was deprived of the position of manager of dormitory (*bursa*) and excluded from the common table.²³ Among other professors who were condemned by Rector's Court in the first part of the 16th century, there were: professor of astrology and theology Michał of Wiślica and professor of medicine Stanisław Seliga, both blamed for their inclination towards brawls and scuffles. Professor Stanisław of Pińczów who, in his turn, was repeatedly brought before Rector's Court, was charged with having – contrary to the tradition – “oblong, cultivated beard that was cut short”.²⁴ Among other activities of the academicians which were punishable, there was playing cards or dice. This is exemplified through the story of Maciej of Piotrków, who straightforwardly supported himself through dice. He was punished with a fine of 1 florin and threatened with expulsion from the Academy.

Among the affairs that were embarrassing to Academy's authorities were those of decency nature. Professor of theology, at one time performing the function of the dean of the Department of *Artes Liberales*, and later that of the rector, was several times tried by Rector's Court for his affairs; he was also removed from Krakow's Chapter for flirtations in 1514. Also lawyer Grzegorz Dąbrowski scandalized his milieu with an indecent relationships. As the result of their indecent way of life, some professors were sued for alimony. There were also reported cases of leaving infants at the doorstep of their flats.

In 1505, two bachelors were brought before Rector's Court. They were accused of practicing black magic, in which, although more discreetly, also other academicians were interested, including Rector Mikołaj Hinczowicz of Kazimierz himself. An account

²² *Ibidem*, p. 355.

²³ J. Sondel, *Dyscyplina [in:] Słownik...*, p. 352.

²⁴ *Idem*, *Sąd rektorski...*, p. 1162.

on teaching black magic in the Academy and on Faust who supposedly was practicing it was later repeated by Johann Wolfgang Goethe.

There occurred also exponential cases of the infringement of discipline at the Academy, which was exemplified in disregard to the office of rector. In 1500, Michał of Bystrzykowo was brought before Rector's Court. He was not willing to acknowledge the jurisdiction of the rector whom he insulted with offensive words. In 1564, a member of Collegium Minus, Grzegorz Nowopolczyk offended the rector and threatened him with assault and battery. He was punished with 10 *grzywnas* – the penalty was subsequently transformed into one-week imprisonment in Collegium Maius. His case resembled that of Piotr Bogoria Skotnicki, who in 1574 was condemned by Rector's Court. Equally blameworthy was the behavior of Jan Waclawowicz and a medic Gabriel Joannicy at the beginning of the 17th century. Hurling insults upon the entire academic community was also punishable, like in the case of professor of Greek, Jan Silvius. Since he twice failed to appear before Rector's Court he was temporarily expelled from the Academy. Of similar nature was also the case of Adam Romer of Stężyca, who in 1610 in his publication of Cicero's speeches blamed professors for their ignorance and neglect of duties. He claimed that the professors' application for benefices was the cause of the latter. He was expelled from the Academy while his books were withdrawn from circulation.

Theft of books was also strictly punished. This offence was from time to time detected in dormitories. There were also the cases of professors blamed for not returning the books they had taken. This eventually led to the introduction of the paragraph *De furto* in 1494; it was designed to facilitate the prosecution of such offences.

Among the penalties inflicted by Rector's Court and derived both from Canon law and the law that was commonly applied, there dominated pecuniary penalties although the latter were not expressly listed in the foundation privileges. These penalties were frequently transformed into arrests. The proportion of penalty that was meted out was within the discretionary power of the rector who could decrease or increase the penalty, even the one specified in the Academy Statutes. The bishops of Krakow assigned rectors with a part of spiritual jurisdiction. This allowed them to impose on the accused the ecclesiastical penalties, including excommunication and penalties that limited liberty. In the course of time, the imprisonment was more frequently applied. The case of Canon Krzysztof Schleupner of Nysa may be illustrative of this tendency. He was charged for wounds inflicted on the face of a nobleman. When condemned, he had to pay the costs of the treatment of his victim as well as exemplary damages to the amount of 50 zlotys. He also had to serve the sentence of imprisonment of one and a half year. Expulsion from the University was considered to be the most severe penalty which was ever more frequently imposed from the end of the 16th century. It used to be meted out for disobedience demonstrated toward rector's power. In 1501, this penalty was inflicted on a bachelor accused of living in concubinage with someone else's wife. The condemned was subjected to infamy and exiled from Krakow and Kazimierz, the heads of the two towns were obliged to see to it that the sentence was implemented. The penalties imposed on professors consisted also in depriving them of the opportunities of promotion or granting benefices. They might have also been excluded from the common table, while the penalty of lash could be imposed on their servants. In addition, they could be required

to demonstrate humbleness and beg pardon from the injured party. Likewise, they were required to pay the costs of treatment if they wounded their victim.

Although from the present day perspective the range of penal measures at rector's disposal may arouse respect, when compared with the repressions applied to the perpetrators in the law that governed the nobles, and particularly in that which governed the burghers, the penal measures applied by the rector have to be regarded as mild ones. In this mildness one may perceive the weakness of rector's jurisdiction detectable in the centuries to come. On the other hand, what is worth observing is the significance of the immunity awarded to the members of the academic corporation and the fairly modern formula providing its members with immunity. According to it, the organs of other courts, that of the town and of *starosta*, were prohibited from capturing and detaining the members of the corporation, and the prohibition was applicable irrespective of the potency of the case. The detaining could be done only in the presence of rector's servants or when the rector gave his consent or ordered it. Only the capturing of a perpetrator *flagranti delicto* allowed to depart from the aforementioned rule. While taking into consideration the severity of the town law, we may say that the demand of the rector that the captured offender be released from the dungeon when the above described immunity was infringed, was tantamount to rescuing his life or health. Both Rector's records as well as the Krakow Criminal Files testify to the occurrences of that type.²⁵

When studied over a few centuries, the penal and disciplinary cases tried by Rector's Court depict a colorful life of the epoch in which – and this is worth emphasizing – the behaviour of students and their teachers was in no way exceptional from the perspective of the customs of the time, which were confirmed also by the penal decisions of other courts.

According to identical formulas found in the privileges issued by Casimir the Great and Ladislaus Jagiełło

[...] one could not appeal the Rector's sentence, nor could he file the petitions or demand the restoring of the previous situation. And even if someone appealed the Rector's sentence, his appeal shall not be accepted nor the appellant heard by any ecclesiastical or secular judge but the decision taken by the Rector shall be strictly observed.²⁶

What was however admissible as the method of challenging Rector's sentence was the pardon most frequently granted as the result of an intercession of the person worthy of merit or a rich protector. The accused could also raise objection that pointed to invalidity or injustice of Rector's sentence. In such cases, his objections were examined by the university councilors or by the entire academic community (the complaint of the accused was addressed *ad totam Universitatem*). In order to prevent the possibility of appealing their sentences, rectors decided sometimes in advance to pronounce them in a broadened adjudicating panel. The detailed course of appealing Rector's sentence was specified in a decree issued by Sigismund Augustus in 1570. However the principles laid

²⁵ *Księga kryminalna miasta Krakowa z lat 1554–1625*, eds. W. Uruszczak, M. Mięka, A. Karabowicz, Kraków 2013, p. 367; M. Mikołajczyk, *Proces kryminalny w miastach Małopolski w XVI–XVII w.*, Katowice 2013, p. 84.

²⁶ Tłumaczenie J. Sondel, *Semper fidelis...*, p. 93.

down in it did not eliminate all possible procedural doubts, the existence of the latter was confirmed by the resolutions of 1658 and 1709.²⁷

In the 18th century, Teodor Ostrowski indirectly emphasized a considerable durability of solutions applied in Rector's jurisdiction. He wrote that a rector adjudicated the cases of secular members of the academic community while applying Roman law. Also Hugo Kołłątaj, while adopting a slightly simplified view, wrote that Krakow Academy was left beyond the competence of any other courts, both secular and spiritual ones.²⁸ In the mid-18th century rector's jurisdiction was however found to be insufficient to prevent the growth of the quarrelsome mood and behaviour observable particularly among students. The complaints – probably exaggerated – emphasized that the rector was not as powerful in his jurisdiction as he had been in the past. It was argued that he preferred to say nothing in order to escape shame which he might experience on account of the disobedience demonstrated *vis-à-vis* his decisions.²⁹

The more serious cases tried by Rector's Court at the time indeed demonstrated the situation which – without a deeper reform – was hardly controllable despite severe sanctions imposed on offenders even in trivial cases or despite numerous admonitions addressed to those who were blamed for demonstrating their “friendship with Hungary,” this was the phrase which described their excessive fondness of drinks.³⁰ Even more difficult to control proved students' riots organized as a revolt against the town, or even against the Crown army, which happened in 1752.

At the time of Kołłątaj's reforms an attempt was made to strengthen and broaden the scope of the competence of rector's jurisdiction. What was planned at that time was the subjection to Rector's Court of court executive officers, geometers, engineers and other persons who were subordinate of the Collegium of Physics of the Main School. The Collegium was expected to be authorized to issue licenses which entitled to exercise specific professions. The Commission of National Education however did not materialize these plans and entrusted rector only with exercising of the jurisdiction *vis-à-vis* the teachers of grammar and sub-grammar schools. Also with a failure ended an attempt by Kołłątaj to regulate rector's jurisdiction with regard to professors who held the ecclesiastical benefices. However, a clear course of appealing Rector's Court decisions to the Commission of National Education was successfully introduced,³¹ and Rector's Court was at that time referred to as the School Court.

Rector's jurisdiction survived until the partitions of Poland and was eventually liquidated by a decree of the Austrian Court Commission.

The history of Jagiellonian University is a subject of fascinating research also for lawyers, and particularly for those who deal with legal history. As mentioned above, at the end of the 19th century the research focused on Rector's Court and Rector's Court files that were partially published. This resulted in a specific “clash” between two outstanding

²⁷ S. Estreicher, *Sądownictwo...*, p. 265; A. Winiarz, *Sądownictwo rektora...*, p. 20.

²⁸ T. Ostrowski, *Prawo cywilne albo szczególne narodu polskiego*, t. II, Warszawa 1784, p. 115 ff.; H. Kołłątaj, *Stan oświecenia w Polsce w ostatnich latach panowania Augusta III (1750–1764, z przedmową H. Mościckiego*, Warszawa 1905, pp. 93–99.

²⁹ W. Tokarz, *Komisja Edukacyjna i Uniwersytet Jagielloński*, Warszawa 1924, p. 19.

³⁰ *Ibidem*.

³¹ T. Ostrowski, *Prawo cywilne...*, p. 119.

individuals of the world of academia. In “Rocznik Krakowski” (“The Krakow Annual”) published on the occasion of the 500th anniversary of the renewal of the University, there was printed *inter alia* an excellent text by Stanisław Estreicher devoted to the Krakow Academy’s rector’s jurisdiction in the Middle Ages³². Exactly at the same time and to commemorate the same jubilee, Lvov historian Alojzy Winiarz published his dissertation on Rector’s Court³³. This might be the cause why another legal historian Janusz Sondel decided to resume the topic only 100 years later³⁴. In turn, the material for the present text was provided by the aforementioned research which demonstrated the phenomenon of Rector’s Court, which was equipped with competence other than that of equivalent institutes at other European universities, and which additionally remained basically intact until the end of the old-time Poland’s era.

³² S. Estreicher, *Sądownictwo...*, pp. 249–267.

³³ A. Winiarz, *Sądownictwo rektora...*, p. 20.

³⁴ J. Sondel, *Sądownictwo nad scholarami...*, pp. 249–272; *idem*, *Sąd rektorski...*, pp. 1159–1163; after the present paper was already in print, did appear an article of Dawid Machaj, *Sądownictwo rektorów krakowskich w XVI w.*, “Czasopismo Prawno-Historyczne” 2014, vol. 1, p. 41–76. Hence its contents could be not incorporated in the present contribution.