

**Causas in Partibus Cognoscendas: An Edition
of a Vatican Document and Its Possibilities for
Future Research on Papal Judges Delegate in
Late Medieval Castile**

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documento vaticano y sus posibilidades para futuras
investigaciones sobre los jueces delegados papales en la
Castilla tardomedieval*

Causas in Partibus Cognoscendas: Edizione di un
documento Vaticano e le sue implicazioni per future
ricerche sui giudici delegati pontifici nella Castiglia
tardo medievale

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ABSTRACT: This article offers a commentary, edition, transcription, and translation of a papal letter issued during Martin V's pontificate to King Juan II of Castile: *Per Litteras*. Largely overlooked until now, *Per Litteras* is a highly interesting source because it leads us to start considering the phenomenon of papal judges delegate in the Crown of Castile in the Late Middle Ages. This paper begins by analysing *Per Litteras*' contents. Given that the letter is undated, we will propose a date of production. We will then proceed to place it into the broader context of diplomatic exchanges between the Holy

RESUMEN: Este artículo ofrece un comentario, edición, transcripción y traducción de una carta papal emitida durante el pontificado de Martín V y destinada a Juan II de Castilla: *Per Litteras*. Ignorada en gran medida hasta ahora, *Per Litteras* es una fuente muy interesante puesto que nos lleva a comenzar a considerar el fenómeno de los jueces delegados pontificios en la Corona de Castilla durante la Baja Edad Media. Este artículo comienza analizando los contenidos de *Per Litteras*. Dado que la carta no tiene fecha, propondremos una fecha de producción. Luego procederemos a situarla en el contexto más amplio

See and the Crown of Castile. Finally, we discuss how the document may help us understand papal delegated jurisdiction in late medieval Castile.

KEYWORDS: Martin V, Juan II of Castile; Papal Judges Delegate, Crown of Castile, Rome, Council of Constance, Eugenius IV, Roman Rota.

de los intercambios diplomáticos entre la Santa Sede y la Corona de Castilla. Finalmente, se discute cómo el documento puede ayudarnos a comprender la jurisdicción delegada papal en la Castilla tardomedieval.

PALABRAS CLAVE: Martín V, Juan II de Castilla, Jueces Delegados Pontificios, Corona de Castilla, Roma, Concilio de Constanza, Eugenio IV, Rota Romana.

RIASSUNTO: Questo articolo fornisce un'edizione con commento e traduzione di una lettera pontificia emessa durante il pontificato di Martino V e indirizzata al Re Giovanni II di Castiglia: *Per Litteras*. Finora ampiamente trascurata, *Per Litteras* è una fonte di grande interesse poiché ci porta a prendere in esame dei giudici delegati pontifici nella Corona di Castiglia durante il tardo medioevo. L'articolo prende le mosse dall'analisi dei contenuti di *Per Litteras*. Dato che la lettera non è datata, si propone una datazione della sua composizione. Inoltre, il testo sarà collocato nel contesto più ampio degli scambi diplomatici tra la Santa Sede e la Corona di Castiglia. Infine, si cercherà di mostrare come il documento possa contribuire alla comprensione della giurisdizione papale delegata nella Castiglia tardo medievale.

PAROLE CHIAVE: Martino V, Giovanni II di Castiglia, Giudici Delegati Pontifici, Corona di Castiglia, Roma, Concilio di Costanza, Eugenio IV, Rota Romana.

1. Introduction

By end of the Middle Ages, the papacy had developed into a remarkable administrative machine around the supreme pontiff. By virtue of their plenitude of power («*plenitudo potestatis*»), popes were able to decide on theological, administrative, and legal questions brought to their attention from the whole of Latin Christendom.¹ There was a long-established understanding that each pontiff acted as ordinary judge of all («*iudex ordinarium omnium*»), with the Roman Curia serving both as a court of first instance and a tribunal of appeal.²

1 * Abbreviations used: AAV = Città del Vaticano, Archivio Apostolico Vaticano; AHNOB = Toledo, Archivo Histórico de la Nobleza. I would like to thank Professor David d'Avray, Professor Steven Gunn, Dr John Edwards, Dr Patrick Zutshi, Dr Pier Paolo Piergentili, Dr Kantik Ghosh, Professor Peter Clarke, and Professor José Manuel Nieto Soria, for their assistance, advice, and discussions.

Kirsi Salonen, *Papal Justice in the Late Middle Ages: The Sacra Romana Rota* (London and New York: Routledge, 2019), p. 1.

2 I. S. Robinson, *The Papacy, 1073–1198: Continuity and Innovation* (Cambridge: Cambridge

In the process, delegated jurisdiction («*iurisdictio delegata*») began to develop in the twelfth century side-by-side with the papacy's ordinary jurisdiction («*iurisdictio ordinaria*»), enabling the Roman Curia to extend its influence all over Latin Europe.

In this process, the system of papal judges delegate was of unquestionable importance. They had powers for a particular case and served as the pope's representatives, autonomous from local courts of instance under ecclesiastical jurisdiction, while only the supreme pontiff had the authority to reverse their rulings.³ The pope technically appointed them, though it was in the plaintiff's best interests to select judges acceptable to the opposing party, even reaching an informal agreement to ensure that the judgement was ultimately accepted as fair.⁴ This device of papal *iurisdictio delegata* has been thoroughly researched in some regional contexts, most notably in Sayers's work on England and Müller's research on Normandy.⁵ In the Iberian Peninsula it has garnered some attention when it comes to the Crown of Castile, but only for the High Middle Ages.⁶ Scholarly work on the entire system becomes sparse for the period after the Great Schism (1378–1418).⁷

This paper examines an overlooked and undated papal letter entitled *Per Litteras*, which the Apostolic Chancery sent to King Juan II of Castile (r. 1406–1454) on behalf of Pope Martin V (r. 1417–1431).⁸ Only Suárez Fernández, back in 1960, cursorily dealt with it as part of his important book on the Crown of Castile, the Great Schism, and the ecumenical councils of the early

University Press, 1990), 186–87.

- 3 Harald Müller, "The Omnipresent Pope: Legates and Judges Delegate," in *A Companion to the Medieval Papacy: Growth of an Ideology and Institution*, eds. Keith Sisson and Atria A. Larson (Leiden and Boston: Brill, 2016), 211
- 4 David L. d'Avray, *The Power of Protocol: Diplomats and the Dynamics of Papal Government, c. 400-c. 1600* (Cambridge: Cambridge University Press, 2023), 126–27.
- 5 On England see Jane Sayers, *Papal Judges Delegate in the Province of Canterbury, 1198–1254: A Study in Ecclesiastical Jurisdiction and Administration* (Oxford: Oxford University Press, 1971); on Normandy see Harald Müller, *Päpstliche Delegationsgerichtsbarkeit in der Normandie (12. und frühes 13. Jahrhundert)*, 2 vols. (Bönn: Bouvier Verlag, 1997).
- 6 See the studies by Daniel Berger and Frank Engel in *Das begrenzte Papsttum: Spielräume päpstlichen Handelns; Legaten-delegierte Richter-Grenzen*, eds. Klaus Herbers, Fernando López Alsina, and Frank Engel (Berlin and Boston: De Gruyter, 2013). Also Ingo Flesch, "Legados Papales como Intermediarios de Normas Jurídicas y Valores Culturales," in *Roma y la Península Ibérica en la Alta Edad Media: La Construcción de Espacios, Normas y Redes de Relación*, eds. Santiago Domínguez Sánchez and Klaus Herbers (León and Göttingen: Universidad de León and Akademie der Wissenschaften zu Göttingen, 2009), 135–56.
- 7 David L. d'Avray, "The Long History of Papal Judges Delegate," in *Libellus quasi Speculum: Studi Offerti a Bernard Ardura*, ed. Pierantonio Piatti (Città del Vaticano: Libreria Editrice Vaticana, 2022), 1:444.
- 8 AAV, Reg. Vat. 359, f. 54r.

fifteenth century.⁹ Since then it has been forgotten and has never been properly examined. But here it will become apparent why this document is intriguing: its minute reference to a legal dispute between Enrique de Guzmán (1375–1436), Count of Niebla (II), and Pedro López de Stúñiga (c.1383–c.1453), Lord of Béjar (II), can encourage us to start considering the phenomenon of papal judges delegate in the Crown of Castile in the Late Middle Ages.

This paper begins by analysing *Per Litteras*' contents. Given the letter has no date, we will propose a date of production. We will then place it into the broader context of diplomatic exchanges between the Holy See and the Crown of Castile. Finally, we move on to discuss how the document may help us understand the practice of *iurisdictio delegata* by examining its reference to the judicial dispute between Guzmán and Stúñiga. A documentary appendix provides a transcription and translation of the document.

2. Content

The first thing to note is that *Per Litteras* ties two narratives together. First, there is high-level political-diplomatic dialogue between Pope Martin V and King Juan II. Second, there is an allusion to litigation between the count of Niebla and the lord of Béjar.

Per Litteras' *narratio* describes how Pierre de Foix, cardinal-priest of the Roman Basilica of Santo Stefano al Monte Celio and legate of the Apostolic See, informed Martin V that the Castilian monarch had apparently been encouraged to refer non-ecclesiastical cases from his own kingdom to the papal curia. The pope adamantly pronounced that “the fact of the matter is different” («*res aliter se habet*»). The letter then recounts how, sometime earlier, in the presence of the cardinal-deacon of the Roman Basilica of Sant'Eustachio, Bishop Alfonso Carrillo de Albornoz of Sigüenza, the pontiff commanded the regent («*regens*») of the Apostolic Chancery to not admit non-ecclesiastical cases for settlement in Rome. Due to the jurisdictional arrangement agreed under the terms of the “concordat of Constance” of 1418 between the Crown of Castile and the Holy See –more on this later–, cases would have had to include an ecclesiastical element for Rome to admit them.¹⁰ Even so, they were to be sent back to the local level for settlement («*in partibus [...] cognoscere*»).

9 Luis Suárez Fernández, *Castilla, el Cisma y la Crisis Conciliar (1378–1440)* (Madrid: Consejo Superior de Investigaciones Científicas, 1960), 332, d. 110.

10 This aside, the papacy did not normally take civil cases between lay parties, or criminal cases involving only laymen. This is clear from the *notulæ* (53 and 54) of the *Audientia Litterarum Contradictarum*, which consisted of instructions for judges delegate: «*Item nota, quod laicus, si conqueratur super iniuriis sibi illatis simpliciter, non auditur*» and «*Item si laicus dicat se verberatum vel carceri mancipatum vel diffamatum, non auditur, contra quemcunque impetret*», Peter Herde, ed. *Audientia Litterarum Contradictarum: Untersuchungen über die päpstlichen Justizbriefe und die päpstliche Delegationsgerichtsbarkeit vom 13. bis zum Beginn des 16. Jahrhunderts*, (Tübingen: Max Niemeyer Verlag, 1970), 2:57.

Our document's primary *raison d'être* was, then, to persuade King Juan that the Roman Curia was not attempting to take away cases that belonged to the king's secular jurisdiction. The second narrative is about a case between Enrique de Guzmán and Pedro López de Stúñiga, where such a rule had indeed not been followed. *Per Litteras* informs us that the litigating parties mutually decided to have the case settled *in tertia instantia*, that is the final stage of appeal of the *Audientia Sacri Palatii*, most commonly known as the Apostolic Tribunal of the Roman Rota. The rationale given is that the matter was treated as if it were a spiritual one because the judges were cardinals.

3. Date

We need a date before we can start putting our source into a wider perspective. Regrettably, the only known copy of *Per Litteras* is undated and the Vatican register that contains it has chronological flaws.¹¹ Suárez Fernández, for his part, dated this letter to 1425.¹² However, it will be demonstrated in the following lines that *Per Litteras*' internal evidence suggests composition between 1429 and 1431, with the end of Martin V's pontificate acting as the logical *terminus ante quem*.

The *terminus post quem* may appear difficult to determine, though the inclusion of the reference to a "Gerardus" as the Apostolic Chancery's *regens* is crucial to excluding 1425 as the earliest point of documentary genesis. This is because it was only on May 3, 1428, that Martin V promoted Bishop Gérard/Gerardus Faidit of Couserans from referendary at the Apostolic Signatura to regent of the Apostolic Chancery. He had replaced the Franciscan Bishop François de Meez of Geneva, who in turn had become *regens* on February 19, 1426, three days after Cardinal Jean-Allarmet de Brogny, Bishop of Ostia, who had served as vice-chancellor from 1409 to 1426, passed away.¹³ It should be noted that none of Cardinal de Brogny's deputies bore the name "Gerardus."¹⁴

The *terminus post quem* might further be reduced to 1429. This is suggested by the mention of Cardinal Pierre de Foix as *legatus Apostolicæ Sedis*. We know that Cardinal Foix was appointed by Martin V as his legate to the Crown of Aragón on January 8, 1425, with a mission to integrate the kingdom

11 AAV, Reg. Vat. 359, f. 54r; cf. Germano Gualdo, *Sussidi per la consultazione dell'Archivio Vaticano: Lo Schedario Garampini-I Registri Vaticani-I Registri Lateranensi-Le «Rationes Camerae»-L'Archivio Concistoriale* (Città del Vaticano: Archivio Segreto Vaticano, 1989), 138, 178. This register also includes letters from Eugenius IV's pontificate.

12 Suárez Fernández, *Castilla*, 332, d. 110.

13 See Paul Maria Baumgarten, *Von der Apostolischen Kanzlei: Untersuchungen über die päpstlichen Tabellionen und die Vizekanzler der Heiligen Römischen Kirche im XIII., XIV. und XV. Jahrhundert* (Köln: Bachem, 1908), 136–38.

14 *Ibid.*

into the Roman obedience, in the Great Schism's immediate aftermath.¹⁵ It is most likely that Cardinal Foix only learned about Castilian matters around 1429, when he dealt face-to-face with King Juan II. In his monograph on the cardinal's legation in Aragón, Álvarez Palenzuela noted that it was only then that the cardinal entered the Crown of Castile to forestall a military conflict between King Juan and his cousin, Alfonso V of Aragón (r. 1416–1458). Indeed, the French prelate entered Juan II's domains with Queen María of Aragón on June 28, 1429.¹⁶ Soon thereafter, on July 4, the legate was met by Juan II, and stayed for approximately nine days, with two final brief visits later that month (24 and 25 July).¹⁷

4. Context

With the c.1429–1431 timeframe in mind as production interval, it is now necessary to consider the overall trajectory in the relationship between Castile and the Holy See up to the late 1420s, above all in terms of jurisdiction, before moving on to the potential that *Per Litteras* represents for the subject of papal judges delegate in fifteenth-century Castile.

The last twenty years have witnessed a surge in scholars' interest in the practice of diplomacy between the Holy See and the European regions throughout the Middle Ages.¹⁸ When it comes to the Crown of Castile during Juan II's reign, Villarroel González's 2009 monograph is the most thorough of works on the subject.¹⁹ Additional research on Castilian-papal diplomacy has concentrated on shorter time frames, though none have really examined papal *iurisdictio delegata* in the Late Middle Ages.²⁰ In order to comprehend the papacy's in-

15 «*Dilecto Filio*» [January 8, 1425], AAV, Reg. Vat. 350, f. 81v-82v.

16 Vicente Ángel Álvarez Palenzuela, *Extinción del Cisma de Occidente: La Legación del Cardenal Pedro de Foix en Aragón* (Madrid: Universidad Autónoma, 1977), 118.

17 Álvarez Palenzuela, *Extinción del Cisma*, 119–23.

18 For instance, Jürgen Petersohn, *Kaiserlicher Gesandter und Kurienbischof: Andreas Jamometić am Hof Papst Sixtus' IV. (1478-1481). Aufschlüsse aus neuen Quellen* (Hannover: Hahnsche Buchhandlung, 2004); Karsten Plöger, *England and the Avignon Popes: The Practice of Diplomacy in Medieval Europe* (London: Legenda, 2005); Gabriele Annas, "Von Wiener Neustadt nach Rom. Enea Silvio Piccolomini und die Obediengsandschaft Kaiser Friedrichs III. an Papst Calixt III. im Sommer 1455," in *Et l'homme dans tout cela?: von Menschen, Mächten und Motiven. Festschrift für Heribert Müller zum 70. Geburtstag*, eds. eadem and Jessika Nowak (Stuttgart: Franz Steiner Verlag, 2017), 379–414 and Barbara Bombi, *Anglo-Papal Relations in the Early Fourteenth Century: A Study in Medieval Diplomacy* (Oxford: Oxford University Press, 2019).

19 Óscar Villarroel González, *El Rey y el Papa: Política y Diplomacia en los Albores del Renacimiento (el Siglo XV en Castilla)* (Madrid: Sílex, 2009). Though also focused on internal relations between the Crown and the regional church, Nieto Soria's José Manuel Nieto Soria, *Iglesia y Génesis del Estado Moderno en Castilla (1369–1480)* (Madrid: Editorial Complutense, 1993), remains a key study.

20 For example Ansgar Frenken, "Kastilien und das Konstanzer Konzil," in *Das Konstanzer Konzil als europäisches Ereignis: Begegnungen, Medien und Rituale*, eds. Gabriela Signori and Birgit

volvement in resolving judicial litigation away from Rome, we must take note of the improvement in relationships between the Castile and the papacy by the late 1420s. *Per Litteras*' immediate background is that of high-level diplomatic interactions between the papal government and royal officials in the Crown of Castile; what Nieto Soria first dubbed in 1994 as a "concordat regime."²¹

The highest expression of the diplomatic rapport between both powers was the so-called "concordat of Constance," which Martin V's proctors and the representatives of the *natio hispana* agreed on May 13, 1418, immediately after the end of the Council of Constance (1414–1418). This accord was intended to remain in force for at least five years after promulgation and has been referred to as a step towards "ecclesiastical nationalism."²² While it is not possible to say that this agreement was a concordat proper because it did not arrange provisions to settle future disputes, it was nonetheless of great significance because it signalled the beginnings of a new trend of a "concordat regime," that is the mutual and legitimate recognition of two sovereign powers of supreme character acknowledging reciprocal competence in ecclesiastical, fiscal, judicial, benefice, and even reform matters.²³ In relation to this it is important to remember that one of the distinguishing features of King Juan II's reign was the almost constant need to protect royal justice against the abuses the Crown believed were coming from the domain of ecclesiastical jurisdiction, within a framework of constant negotiation with the papacy.²⁴

The quasi-concordat's fourth section, which sought to regulate jurisdictional boundaries, is particularly pertinent to contextualise the document under discussion. First of all, it established that Rome was not to accept secular cases not pertaining to the realm of the Church («*forum ecclesiasticum*»)²⁵ It is in this context that Martin V endeavoured, through *Per Litteras*, to convince Juan II that the Roman Curia was not attempting to take secular matters away from royal courts in Castile. Second, the concordat specified that when issues

Studt (Ostfildern: Jan Thorbecke, 2014), 143–72; Santiago Sánchez González, *Las Relaciones Exteriores de Castilla a Comienzo del Siglo XV: La Minoría de Juan II (1407–1420)* (Madrid: Comité Español de Ciencias Históricas, 2013), 273–323; Vicente Ángel Álvarez Palenzuela, *La Situación Europea en Época del Concilio de Basilea: Informe de la Delegación del Reino de Castilla* (León: Archivo Histórico Diocesano, 1992).

21 Nieto Soria, "El Pontificado," 117.

22 See José Manuel Nieto Soria, "Martín V y la Ampliación de la Soberanía Real sobre la Iglesia Castellana," *En la España Medieval* 17, no. 1 (1997): 119–20.

23 Nieto Soria, *Iglesia y Génesis*, 43–44. See also *Religion Past & Present*, 4th ed. (2005–2013), s.v. "concordats."

24 Óscar Villarroel González, *El Rey y la Iglesia Castellana: Relaciones de Poder con Juan II (1406–1454)* (Madrid: Fundación Ramón Areces, 2011), 399.

25 «*Causae quae ad forum ecclesiasticum de iure vel consuetudine non pertinent, per Curiam romanam non recipiantur de illis cognoscendo vel recipiendo, nisi de consensu partium*», *Colección de Cánones de la Iglesia de España*, trans. and ed. Juan Tejada y Ramiro, (Madrid: Imprenta de D. Pedro Montero, 1862), 7:15.

involving ecclesiastical jurisdiction did arise, the Curia could admit them if they reached Rome by appeal or through a legitimate transfer; the rest were to be dealt with *in partibus*.²⁶ Hence the violation of sending cases to Rome for adjudication that *Per Litteras* sought to prevent, which fed into the Crown of Castile's ambition to reduce the referral of cases to the Roman Curia in favour of resolution at a diocesan level.²⁷

5. Some Thoughts for Future Research

By the early 1430s the attitude of the Castilian monarchy had shifted sufficiently to allow the presence of papal judges delegate in its own lands. We know that, at King Juan's request, Pope Eugenius IV (r. 1431–1447) permitted the activities of papal judges delegate to settle judicial cases outside the papal curia on November 1, 1433, through the bull *Apostolice Sedis Circumspecta*. This has been dubbed elsewhere as an “extraordinarily exceptional” privilege.²⁸ Despite the limitations set on papal jurisdiction by the 1418 quasi-concordat, how may *Per Litteras* assist us in understanding the Crown of Castile's push towards *iurisdictio delegata* more than ten years later? One might think of two alternatives to understand this: either it was important to protect Castilian subjects and to maintain an effective judicial administration within Juan II's domains, or this was a pretext used by royal officials to strengthen the regal aspirations already made manifest by 1418. It will become apparent in the following that a mix of both alternatives could have been plausible.

We might focus for a moment in the *narratio* of Eugenius IV's privilege, which presents us with the events leading up to the papal decision, following the words of the petitioner to whom the pope is replying, giving their version of the story.²⁹ Juan II's original request would have observed how many of his subjects endangered their lives to have all sorts of cases referred to Rome for settlement.³⁰ Overall, as noted by Zutshi, “the system of petitions to the pope

26 «*Quae vero ad forum ecclesiasticum, ut praemittitur, pertinent, et de jure sunt per apellationem aut alias ad Romanam Curiam legitime devolutae aut de sua natura in illa Curia tractandae, tractentur in ea, caeterae committantur in partibus, nisi forte pro causarum aut personarum qualitate illas tractare in Curia expediret pro justitia consequenda, vel de partium consensu, tractarentur in Curia*», *ibid.*

27 Nieto Soria, “Martín V,” 119.

28 Nieto Soria, *Iglesia y Génesis*, 50.

29 D'Avray, *The Power of Protocol*, 20.

30 «*Nobis nuper exhibita petitio continebat quod, licet pro audiendis inter personas quaslibet in civitatibus et diocesibus singulis suorum regnorum et dominiorum commorantes, super rebus quibuscumque motis et movendis et per appellationes litibus et causis in ipsis regnis et dominis sufficientes pro tempore deputati fuerint et quotidie deputentur, iudices seu commissarii in premissis iustitiam ministrantes, tamen quia plures personarum earundem in videlicet nonnullarum litterarum et rescriptorum apostolicorum seu aliis diversimode super nonnullis rebus in Romana Curia ad iudicia trahi et evocari consueverunt et quotidie trahuntur nonnulli ex eis tam propter nimiam partium earundem ab eadem Curia distantiam quam propter gueras*

operated in an extremely complex way.”³¹ As Müller has reminded us, bringing a lawsuit before papal judges was not an easy task, needing a considerable amount of determination and effort.³² But it is not unreasonable to assume that there was a significant amount of transit from King Juan’s kingdom to Rome; personal presence in Rome was certainly extremely common.³³

Therefore, attending trials in Rome would have been substantially inconvenient and yet the papacy would have had no objection to judicial delegation *in partibus*. Under Eugenius IV’s bull and in the Crown’s benefit, secular suits («*querelas prophanas*») would not be admitted in Rome unless they fulfilled a number of qualifications, including the mention of a particular concession from the pope on the subject.³⁴ If so, litigants might then appear before delegated judges entrusted with accomplishing justice («*exhibere [...] iustitie complementum*»).³⁵ Bearing in mind these two factors, the relationship between *Per Litteras* and *Apostolice Sedis* could be understood as the Castilian monarchy recognising that it could push open the door for judges delegate *in partibus* deciding cases because it was safer, doable, and more convenient. It would have been more interesting to have trials held in Castile under royal supervision rather than at Rome, where the Crown could not extend its supervisory hand so easily -we will discuss lobbying at papal tribunals later on.

et viarum discrimina et alias diversas causas plurima etiam cum suorum corporum discrimine et rerum amissione hactenus susceperunt et quotidie suscipiunt incomoda dampna pariter et detrimenta. Quare pro parte dicti regis nobis fuit humiliter supplicatum ut super hoc providere de benignitate apostolica dignaremur», AAV, Reg. Vat. 373, f. 38v-39r.

- 31 Patrick Zutshi, “Petitions to the Pope in the Fourteenth Century,” in *Medieval Petitions: Grace and Grievance*, eds. W. Mark Ormrod, Gwilym Dodd, and Anthony Musson (Woodbridge: York Medieval Press, 2009), 82.
- 32 Müller, “The Omnipresent Pope,” 212, 219; cf. d’Avray, *The Power of Protocol*, 121–24.
- 33 My thanks to Patrick Zutshi for clarifying this in a personal communication. We cannot tell from Pope Eugenius’s bull whether King Juan II had originally requested the measure on behalf of others.
- 34 «*Nos igitur (...) in hac parte huiusmodi supplicationibus inclinati omnibus et singulis in civitatibus, castris, terris et locis regnorum et dominiorum huiusmodi consistentibus personis quascumque rerum vel personarum ratione prophanas querelas, questiones, controversias, lites et causas quas de cetero inter eas vel earum aliquas etiam per appellationes oriri vel moveri contingerit ipse aut earum aliqui auctoritate rescriptarum seu rescriptorum apostolicorum necnon legatorum, delegatorum et subdelegatorum Sedis predictae impetrandorum quorumlibet ac statutorum provincialium que plenam et expressam ac de verbo ad verbum de concessione huiusmodi non faciant mentione, prefata Romana Curia ad iudicium trahi seu advocari non valeant neque possint quamdiu cum effectu parati fuerint in regnis et locis huiusmodi stare iuri et mandatis obedire; et iudices super hoc requisiti similiter parati fuerint exhibere partibus iustitie complementum, auctoritate predicta tenore presentium de specialis dono gratie indulgemus», AAV, Reg. Vat. 373, f. 39r.*
- 35 *Ibid.* See also Franck Roumy, “Complementum iustitiae exhibere: La fortune d’une clause de chancellerie pontificale aux XIIIe et XIIIe siècles,” in *Der Einfluss der Kanonistik auf die europäische Rechtskultur*, eds. Orazio Condorelli, Franck Roumy, and Mathias Schmoeckel (Köln: Böhlau, 2014), 4:231–53.

Royal officials would have certainly known that Pope Eugenius could not refuse the demand that led to *Apostolice Sedis*, as he was in desperate need of assistance: by mid-1431 and early 1432 there had been a complete breakdown of relationships within the Council of Basel (1431–1449), the pontiff attempting to close it down and transfer it elsewhere, and those gathered in that Swiss city refusing to accept papal authority in that matter.³⁶ Overall, the benefits of the 1433 privilege would have been twofold: first, it would have increased the likelihood of papal presence in the Iberian kingdom and, second, it would have heartened litigants' motivation to resolve disputes internally, in benefit of the Crown's authority. In the event that a case was heard in Rome, it would have either been at the request of one of the litigants or because the judge delegate system had broken down.

A little historical digging around *Per Litteras* demonstrates that it was not impossible for secular cases to be referred to Rome for settlement via cunning practices, which would lend credence to the Crown's need to incentivise resolution inside Castile. The unnamed conflict between Enrique de Guzmán and Pedro López de Stúñiga as reported in *Per Litteras* was most likely about who owned the village of La Algaba (Seville). We know that on April 10, 1417, the count of Niebla donated La Algaba -together with the nearby village of Alaraz/Aral- to Juan, Bishop of Ambrona, therefore turning it into an asset of the Church.³⁷ The reason for this was that, months before this gift, on January 1417, Count Enrique had invaded La Algaba, which was then a Stúñiga possession that had, in turn, previously belonged to the Guzmán family.³⁸ After his forcible recovery, the count of Niebla may have anticipated a legal challenge. But he could not face a secular hearing: the *Justicia Mayor del Rey*, the chief royal magistrate dealing with justice in Juan II's realm, was the Lord of Béjar himself.³⁹ To Guzmán's relief, ecclesiastical courts were able to claim jurisdiction

36 Villarroel González, *El Rey y el Papa*, 154.

37 AHNOB, Osuna, CP. 91, D. 15. It is unclear what diocese this refers to. According to García de Santa María he Bishop Juan was an Austin friar: Donatella Ferro, ed., *Le parti inedite della "Crónica de Juan II" di Álvaro García de Santa María* (Venezia: Consiglio Nazionale delle Ricerche, 1972), 204.

38 Ferro, *Le parti inedite*, 203. See also Miguel Ángel Ladero Quesada, "Don Enrique de Guzmán, el 'Buen Conde de Niebla' (1375–1436)," *En la España Medieval* 35, no. 1 (2012): 224–25. King Enrique II (r. 1369–1377) had originally gifted La Algaba to Enrique de Guzmán's father, Juan Alfonso Pérez de Guzmán y Osorio (1340–1394), Count of Niebla (I). On May 4, 1396, however, Diego González, proctor of Pedro López de Stúñiga's cousin, Juan Alfonso de Stúñiga, took possession of La Algaba as part of a dowry brought by Leonor de Guzmán to her marriage with him: AHNOB, Osuna, C. 276, D. 67, f. 3r. A couple of months before dying, the second Lord of Béjar's father, Diego López de Stúñiga, requested written testimony of Count Enrique's invasion, which was made before Juan II's scribe and notary, Diego de Alvites, on March 16, 1417: AHNOB, Osuna, CP. 91, D. 7.

39 Jaime de Salazar y Acha, *La Casa del Rey de Castilla y León en la Edad Media* Madrid: Madrid: Agencia Estatal del Boletín Oficial del Estado and Centro de Estudios Políticos y Constitucionales, 2021), 191, 409.

in complaints by laypeople against laypeople that had spiritual implications («*causae spiritualibus admixte/annexe*»⁴⁰).

The relationship between Guzmán and Stúñiga was plagued with dynastic rivalry, and there had been clashes between both in the 1410s, besides La Algaba. In comparison to the longstanding Guzmán lineage, the Stúñigas were, to begin with, one of the many ‘new aristocrats’ that rose under the Trastámaran dynasty ruling Castile, in power since 1369.⁴¹ It was under the second lord of Béjar’s father, Diego López de Stúñiga (c.1350–1417), that the family rapidly expanded their Andalusian estate, generating significant alarm among the Sevillian elite, usually dominated by the counts of Niebla.⁴² The rivalry between both men escalated into armed conflict in 1414, prompting the intervention of one of the kingdom’s regents, Fernando “*el de Antequera*,” future Fernando I of Aragón (r. 1412–1416).⁴³ Ladero Quesada thought that Pedro López the Stúñiga may have had interest in the conflict, which would began to wane from 1421, to maintain a position advantageous to his interests in the face of intergenerational transition.⁴⁴

In what concerns La Algaba, it seems that impetration to the pope to settle the case between these two men occurred at some point before July 7, 1419.⁴⁵ According to a letter sent to all clergy of Seville by Bishop Giacomo del Camplo of Spoleto, an auditor of the Roman Rota, on February 10, 1420, the matter was assigned in the first instance to his colleague Bartolomeus Guiscardí.⁴⁶

40 Peter Herde, “Zur päpstlichen Delegationsgerichtsbarkeit im Mittelalter und in der frühen Neuzeit,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Kanonistische Abteilung*, 88, no. 1 (2002): 35.

41 Miguel Ángel Ladero Quesada, *Los Señores de Andalucía: Investigaciones sobre Nobles y Señoríos en los Siglos XIII a XV* (Cádiz: Servicio de Publicaciones de la Universidad de Cádiz, 1998), 110.

42 Rafael Sánchez Saus, *Caballería y Linaje en la Sevilla Medieval* (Sevilla and Cádiz: Publicaciones de la Excelentísima Diputación Provincial de Sevilla and Servicio de Publicaciones de la Universidad de Cádiz, 1989), 437.

43 Rafael Sánchez Saus, “Los Señores de Ayamonte y Lepe: Guzmanes y Stúñigas en el Siglo V (1396–1454),” *Huelva en Su Historia* 2, no. 1 (1988): 164–65.

44 Ladero Quesada, *Los Señores*, 128–29.

45 It was then when the parties were summoned to Florence in 1419: Ladero Quesada, “Don Enrique,” 225, n. 48.

46 «*Dignetur S[anc]titas] V[estra] causam et causas apellationis et apellationum pro parte devoti estri nobilis domini Petri de Astuniga, militis Ispalensis Diocesis, tam a quadam pretensa sententia per dominum Bartholomeum Guiscardí, vestri Sacri Palatii Apostolici causarum auditorem, in huiusmodi causa que tunc coram eo verti dicebatur inter dictum dominum Petrum militem, ex una, et fratrem Johannem appropositum episcopum Gambronensis (?) de et super locis de Algava et de Alaras cum suis annexis Ispalensis diocesis respectu attemptatorum in causa designatorum et illorum occasione ex altera contra dictum dominum Petrum militem ut dicitur lata eidem super dictis attemptatis perpetuum silentium imponendo quantum ab aliis gravaminibus eidem domino militi ante dicte perverse sententie prolationem in causa signanter propter denegationem relationum publicarum illata ad sanctam Sedem Apostolicam interposite et interpositarum prout latius de predictis in actis huiusmodi casus apparet ac etiam nullitatis*

Another letter, written on behalf of Martin V in 1424, seems to suggest that Stúñiga acted as the plaintiff.⁴⁷ Guzmán's strategy did not go as smoothly as anticipated, since there are some references to his discontent by 1420, namely retaining La Algaba by force, which caused Stúñiga to seek Martin V's support.⁴⁸ As we have already noted above, the suit developed through the Roman Rota's appeals process and was ultimately resolved in the third instance.⁴⁹

When faced with circumvention of royal courts, as in Guzmán's case, it is easy to understand why the system of papal judges delegate would have been appealing to the Crown and to the Holy See, and we can start making sense of the relationship of *Per Litteras* to *Apostolice Sedis*. In the end, both Eugenius IV and Juan II would have benefited from the latter's dispositions. Firstly, *Apostolice Sedis* would have increased the likelihood of papal juridical activity in the Crown of Castile, which would have been advantageous to the supreme pontiff's jurisdictional interests. In addition, the dispositions of Eugenius IV's privilege would have given individuals more incentive to settle conflicts where they arose, which Juan II's monarchy would have deemed, in turn, advantageous given the additional opportunity for oversight that this represented under the concordat of Constance's terms.

*iniquitatis et iniustitie tam dicte perverse sententie dominum auditorem in causa super attemptatorum contra prefatum dominum militem late ac etiam perverse processus per et coram dicto domino auditore in causis huiusmodi abto [i.e. apto] committere reverendo patri domino Jacobo de Camplo, Episcopo Spoletani audiendi, cognoscendi, detinendi et fine debito terminandi cum omnibus et singulis emergentibus, incidentibus et connexis», AHNOB, Osuna, CP. 91, D. 23. On Bishop Camplo see 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* (Romae, Typis Poliglottis Vaticanis, 1920), 2:41.*

47 «*Exhibita nobis pro parte dilecti filii nobilis viri Petri de Astuniga, militis Placentinis diocesis, etitio continebat quod olim ipse in causa per eum contra venerabilem fratrem nostrum Johannem, episcopum Ambronensem, super restitutionem locorum de Algava et Alaras, Yspalensis Diocesis, ad [sic for cum] suis iuribus et pertinentiis ad eundem militem justo titulo pertinentium; et quorum possessione ipse miles per eundem episcopum espoliatus fuerat, mota et in Romana Curia coram diversis Sancte Romane Ecclesie cardinalibus ex commissionibus apostolicis diutius ventillata tres pro se et contra prefatum episcopum (...) per eum habite condepnatus extiterat», AHNOB, Osuna, C. 277, D. 11, f. 4r-v. Issued on March 22, 1424, this is one of several executory letters from Martin V are included in a 1424 copy of what appears to be the judgement favourable to Pedro López de Stúñiga. However, we have not yet found any more evidence to definitely confirm that Stúñiga was the defendant.*

48 «*Exhibita siquidem nobis nuper pro parte dilecti filii Petri Astuniga, militis Placentinum diocesis, (...) quod olim pro parte dilecti dilecti filii nobilis viri Henrici, comitis de Nyebla, falso nobis suggesto quod dictus miles loci de Algava et Ala[ræz] [pertinentia (?)] ad ipsum comitem detinebat impignerata et illorum occasione multa extorquebat et extorquere nitebatur ab eodem comite», AHNOB, Osuna, CP. 91, D. 24. This is an executory letter addressed to the archbishop of Toledo on Martin V's behalf on February 10, 1420.*

49 On the appeal of a lost case at the Rota see Salonen, *Papal Justice*, 54–55. According to Ladero Quesada, however, the case concluded in Rome with three favourable sentences to Niebla, in 1426, 1429, and 1430: Ladero Quesada, "Don Enrique," 225, n. 48.

A request for a mandate authorising the presentation of the matter before papal judges delegate was a basic requirement, and it needed to be made in Rome.⁵⁰ It was then up to the Apostolic Chancery's personnel to decide whether *iurisdictio delegata* applied to that particular suit and, if so, decide the kind of rescript to be produced. This meant that plaintiffs or their resident proctors in Rome needed to go before the papal curia with their concerns and suggest the judges, the extra stage of the Audience of Contradictory Letters («*Audientia Litterarum Contradictarum*»), introduced by Pope Innocent III (r. 1198–1216), serving to ensure that favourably biased judges were not appointed.⁵¹ Any resulting document would have been read in the *Audientia Publica*, a public session of the Chancery when pronouncements and comments were made.⁵²

If an objection to the letter's contents were raised by the defendant, it would probably have been discussed on the spot, as the *auditor litterarum contradictarum* was present, perhaps sending the plaintiff back to the first phase of the process.⁵³ We could hypothesise that the provisions of *Apostolice Sedis* would have allowed Castilian royal agents in Rome to interfere in a given case and petition the Curia's legal professionals.⁵⁴ Though the plaintiff drafted the petition in the first place, a *supplicatio*'s wording could be changed at the Curia's initiative.⁵⁵ One cannot rule out the possibility of appointing judges sympathetic to the royal position.⁵⁶ Besides the official ambassadorial channels, the Crown of Castile could also make use of a web of contacts at the different curial levels,

50 Sayers, *Papal Judges*, 54.

51 Harald Müller, "Im Dienst der Zentralisierung? Zu Struktur und Praxis päpstlich delegierter Gerichtsbarkeit," in *Die Ordnung der Kommunikation und die Kommunikation der Ordnungen. 2. Zentralität*, eds. Cristina Andenna, Gordon Blennemann, Klaus Herbers, and Gert Melville (Stuttgart: Franz Steiner Verlag, 2013), 2: 138. D'Avray, *The Power of Protocol*, 126. Also, if an agreement could not be reached between the parties regarding the delegated judges, the *auditor litterarum contradictarum* could consult respected men from the opponents' homeland and then appoint the delegates: Peter Herde, *Beiträge zum päpstlichen Kanzlei- und Urkundenwesen im dreizehnten Jahrhundert*, 2nd ed. (Kallmünz: Verlag Michael Laßleben, 1967), 216.

52 Peter Herde, *Beiträge*, 215.

53 My thanks to David d'Avray for clarifying this in a personal communication.

54 There were several influential people associated with the Crown of Castile in Rome. For instance, Juan de Mella, dean of Coria, had served as Juan II's ambassador before becoming auditor of the Roman Rota on January 30, 1423, and he was still in Rome in early 1433: Cerchiari, *Capellani Papae*, 2:46 and Vicente Beltrán de Heredia y Ruiz de Alegría, ed., *Bulario de la Universidad de Salamanca (1219–1549)* (Salamanca: Universidad de Salamanca, 1966), 2:223–24.

55 For example, political factors may account for changes to petitions' language: Zutschi, "Petitions," 85–6.

56 This would be consistent with the argument made for the period 1429–1430 in Villarroel González, *El Rey y la Iglesia*, 394–95. At least at the *Audientia Publica* objections could be made by either of the litigants or other interested parties ("anderer interessierter Parteien"): Herde, ed., *Audientia Litterarum*, 1:23.

within the cardinalate and/or involving freelancers.⁵⁷ Commissions to judges delegate could then perhaps be assigned with the Crown of Castile's *placet*, however it is important to remember that the opposition could challenge them in the *Audientia Litterarum Contradictarum*.

The suit between Guzmán and Stúñiga suggests that the wording of the quasi-concordat of Constance left a legal loophole, through which astute litigants could make their cases filter to Rome for adjudication if, as in the case involving both noblemen, it was more advantageous to the plaintiff -though not so much for the defendant. Since *iusdictio delegata* acted as a conduit for communication between the Curia and the regions, we cannot rule out that the Crown of Castile's officials might have been consulted during the petitioning process, perhaps especially if it involved or compromised anyone closely associated with the monarchy.⁵⁸ This consultative aspect would certainly explain why, as noted above, the *dispositio* of *Apostolice Sedis* mentions that, among others, *querelas prophanas* could not enter -and should not be recognised- unless they met a few additional requirements.

6. Conclusion

Per Litteras pinpoints how the concordat of Constance allowed secular cases that had nothing to do with the *forum ecclesiasticum* to eventually reach the Roman Curia. One of these strategies, as shown by pulling *Per Litteras*' documentary thread, would have been to transform secular into spiritual matters, so that they might fall into the church's jurisdiction. A grey area in itself, landed property owned by an ecclesiastical person or body always served as a magnet for ecclesiastical tribunals, especially if lands were given by way of "alms."⁵⁹ In light of situations like these, by allowing legal procedures to take place in Castile through papal *iusdictio delegata* from 1433 onwards, Juan II's monarchy would have been able to maintain its own judicial authority while still appearing at face value to be receptive to the papacy's methods of jurisdictional governance.

According to Villarroel González, *Apostolice Sedis Circumspecta* did not resolve the issue of secular cases being sent to Rome.⁶⁰ Although one dispute is undoubtedly insufficient to allow us to draw any firm conclusions about judges delegate in the Crown of Castile in the Late Middle Ages, it can nonetheless encourage us to start thinking about the phenomenon of papal judges delegate

57 This was certainly the English case in the early fourteenth century: Bombi, *Anglo-Papal Relations*, 101. There were no known embassies in 1434, but there was renewed ambassadorial efforts from 1435 onwards: Villarroel González, *El Rey y el Papa*, 212.

58 On the communicative aspect see Müller, "Im Dienst," 137.

59 Frederick Pollock and Frederic William Maitland, *The History of English Law Before the Time of Edward I*, 2nd ed. (1898; repr., Cambridge: Cambridge University Press, 1952), 1:126.

60 Villarroel González, *El Rey y el Papa*, 218.

in the period after the Great Schism, especially since modern scholarship is meagre when we come to the fifteenth and sixteenth centuries.⁶¹ Crucially, examples such as the one discussed in this paper can help us to dig into the subtleties of local and specific suits rather than focus on the overall narrative of the diplomatic activities between the Crown of Castile and the Holy See, thus being in line with recent studies' emphasis on reconstructing individual judicial processes in Iberia.⁶²

Per Litteras has hopefully shown how there are many unexplored areas for further research on this fascinating element of medieval judicial practice. For instance, it would be interesting to investigate -if evidence survives- whether there was an increase in commissions for judges delegate to the Crown of Castile after 1433. Given the Castilian presence in the curial administration at the time it would also be illuminating to see if the auditors to whom cases fell had any peninsular (especially Castilian) origin or affiliation at all. It would also be interesting to look for those summaries that *auditores* produced for a given process, which we know they discussed with other auditors.⁶³ We should also pay particular attention if a royal official or any relative of theirs were involved in a suit, especially if their case went through the *Audientia Litterarum Contradictarum*. Overall, new possibilities such as these will certainly help us understand more about the phenomenon of papal judges delegate in the Crown of Castile at the end of the Middle Ages.

APPENDIX

«*Per Litteras*»

Note on the Transcription

As in the rest of the transcriptions in this article, consonantal “i” and “u” have been rendered as “j” and “v”, respectively; “c” and “t” are normalised to classical usage. Editorial additions are between brackets.

AAV, Reg. Vat. 359, f. 54r

Pope Martin V to King Juan II of Castile

c.1429–1431, Ferentino

«[C]arissimo in Christo filio Johanni, regi Castelle et Legionis illustri, salutem et cetera. / *Per litteras dilecti filii nostri Petri, tituli Sancti Stephani in*

61 D'Avray, “The Long History,” 460.

62 See Harald Müller, “Generalisierung, dichte Beschreibung, kontrastierende Einzelstudien? Stand und Perspektiven der Erforschung delegierter Gerichtsbarkeit des Papstes im Hochmittelalter,” in *Rom und die Regionen: Studien zur Homogenisierung der lateinischen Kirche im Hochmittelalter*, eds. idem and Jochen Johrendt (Berlin and Boston: De Gruyter, 2012), 151.

63 Salonen, *Papal Justice*, 34.

Celiomonte presbiteri cardinalis, / Apostolice Sedis legati, intelleximus suggestum esse serenitati tue pro-/phanas causas tui regni in Romana Curia tractari. Verum res / aliter se habet. Nam dudum, in presentia dilecti filii nostri Alfonsi, Sancti / Eustachii diaconi cardinalis, qui status et honoris tui est ferven-/tissimus zelator, inhibuimus venerabili fratri Gerardo, episcopo Conseranensis, cancellariam Sancte Romane Ecclesie de mandato nostro regenti, prout / per litteras dicti cardinalis credebamus tibi significatum, ne aliquam / causam prophanam tui regni comitteret amplius in Curia; et si quas / commisisset, remitteret in partibus cognoscendas, quod et ita est / factum, excepta forsitan causa que vertitur inter dilectos filios / Petrum de Astoniga et comite de Nebula, in qua cum de utriusque / partium consensu, esset in tertia instantia conclusum et quia per / venerabiles fratres nostros, Sancte Romane Ecclesie cardinales, et in dicti cardinalis / Sancti Eustachii presentia fuerat conclusum eam spiritualizatam esse et propterea / in Curia finiendam remitti non potuit quod similiter existimamus / tue serenitati fuisse significatum. Certa sit igitur tua celsitudo / quod similes cause decetero non committentur neque tractabuntur in Curia. Nolumus enim iurisdictioni aut iuribus tuis in aliquo / prejudicari, sed ea potius intendimus conservari. Datum Ferenti[ni]»

«To the dearest son in Christ, the illustrious King Juan [II] of Castile and León, greetings etc. We have understood through letters of our dear son Pierre, cardinal-priest of Santo Stefano al Monte Celio, legate of the Apostolic See, that it has been suggested to Your Serenity that secular cases of your kingdom are being handled in the Roman Curia. However, the fact of the matter is different. Not long ago, in the presence of our dear son Alfonso [Carrillo de Albornoz], cardinal-deacon of Sant' Eustachio,⁶⁴ who is a most fervent and zealous supporter of your state and honour, we have commanded venerable brother Gérard, bishop of Couserans, by our command regent of the Chancery of the Holy Roman Church -as in the letters of the said cardinal we believe you have been informed- that he should not commit any secular case from your Kingdom to the Curia from now on; and if he should have committed any, to be heard outside the papal curia. This was done in this way, perhaps with the exception of the case conducted between the beloved sons Pedro de Stúñiga and the count of Niebla in which, since it [i.e. the matter] was concluded in the third instance with the agreement of these two parties and since -by our venerable

64 It may seem odd that Cardinal Carrillo appears associated with Sant'Eustachio when we know that Cardinal Giacomo Isolani was given the same titular church on November 18, 1413, by the Pisan Antipope John XXIII: Konrad Eubel, *Hierarchia Catholica Medii Aevi, sive Summorum Pontificum-S. R. E. Cardinalium, Ecclesiarum Antistiticum Series*. 2nd ed. (Münster: Sumptibus et Typis Librariae Regensberginae, 1913), 1:50. However, this can be easily explained. As part of the arrangements to sort the College of Cardinals following the 1417 conclave, Martin V retained both prelates' association with Sant'Eustachio, Carrillo appearing in the records of the Vatican's Archivio Consistoriale as "Sant'Eustachio junior" and Isolano as "Sant'Eustachio Senior." See Carol M. Richardson, *Reclaiming Rome: Cardinals in the Fifteenth Century* (Leiden and Boston: Brill, 2009), 77.

brothers the cardinals of the Holy Roman Church and in the presence of the aforementioned cardinal of Sant' Eustachio- it had been concluded that the case had a spiritual character and thus had to be concluded in the Curia and not be referred back, which likewise we thought was indicated [in a letter] to Your Serenity. Therefore, Your Highness may rest assured that, henceforward, similar cases will neither be committed nor treated in the Curia. For, we do not wish to impair your jurisdiction and laws in any way, but we rather intend to preserve them. Given in Ferentino»

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