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among Observants in  
Central and Eastern  
Europe (c. 1450–1520): A  
Lexicometrical Approach**

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UDC 271.3:94(398)"1450/1520"

<https://doi.org/10.32728/flux.2022.4.2>

Original scientific paper

## **Composing the Statutes – Norms and Franciscan Identities among Observants in Central and Eastern Europe (c. 1450–1520): A Lexicometrical Approach<sup>1</sup>**

Central and eastern Europe constitutes a privileged space to capture the dynamics of rivalry and cooperation affecting the order of the Friars Minor at the end of the Middle Ages. From a comparative perspective, I propose approaching defining texts – statutes and constitutions – of central European observant vicariates with a global analysis to detect their proximities, differences, and accents. Then, focusing on the regulations governing the visitatio, I discuss the process of normalization in a vicariate with a changing institutional position: the Hungarian vicariate from the 1490s to the 1520s. The codification of the visitatio allowed for rivalries and cooperation in the process of writing norms to be highlighted, while relations with the Cismontanes became strained and the peasant war broke out in the spring of 1514.

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### **KEYWORDS:**

Franciscan, Regular Observance, Central Europe, Cismontane, Hungary, Regular Visit, Norm, Constitutions, Late Middle Ages

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<sup>1</sup> This is a revised version of a paper originally presented on April 8, 2021, at the 4<sup>th</sup> biennial conference of the MECERN, "Networks – Cooperation – Rivalry," 7–9 April 2021, Gdąnsk, [held online]. I also present some results from a study in progress.

Wurttemberg, 1542. Martin Luther translates, prefaces, and publishes a treaty written by Erasmus of Rotterdam a few years before. The pamphlet, entitled *Alcorannus franciscanorum*, is soon printed in Latin in Frankfurt. Erasmus accuses the Franciscans of viewing their Rule as the Turks view the Koran.<sup>2</sup>

Indeed, humanists and reformed controversialists harshly denounced the Franciscans' idolatry regarding their stigmatized founder. They also blamed what was, in their eyes, an excessive deference toward their Rule. Attacks targeted Bartolomeo da Pisa's *Liber de conformitate*, which made Francis a real alter Christus.<sup>3</sup> Despite these polemical charges, the *Regula bullata* was not the friars' unique normative text. Bartolomeo had no choice but to convoke a multiplicity of normative texts when dealing with Francis as Regulator. He relied primarily on papal declarations and used expositions and constitutions.<sup>4</sup>

Constitutiones, statute, acta or definitiones described and prescribed life in and out of the cloister. They were composed by the legislative assemblies of the Minorites: the General Chapter, an institution that came with the Orders being structured as a juridical entity,<sup>5</sup> and (after 1239) the provincial chapter. Since the Rule was not amendable, acta formed prospective and ongoing legislation, which conferred some adaptability to changing conditions and to contingency.<sup>6</sup> The first systematically organized

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<sup>2</sup> Erasmus Alberus, *Der Barfüßer Münche Eulenspiegel und Alcoran, mit einer Vorrede D. Martini Luther* (Wittemberg: Hans Lufft, 1542).

<sup>3</sup> Bartolomeo da Pisa's *De Conformitate* was composed between 1385 and 1390. Approved in General Chapter in 1399, it was printed at Milano in 1510, then again in 1513. Alessandro Mastromatteo, *Similem illum fecit in gloria sanctorum: il profilo cristiforme di Francesco d'Assisi nel De conformitate di Bartolomeo da Pisa* (Rome: Antonianum, 2012), 25–43. About the *Alcoranus*: Grado Giovanni Merlo, *Nel Nome Di San Francesco: Storia Dei Frati Minori e Del Francescanesimo Fino Agli Inizi Del 16. Secolo* (Padova: Editrici francescane, 2003), 434–36.

<sup>4</sup> See the recent dissertation of Francesco Carta, whom I thank for letting me read it: Francesco Carta, "Sine Glossa. Le expositiones super Regulam dei frati Minori tra XIII e inizio XVI secolo," (PhD diss., Università degli studi Roma Tre; Université Clermont Auvergne, 2018), 93–103; Mastromatteo, *Similem illum fecit*, 158–64.

<sup>5</sup> Gert Melville, "Zum Recht der Religiösen im 'Liber extra,'" *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Kanonistische Abteilung* 87, no. 1 (2001): 165–90; Gert Melville, "Ordensstatuten und allgemeines Kirchenrecht: Eine Skizze zum 12./13. Jahrhundert," in *Proceedings of the Ninth International Congress of Medieval Canon Law: Munich, 13-18 July 1992*, ed. Peter Landau and Joerg Mueller (Citta del Vaticano: Biblioteca Apostolica Vaticana, 1997), 691–712.

<sup>6</sup> Gert Melville, "Regeln - Consuetudines - Texte - Statuten. Positionen für eine Typologie des normativen Schrifttums religiöser Gemeinschaften im Mittelalter," in *Regulae - Consuetudines - Statuta: studi sulle fonti normative degli ordini religiosi nei secoli centrali del Medioevo; atti del I e del II seminario internazionale di studio del Centro Italo-Tedesco di Storia Comparata degli Ordini Religiosi (Bari/Noci/Lecce, 26 - 27 ottobre 2002 /Castiglione delle Stiviere, 23 - 24 maggio 2003)*, ed. Cristina Andenna and Gert Melville (Münster: Lit, 2005), 34–35; Klaus Schreiner, "Dauer, Niedergang und Erneuerung klösterlicher Observanz im hoch- und spätmittelalterlichen Mönchtum. Krisen, Reform- und Institutionalisierungsprobleme in der Sicht und Deutung betroffener Zeitgenossen," in *Institutionen und Geschichte: theoretische Aspekte und mittelalterliche Befunde*, ed. Gert Melville (Köln: Böhlau, 1992), 314–20.

collection of (mostly anterior<sup>7</sup>) norms was adopted in 1260 at Narbonne. There, Minister Bonaventure provided the friars a “clear map for the road”<sup>8</sup>: from this date on, the constitutions were the necessary texts to ensure the substantial observance of the Rule in the present.<sup>9</sup> Moreover, the Rule came to be substantially identified with the constitutions.<sup>10</sup>

From the 15<sup>th</sup> to the middle of the 16<sup>th</sup> century, the multiplication of movements claiming to be de observantia contributed to a “boom”<sup>11</sup> in the composition of such provincial or vicarial texts. Observance was an attempt at renewing religious life within a vast movement that exceeded the diversity of the Order’s *proposita*, and which consisted of a transversal impulse to “monastacize” the universe.<sup>12</sup> In the Franciscan case, the claim for fidelity to Saint Francis resulted in severe dissensions within an order racked by internal division since its founder’s death.<sup>13</sup> Constitutions were a decisive normative hard core of each Franciscan’s *modus vivendi*:<sup>14</sup> novices learned

<sup>7</sup> See invaluable works by Cesare Censi. For the references and an analysis of the “prenarbonnese” norms: Jacques Dalarun, “La Règle et les Constitutions jusqu’à Bonaventure,” in *La Regola Dei Frati Minori. Atti Del XXXVII Convegno Internazionale. Assisi, 8-10 Ottobre 2009 (SISF XXVII, 20)*, ed. SISF, (Spoleto: Fondazione Centro italiano di studi sull’alto Medioevo, 2010), 213-68.

<sup>8</sup> Dominic V. Monti, “Bonaventure as Minister General,” in *A Companion to Bonaventure*, ed. Jay M. Hammond, J. A. Wayne Hellmann, and Jared Goff (Leiden; Boston: Brill, 2014), 577.

<sup>9</sup> Pietro Maranesi, “Regola e le costituzioni del primo secolo francescano: due testi giuridici per una identità in cammino,” in SISF, ed., *La Regola dei frati minori*, 280-83; Timothy J. Johnson, “Dispensations, Permissions, and the ‘Narbonne Enclosure’: The Spatial Parameters of Power in Bonaventure’s Constitutions of Narbonne,” in *Oboedientia: zu formen und Grenzen von Macht und Unterordnung im mittelalterlichen Religiosentum*, ed. Sébastien Barret and Gert Melville (Münster: Lit, 2005), 363-82; Jens Röhrkasten, “Franciscan Legislation from Bonaventure to the End of the Thirteenth Century,” in Barret and Melville, eds., *Oboedientia* (Münster: Lit, 2005), esp. 485-86.

<sup>10</sup> Elmar Wagner, *Historia Constitutionum generalium Ordinis Fratrum Minorum* (Rome: Tipografia “Universitätsdruckerei H. Stürtz Ag. Würzburg,” 1954), 45.

<sup>11</sup> Bert Roest, *Franciscan Literature of Religious Instruction before the Council of Trent* (Leiden; Boston: Brill, 2004), 165.

<sup>12</sup> The literature expanded considerably between 2000 and 2010. Some recent titles: Cristina Andenna et al. eds., *Régler, éduquer et contrôler la société chrétienne. Les réformes de l’Observance en Europe (XIVe-XVIIe siècles)* (Rome: École Française de Rome, 2022) [in print]; “Les observances régulières : historiographies,” *Mélanges de l’École française de Rome - Moyen Âge*, no. 130-2, 2018; Bert Roest and Johanneke Uphoff, *Religious Orders and Religious Identity Formation, ca. 1420-1620: Discourses and Strategies of Observance and Pastoral Engagement* (Leiden: Brill, 2016); James D. Mixson and Bert Roest, eds., *A Companion to Observant Reform in the late Middle Ages and Beyond* (Leiden: Brill, 2015); Jean-Marie Le Gall, *Les moines au temps des réformes: France, 1480-1560* (Seysse: Champ Vallon, 2001), 562.

<sup>13</sup> Letizia Pellegrini, “An Irreducible Plural: Franciscan Observances in Europe (15<sup>th</sup> Century),” *Mélanges de l’ÉFR - Moyen Âge*, no. 130-2 (Rome: École Française de Rome, 2018), 301-311; *Identità francescane agli inizi del Cinquecento: atti del XLV Convegno internazionale: Assisi, 19-21 ottobre 2017*, ed. SISF, (Spoleto: Fondazione Centro italiano di studi sull’alto Medioevo, 2018); Pacifico Sella, “Le osservanze e l’Osservanza prima del 1517,” *Frate Francesco 73* (2007): 29-83.

<sup>14</sup> Melville, “Regeln - Consuetudines - Texte - Statuten.” For Franciscan identities: Caroline Galland, Fabien Guilloux, and Pierre Moracchini, eds., *Les récollets. En quête d’une identité franciscaine* (Tours: Presses universitaires François Rabelais, 2014); Frédéric Meyer and Ludovic Viallet, eds., *Le silence du cloître: l’exemple des saints, XIV<sup>e</sup>-XVII<sup>e</sup> siècle* (Clermont-Ferrand: Presses universitaires Blaise-Pascal, 2011); Frédéric Meyer and Ludovic Viallet, eds., *Identités franciscaines à l’âge des réformes* (Clermont-Ferrand: Presses universitaires Blaise-Pascal, 2005).

the *forma vitae* by the *Regula* and the constitutions together. Regularly read, constitutions set hermeneutic paths to follow, ensuring the continuous formation of the friars. Hence, the constitutions became an issue within the rivalries among the various factions, with each trying to impose or defend their own version of Minorite norms and interpretations. Central and Eastern Europe constitutes a privileged space to capture those dynamics at the end of the Middle Ages. In Saxony, the Reformaten, loyal to the Martinian constitutions of 1430, refused the observance *sub vicariis* defended by John of Capistrano.<sup>15</sup> Despite the uneasy contradictors he faced and his lukewarm results, Capistrano's seeds took root from Silesia to Austria, by the institution of the Cismontane vicariates of Austria, Poland, and Bohemia.<sup>16</sup> Even if the Hungarian observants did not share the anti-Roman sentiments of their Saxon colleagues, they can be categorized as being among the Martinians. Autonomous from the subvicarial observance from 1458 to 1502, the friars did, in fact, follow the legislation of Martin V and composed their own constitutions in 1499.<sup>17</sup>

Constitutions are a category of texts that scholars cannot disregard when studying the religious orders of the late Middle Ages. In the Franciscan case, however, these are rarely a main focus of research. Provincial constitutions and those of the vicariates are either the subject of monographs, or they are used to evaluate Minorite practice in a dialectic with the initial intuition of Francis, or are used to shed light on a specific point which needs to be read within the *longue durée* of Minorite tradition.<sup>18</sup> In a more practical

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<sup>15</sup> Volker Honemann, "Die Reformbewegungen des 15. und frühen 16. Jahrhunderts in der Saxonien," in *Geschichte der Sächsischen Franziskanerprovinz: von der Gründung bis zum Anfang des 21. Jahrhunderts. Bd.1: Von den Anfängen bis zur Reformation*, ed. Volker Honemann and Gunhild Roth (Paderborn: Schöningh, 2015), 45–158; Ludovic Viallet, *Les Sens de l'observance: Enquête Sur Les Reformes Franciscaines Entre l'Elbe et l'Oder, de Capistran a Luther (Vers 1450-Vers 1520)* (Berlin: Lit, 2014).

<sup>16</sup> In addition to the works cited in the preceding footnote, see; Paweł Kras and James D. Mixson, eds., *The Grand Tour of John of Capistrano in Central and Eastern Europe (1451–1456): Transfer of Ideas and Strategies of Communication in the Late Middle Ages* (Warsaw; Lublin: T. Manteuffel Institute of History, Polish Academy of Science, Wydawnictwo KUL, 2018). For Hungary see Marie-Madeleine de Cevins, *Les Franciscains observants hongrois de l'expansion à la débâcle: vers 1450-Vers 1540* (Rome: Istituto storico dei Cappuccini, 2008). For Bohemia see: Petr Hlaváček, *Die böhmischen Franziskaner im ausgehenden Mittelalter* (Stuttgart: Franz Steiner, 2011).

<sup>17</sup> Cevins, *Les Franciscains observants hongrois*, 64–68; Ludovic Viallet, "L'autre Observance: les *Reformati sub ministri* et les 'Colétans,'" in SISF, ed., *Identità francescane agli inizi del Cinquecento*, 124; Galamb György, ed., *Franciscan Observance between Italy and Central Europe. Proceedings of the International Conference, 4-6 December 2014 / L'Osservanza francescana fra Italia ed Europa Centrale. Atti del Convegno internazionale, 4-6 dicembre 2014, Chronica. Annual of the Institute of History*, 15 (Szeged: Institute of History, 2017); Francesca Bartolacci and Roberto Lambertini, eds., *Osservanza Francescana e Cultura Tra Quattrocento e Primo Cinquecento: Italia e Ungheria a Confronto: Atti Del Convegno, Macerata-Sarnano, 6-7 Dicembre 2013*, (Rome: Viella, 2014).

<sup>18</sup> As illustrations in an extensive literature: Thomas Binoy, "La Povertà e l'obbedienza Nelle Costituzioni Dell'Ordine Dei Minori (1239-1517) e Dei Frati Minori Conventuali (1517-1932)," *Miscellanea Francescana* 111, no.1-2 (2011); Damien Ruiz, "La législation provinciale de l'ordre des frères mineurs et la vie économique des couvents en France et en Italie (fin XIIIe-milieu XIVE siècle)," in *Économie et religion: l'expérience des ordres mendiants (XIIIe-XVe siècle)*, ed. Nicole Bériou and Jacques Chiffolleau (Lyon: Presses universitaires de Lyon, 2009), 357–86.

fashion, they could serve as an “anthropology of Franciscan life.”<sup>19</sup> This could be explained by a propensity to see these documents as frozen normative ones, or to perceive them as juridical concretions far from the joyful intuition of the Poverello. They could even be denounced for having encouraged a formal obedience to a formal rule, without the “living spirit”<sup>20</sup> carried by Francis. This tendency extends beyond the specialists’ circle. In the fourth volume of his ennealogy *Homo Sacer*, Giorgio Agamben sees in the *forma vivendi* of Francis a “form-of-life” characterized by an “extraneousness to the law.”<sup>21</sup> As Jacques Dalarun put it, here “the moral veils the institutional.”<sup>22</sup> Most of the studies about the government, administration, and institutional framework of Francis’s sons deal with the institutionalization era of their history, which is often considered to have ended with Bonaventure.<sup>23</sup> Normative texts of everyday life have surely received extra attention since the end of the 1990s thanks to the seminal studies conducted in collaboration with TU Dresden. Still, the life of the friars within the cloister or their government practices of bodies and souls remain less studied during the classic “autumn” of the *Vita religiosa*.

Yet by 1954, Elmar Wagner had suggested some dynamics, resurgences, or initiatives in 15<sup>th</sup> century provincial or vicarial constitutions. Beyond the question of fidelity to Francis, one must depart from what Marc Bloch called “the satanic enemy” of History: the “mania for making judgment.”<sup>24</sup> In this case that means considering constitutions without moral judgment and studying these texts in their own right. Far from the aporetic dispute concerning the effectiveness of norms, uses of formulations and standards can be seen as a way of positioning oneself in a normative palimpsest which implied constraints. In that sense, reiterations of a rule over time does not necessarily signal persistence or aggravation of a problem. Therefore, the textual statistical tools of lexicometry are relevant for approaching these defining texts from the long fifteenth century of reforms.<sup>25</sup> It could be defined as formal methods for reorganizing textual sequences and methods

<sup>19</sup> Ludovic Viallet, “La réforme franciscaine au miroir de ses textes: jalons pour une anthropologie du ‘vivre franciscain’ au XV<sup>e</sup> siècle,” *Quaestiones Medii Aevi Novae* 10 (2005): 331–44; Marie-Madeleine de Cevins, “Le franciscanisme à table: les pratiques alimentaires des Frères mineurs en Europe centrale à la fin du Moyen Âge,” *Actes des congrès nationaux des sociétés historiques et scientifiques* 138, no. 2 (2014): 238–49.

<sup>20</sup> Raoul Manselli, *San Francesco d’Assisi, Editio maior* (Milano: San Paolo, 2002), 296.

<sup>21</sup> Giorgio Agamben, *Altissima povertà: regole monastiche e forma di vita* (Vicenza: Pozza, 2011), 148–49.

<sup>22</sup> Jacques Dalarun, *François d’Assise ou le pouvoir en question: principes et modalités du gouvernement dans l’ordre des frères mineurs* (Bruxelles: De Boeck Université, 1999), 120.

<sup>23</sup> See the remarks in: Jens Röhrkasten and Michael Robson, ‘Introduction,’ in *Franciscan Organisation in the Mendicant Context: formal and informal Structures of the Friars’ Lives and Ministry in the Middle Ages*, ed. Jens Röhrkasten and Michael Robson (Berlin; Münster: Lit, 2006), IX–XXIII.

<sup>24</sup> Marc Bloch, *The Historian’s Craft*, trans. Peter Putnam (Manchester: Manchester University Press, 2002), 26.

<sup>25</sup> Sabrina Corbellini and Sita Steckel, “The Religious Field during the Long Fifteenth Century: Framing Religious Change beyond Traditional Paradigms,” *Church History and Religious Culture* 99, no. 3–4 (2019): 303–29.

of statistical analysis of a corpus's vocabulary.<sup>26</sup> Then when focusing on the Hungarian visitatio, the constitutions will be read not only as normative sources, but also as having taken in a network of standards in which “actors of the norms”<sup>27</sup>—capitularies, vicars, and commissaries—acted and thereby contributed to the making of constitutions.

### Statistical Approach to Observant Constitutions (15th and 16th centuries)

#### *Method and corpus*

Here I will stick to the statistical description of ten constitutions prior to 1517. Six are vicarial or provincial: those composed in Hungary, Poland, Austria, and Bohemia by the Observants, and in Hungary by the reformed Conventuals (1454).<sup>28</sup> The Observant friars fit in the Cismontane macro-region,<sup>29</sup> a region formed by John of Capistrano during his Grand Tour<sup>30</sup> (1451–1456). One of the preacher's goals was to promote the observant-model of the autonomous vicars, apart from the direction of the minster general. By 1446 Pope Eugene IV had issued the *Ut Sacra* bull, giving a large amount of autonomy within the Order to a group of friars claiming to live according to a strictior observance of the Rule without mitigations. Since there was still one general minister, unity was preserved at the top. But the institution of two macro-regions (Ultramontane and Cismontane), each with a vicar general and subdivided in provincial vicariates, resulted in a parallel hierarchical structure for the Observance.<sup>31</sup> For the pope, all observances should have coalesced in the subvicarial model he established, a model

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<sup>26</sup> Ludovic Lebart and André Salem, *Analyse statistique des données textuelles: questions ouvertes et lexicométrie* (Paris: Dunod, 1988), 183. I used the free software Iramuteq, developed in 2009 under the supervision of the LERASS laboratory in Toulouse led by Pierre Ratinaud.

<sup>27</sup> I have borrowed this expression from Didier Lett. He suggests that statutes and constitutions can be viewed as pragmatic sources by placing them in a wider documentary landscape in which the same actors intervene, and by studying their genesis and structure, also on a material level. Didier Lett, “Avant-propos,” in *La confection des statuts dans les sociétés méditerranéennes de l'Occident (XII<sup>e</sup>-XV<sup>e</sup> siècle)*, ed. Didier Lett (Paris: Publications de la Sorbonne, 2017), 5–13.

<sup>28</sup> The Polish Constitutions (1467) have been edited in Kamil Kantak, “*Życie wewnętrzne bernardynów w epoce przedreformacyjnej*,” *Przegląd Teologiczny* 10 (1929), 341–50. Here I have used my own transcription of the constitutions and referred to a manuscript kept in Wrocław: shelfmark IV-Q-196 (ff. 110a–118b); for the Bohemian constitutions, I used the manuscript XIV-H-22 from the Czech National Library (ff. 71b–78b; ff. 89a–98a) and the edition by P. Gerold Fussenegger in “*Statuta Observantium Provinciae Bohemiae an. 1471 et 1480 condita*,” *Archivum Franciscanum Historicum* 47 (1954), 373–81 (constitutions of 1471) and 381–84 (revised constitutions of 1480); for the Austrian constitutions (1516), of which a third are missing. I used the manuscript kept in Vienna at the ÖNB, Cod-1744 (ff. 25a–46a); for the Hungarian constitutions, I used my own edition in my PhD dissertation and used a manuscript kept in the Batthyaneum Library (Alba Iulia) as a basis: BR-II-148, ff. 1a–26a. Old edition: *Leges Ecclesiasticae Regni Hungariae Et Provinciarum Adiacentium*, III, ed. Ignác Batthyány (Alba Iulia: Typis Episcopalis, 1827), 609–35 [henceforth: LERH III].

<sup>29</sup> Molnár Antal, “*Appunti per le ricerche transnazionali sull'Osservanza francescana nell'area cismontana (Italia ed Europa centrale, secc. XV–XVI)*. Una introduzione,” *Franciscan Observance between Italy and Central Europe, Chronica* 15, 10.

<sup>30</sup> Kras-Mixson, *The Grand Tour of John of Capistrano*.

<sup>31</sup> Merlo, *Nel Nome Di San Francesco*, 305–80, esp. 346.

whose “man of thought and action”<sup>32</sup> was Capistrano. For the papacy, what eventually became the “Observance by antonomasia”<sup>33</sup> was a tool for the restoration of his authority in lands where anti-Roman sentiments were not absent after the conciliarist experiences. It was also a weapon against Utraquism. During his travels, the charismatic preacher won support in Austria, Poland, Bohemia. After 1467, they formed three vicariates through the separation of the Bohemian one.<sup>34</sup>

Capistrano also enjoyed success in Hungary against the Ottoman threat. The vicariate nevertheless followed another path. Born in 1448 from the old Bosnian vicariate,<sup>35</sup> it was independent from the Cismontane from 1458 until the dawn of the 16<sup>th</sup> century. During this period, under the distant authority of the Minister General, the friars cultivated their own customs.<sup>36</sup> In 1499, the chapter and the vicar Oswald of Laskó composed their own constitutions at Atya / Šarengard, whose prologus has recently been edited by Balázs Kertész.<sup>37</sup> Another branch of the Friars Minor, the Conventuals had existed in the kingdom since the 13<sup>th</sup> century. Confronted by the Observants in the middle of 15<sup>th</sup> century, by 1454 their minister Fabian of Igal defended a text for reform.<sup>38</sup> The two Hungarian Minorite branches moved closer.

General Constitutions and the normative boundaries of those of the vicariates should also be given consideration. First, the Farinerian constitutions of 1354, adopted after the divisions of the first half of the 14<sup>th</sup>

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<sup>32</sup> Grado Giovanni Merlo, “Conclusioni,” in *Giovanni da Capestrano e la riforma della Chiesa: atti del V Convegno storico di Greccio, Greccio, 4-5 maggio 2007*, ed. Alvaro Cacciotti and Maria Mellì (Milan; Rome: Biblioteca francescana; Centro culturale Aracoeli, 2008), 175.

<sup>33</sup> Letizia Pellegrini, “Observantes de familia,” in SISF, ed., *Identità francescane agli inizi del Cinquecento*, 39.

<sup>34</sup> Hlaváček, *Die böhmischen Franziskaner*, 28–29, 41–49.

<sup>35</sup> Paweł Cholewicki, “The Role of the Franciscans in the Kingdom of Bosnia during the Reign of King Stjepan Tomaš (1443–1461),” *CEU Annual of Medieval Studies* 25 (2019): 107–20; Cevins, *Les franciscains observants hongrois*, 32–43; Antal Molnár, *Le Saint-Siège, Raguse et les missions catholiques de la Hongrie ottomane, 1572–1647* (Rome: Accademia d’Ungheria, 2007), 58–67; Skunča, *Franjevačka renesansa u Dalmaciji i Istri: opservantska obnova i samostani Provincije sv. Jeronima u 15. St* (Zadar; Split: Franjevačka provincija sv. Jeronima u Dalmaciji i Istri, 1999), 36–37; Jozo Džambo, *Die Franziskaner im mittelalterlichen Bosnien* (Wien: Dietrich-Coelde, 1991), 73–81, 94–114; Bazilije Pandžić, “Djelovanje franjevacu od 13. do 15. st. u Bosanskoj državi,” *Kršćanstvo srednjovjekovne Bosne* (Sarajevo: Vrhbosanska visoka teološka škola, 1991), 241–68; Srećko Matko Džaja, *Konfessionalität und Nationalität Bosniens und der Herzegowina: voremanzipatorische Phase 1463–1804* (München: Oldenbourg, 1984), esp. 181–85; Dominik Mandić, *Franjevačka Bosna* (Rome: Hrvatski Povijesni Institut, 1968), esp. 111–20.

<sup>36</sup> Overview: Cevins, *Les franciscains observants hongrois*, 165–83.

<sup>37</sup> Balázs Kertész, “A magyarországi obszerváns ferencesek 1499. és 1518. évi konstitúcióinak prológusa,” *Történelmi Szemle* 58 (2016): 643–56. See also: Balázs Kertész, “The 1499 Constitutions of the Hungarian Observant Franciscan Vicariate,” *Franciscan Observance between Italy and Central Europe, Chronica. Annual of the Institute of History*, 173–86. On Oswald Laskai: Balázs Kertész, “Two Hungarian Friars Minor (Franciscan Observants) in the late Middle Ages: Pelbart de Temesvár and Oswald de Laskó,” in *Infima aetas Pannonica: studies in late medieval Hungarian history*, ed. Péter E. Kovács and Kornél Szovák (Budapest: Corvina, 2009), 67–68; Richárd Horváth, *Laskai Ozsvát* (Budapest: Sárkány, 1932), esp. 16–17.

<sup>38</sup> Cevins, *Les franciscains observants hongrois*, 108–14; János Karácsonyi, *Szt. Ferencz rendjének története Magyarországon 1711-ig, I* (Budapest: Magyar Tudományos Akadémia, 1922), 61–65.



century,<sup>39</sup> ushered in a second age of medieval Minoritism. Additionally, the text of Martin V (1430), which Capistrano would have helped write and with which they attempted to find a legal compromise, should also be considered. Finally, the texts of the Cismontane Observance—the constitutions of Capistrano (composed in 1443, adopted in 1449) and the Compendium of 1461—must be explored.<sup>40</sup> After the publication of the *Ite vos* bull (1517), Observant vicariates became provinces by reversing the positions between conventual and observant. Leo X listed the movements identified as *reformati*, which had to blend into the institutional Observance by losing their specific name.<sup>41</sup> Then, the Observants obtained the direction of the Order.<sup>42</sup> Hungary then had two Observant provinces, as the reformed Conventuals accepted the Observance. In this instance, I mostly discuss here the standards of the “historic observant,” the “Salvatorians”—the name of the province after 1523.<sup>43</sup>

The corpus went through a lemmatization: lexical forms (verbs, adjectives, names) are grouped under a canonical form of the textual occurrences.<sup>44</sup> For purposes of comparative analysis, the prologi of the constitutions were not considered. Their specific topic and typology would have increased the contrasts without being relevant to a comparison of the norms.

#### *Statistical Description of the Corpus*

A correspondence analysis (CA) allows one to observe the strongest contrasts globally and quantitatively. The two axes must be viewed in opposition (fig. 1). The first (horizontal) axis marks the dominant opposition. On the leftmost side of the axis, the constitutions of John of Capistrano and the Austrian, Bohemian, Polish vicariate constitutions lie isolated; on the other side lie the Farinerian constitutions, the Martinian constitutions, the Compendium, the Salvatorian text, and the Hungarian conventuals’ one. The second (vertical) axis contrasts the General constitutions with all of the vicarial or provincial compositions, except the Salvatorian one.

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<sup>39</sup> Malcolm D. Lambert, *Franciscan Poverty: The Doctrine of the Absolute Poverty of Christ and the Apostles in the Franciscan Order, 1210–1323* (New York: Franciscan Institute, 1998), 201–41.

<sup>40</sup> Constitutions of 1354: Michael Bihl, “Statuta generalia ordinis edita in capitulo generali anno 1354 Assisii celebrato communiter farineriana appellata,” *Archivum Franciscanum Historicum* 35 (1942), 35–112, 177–253 [henceforth: Far.]; Constitutions of 1430: *Bullarium Romanum*, IV (Turin: Franco, Fory et Dalmazzo, 1859), 732–44; ‘Capistranian’ constitutions (1443): Michele Angelo Vaginari, *Chronologia historico-Legalit Seraphici Ordinis Fratrum Minorum SPN Francisci*, I (Naples: Cavalli, 1650), [henceforth: CHL I], 102–111. [henceforth: Cis.1]; Martinian *compendium* (1461): CHL I, 125–35.

<sup>41</sup> Ludovic Viallet, “The Name of God, the Name of Saints, the Name of the Order: Reflections on the ‘Franciscan’ Identity during the Observant Period,” in *Religious Orders and Religious Identity*, 172–90.

<sup>42</sup> Andrea Bartocci, “La bolla ‘Ite vos’ di Leone X. Lettura ed esegesi di un atto di separazione tra francescani conventuali e osservanti,” *Studi francescani* 112, no. 3–4 (2015): 359–97; Pacifico Sella, *Leone X e La Definitiva Divisione Dell’Ordine Dei Minori: La Bolla ‘Ite Vos’ (29 Maggio 1517)* (Grottaferrata (Rome): Quarrachi, 2001), 161–200.

<sup>43</sup> Ex-Reformed conventuals received the name of “Marianiste”: Karácsonyi, *Szt Ferencz rendjének*, I, 82–84, 87, 378, 382.

<sup>44</sup> I brought them back to singular nominative, the verbs to the infinitive. Graphical differences were uniformized.

The statistical isolation of the Capistranian text could be explained by its specific forms. Indeed, in 1354, the chapter of Assisi adopted legislation to overcome the crisis around poverty, which reached its apex under John XXII.<sup>45</sup> The legislation thus came back to the tradition of the Narbonne text. The Compendium of 1461 quoted them extensively, as did the constitutions of 1430. On the contrary, Capistrano diverged from this tradition even if he referred to the precedent constitutions. Clearly assuming the enunciative commitment of his text, he proposed a text that would define the identity of Cismontane observance in a strictly juridical style.<sup>46</sup>

The Polish, Austrian, and Bohemian texts formed a specific group in the CA, which shows a strong statistical correlation based on the forms they used, as they formed a specific group in the CA. On the contrary, the Hungarian constitutions seem to be less marked by this vicarial typicity: they are closer to a general constitutions-type. Compared to the central European Cismontane vicarial group, they are even strongly contrasted with the Capistranian composition, as was once suggested.<sup>47</sup> Finally, the Reformed friars lie in an intermediate position, in the field of the vicarial ones according to the second axis but using specific lexical forms.

To understand what underlies these typicities, the dependence-test of the chi-square ( $X^2$ ) can be a first tool of comparison. It resulted in a score by comparison between the theoretical relative frequency and the absolute frequency of a form regarding its presence in the variable (each constitution). The higher the result, the higher the dependence between the form and the variable. A negative score thus underlines a negative correlation. I kept all lexical forms, regardless of their occurrence. For this reason, hapax could emerge with a significant score, allowing some of the inflections to be caught (Tab. 1).<sup>48</sup>

In the Salvatorian constitutions, four forms have a weak correlation – under (-8): *generalis*, *minister*, *provincialis*, *provincial*. It is no surprise that we can contrast these forms with *familia*, *vicarius*, *vicarialis*, which are strongly correlated to the Salvatorian text (respectively (+29), (+9) and (+6)). It reflects the institutional situation of the vicariate until 1502: an autonomous observant vicariate. Overall, many of the dependent forms deal with the organization and the codification of institutional tools, or with the activity of composing the statutes themselves—the legislative activity and exposition of the norms by its actors, here the Vicar or the Chapter. This is the case for the forms *insinuare* or *declarandus/ declarare*. This last lexical set is noteworthy employed in the Šarengrad constitutions, beginning with the prologus.

<sup>45</sup> Lambert, *Franciscan Poverty*, 224–26; Duncan D. Nimmo, *Reform and Division in the Medieval Franciscan Order: from Saint Francis to the Foundation of the Capuchins*, (Rome: Capuchin Historical institute, 1995), 215–19.

<sup>46</sup> Pietro Maranesi, "Giovanni da Capestrano. Identità e sviluppo istituzionale dell'Osservanza," in Caciotti and Meli, eds., *Giovanni da Capestrano e la riforma della Chiesa*, 25–33; Pietro Maranesi, "Le costituzioni minoritiche: una identità in cammino," *Italia Francescana* 84 (2009): 253–56.

<sup>47</sup> Viallet Ludovic, "L'Observance sans les vicaires: enjeux et conceptions de la vie franciscaine," ed. Galamb György, *Franciscan Observance between Italy and Central Europe*, *Chronica* 15: 97.

<sup>48</sup> When applying these methods, a value is regarded as significant if the score is above 4; a score higher than 8 reveals a strong dependence.

Originating from the technical vocabulary of scholastic commentaries, it refers to the *divisio textus* and textual explanation.<sup>49</sup> Furthermore, the strongest correlation exists with *reverendus*, *pater*, and *insinuare*. This could be ascribed to a specific commitment in enunciation: by composing their constitutions, Hungarian capitularies and their vicar assumed, beyond the legislative act, an organized and didactic project directly referred to the Rule – hence the correlation with *capitulum*, referring to Francis's Rule chapters and the *divisio* of the legal text.<sup>50</sup>

On the contrary, specific forms of the Bohemian and Polish constitutions can be attributed to the framework of everyday Franciscanism (fasting, prayers, spiritual exercises, rules surrounding the meals) and to the resolution of incidental conflicts or tensions (numerous idioms, insults,<sup>51</sup> etc.), as well as the framing of pragmatic concerns for poverty (uses of horses, mendicity and quest, writing practices, preaching). Their casuistic redaction explains the great amount of hapax within these texts, with a correlation around (+5) and (+4).<sup>52</sup> In the (incomplete) Austrian constitutions, the test highlights the normation of celebrations. For Reformed Conventuals, some specific forms emerge besides those tendencies, in relation to their settlement (*conventus*, rather than *locum* used in vicarial texts) or to clothes and penance (*vestiture*, *cappa*, *mundanus*, *corda*, *vestmentum*). It is no accident that Fabian of Igal oversaw this aspect of the friars' lives. It was an important question that referred to uniformity of life in the landscape of Minoritism, by holding a symbolic and clear identity<sup>53</sup> outside the cloister. We must keep in mind that humanists criticized the types of robes worn, particularly in Franciscan families: they saw it as a symbol of division in religious life.<sup>54</sup> Finally, their propensity to norm each disrespect of norms emerges with *oppositum*, in a typical legal redaction which contemplates and brings out the transgression by framing it in a casuistic way.

In the Polish constitutions, *guardianus*, the local superior, gets the second highest chi-square score (20). A negative correlation emerges in the Austrian ones for *minister* (-9) *custos* (-5), *ordinare* (-4). *Minister* and *custos* are also negatively correlated with the Bohemian constitutions of 1471 as well as of 1480 – respectively (-4), (-3) and (-5), (-3), and those of their Polish colleagues – (-8), (-4). It is no surprise that Fabian of Igal's statutes have a weak correlation with *vicarius* and *generalis* (-5, -3). All those illustrate the institutional situation of each vicaries or provinces, depending on their

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<sup>49</sup> Mariken Teeuwen, *The Vocabulary of Intellectual Life in the Middle Ages* (Turnhout: Brepols, 2003), 245; Olga Weijers, *Dictionnaires et répertoires au Moyen Âge: une étude du vocabulaire* (Turnhout: Brepols, 1991), 73–75.

<sup>50</sup> That is what Ludovic Viallet felt, calling it a "a strong didactic concern": Viallet, "L'Observance sans les vicaires," 94.

<sup>51</sup> Petr Hlaváček, "Ein Sprachenkonflikt Unter Den Franziskanern?" *Quellen Und Forschungen Aus Italienischen Archiven Und Bibliotheken* 99, no. 1(2019): 27–49.

<sup>52</sup> Forms with a +4 correlation make the point clearer. See table 2 for Polish and Bohemian texts.

<sup>53</sup> Consider the remarks in: Jens Röhrkasten, "Reality and Symbolic Meaning among Early Franciscans", in *Self-Representation of Medieval Religious Communities: The British Isles in Context*, ed. Anne Müller (Münster: Lit, 2009), 35–37.

<sup>54</sup> Guido Dall'Olio, "Tre Critici Della Vita Monastica: Lorenzo Valla, Erasmo Da Rotterdam, Martin Lutero," *Studi Francescani* 112, no 3–4 (2015): 338–39.

subvicarial position (Austria, Poland, Bohemia), or the orientation toward a reform in the unity, such as the Hungarian conventuals. In addition, the vicaries of Austria, Poland, and Bohemia did not know the division in custody; this was a specific aspect of the Salvatorian hierarchy at a time when the subdivision seemed to fall into general disuse. In the subvicarial cases, other organizations and institutions-related forms do exist, but mostly in articulation with the authority of the Cismontane center (appellare, even some denuntiare), or in relation to the local superior: the guardian or his vicar.

#### *Discussion of Results*

Based on the previous statistical description, the Polish, Bohemian, and Austrian constitutions are statistically more concerned with the normation of daily life and local governance than the Hungarian ones. They also constitute a group of close texts related to their Capistranian matrix and their Cismontane attachment. The proximity of the General and the Salvatorian constitutions could therefore be explained by the propensity of the latter to codify the entire institutional hierarchy of the vicariate, which is modeled with the general texts along the line followed by the "Conventuals." This can be verified by measuring the absolute and relative frequency of some characteristic forms, such as those related to the Guardians, Chapters, and Visitatores.

Hungarian legislation defined the power and organization of its own chapter (fig. 2-3). Conversely, vicarial constitutions mostly codified that which pertained to the local conventual chapter. It echoes the relative importance of guardian-related norms in the composition of the Austrian, Bohemian and Polish constitutions (fig. 4a-4b). Finally, the codification of the visit makes the point clearer: the data reveals a Hungarian and Farinerian specificity (fig. 5a-5b). By distinguishing equivocations, the peculiarity of Salvatorian legislation is striking, as the visitatores custodialis constituted a specific mechanism that they codified (fig. 6a-6b).<sup>55</sup>

To sum up, one goal of the Hungarian Observant constitutions was to define institutional and organizational matters, mostly built by Farinerian norms, regardless of their vicarial quality. Ludovic Viallet advanced the idea that the constitutions of 1499, when compared to the "conventual" ones, give "the impression of facing an original text, defining the outlines of a *modus vivendi* peculiar to the familia Hungaria."<sup>56</sup> Based on the previous statistical description, we can clarify and rework the assertion. For the Polish, Austrian, and Bohemian capitularies, constitutions were complementary ones to be read with the general frameworks. It is clearer for the Polish composition, which aggregated decisions that set concrete guidelines for regular life. The Bohemian and Austrian capitularies had a propensity for translating general constitutions' dispositions, but casuistically framing quotidian practices such as feasting, or intercomprehension issues in preaching. To put it in a straightforward manner, Polish, Austrian, and Bohemian friars all needed to use their legislative compositions and the general constitutions

<sup>55</sup> *Visitator* had a correlation score of (+5), see (Tab. 1).

<sup>56</sup> Viallet, "L'Observance sans les vicaires," 94.

together. The Hungarian constitutions, however, set a global framework. By maintaining some general degree, they were meant to be supported by later capitular decisions. Hence some of their originality in provincial context: the Hungarian Chapter and its Vicar codified inner institutions. The Hungarian case urges us to consider organizational dimensions in the colorful Minoritism scene during the age of reforms, i.e., the distribution of power and its practices. This is relevant to catch norm transfers and norm-adoption strategies. In 1502, coming back to the Cismontanes meant it was necessary to make two organizations cooperate. I will now focus on an inner working of communication and control: the regular visit.

### **The regular visit: an institutional mark of identity?**

The *visitatio provinciarum* in Franciscan norms: a quick survey

The regular visit of a superior to the friaries to promote a stricter observance of the Rule and the norms of communal life originated in the pastoral visit. It was imposed in regular life by the Fourth Council of Lateran,<sup>57</sup> and precisely codified by the Friars Minor in the eighth chapter of the Narbonne Constitutions. During these regular visits, the public proclamation of faults and grievances in front of an external visitor allowed the relevant parties to rise above local unresolved conflicts. It was a mechanism of self-regulation that was aimed at amending the offender through charitable correction and reintegrating him into the community.<sup>58</sup> Starting in 1260, every three years the General Chapter sent a visitor *specialis* to each province. Information they gathered had to be sent to the provincial chapter; the most serious grievances were sent to the general assembly. Every friar would stand before the visitor and local friars and list his faults. The friar undergoing the visitation would then step out while the others could add to the accusations. Any serious accusation could trigger a deeper inquiry with examinations led by the visitor. Finally, the formulation of an appropriate correction took place in the presence of the others. Visitors then wrote reports, which then had to be approved by the community.<sup>59</sup> Norms were slightly modified in successive texts. As previously seen, the reform constitutions of the mid-15<sup>th</sup> century did not really codify this mechanism. John of Capistrano just took it into consideration twice in his constitutions: he underlined the usefulness of frequent visits led by the vicar in ensuring the observance of the Rule and the uniformity of the *modus vivendi* within the Cismontane area.<sup>60</sup>

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<sup>57</sup> Lars-Arne Dannenberg, *Das Recht der Religiösen in der Kanonistik des 12. und 13. Jahrhunderts* (Münster: Lit, 2008), 188–89; Jörg Oberste, *Die Dokumente der klösterlichen Visitationen* (Turnhout: Brepols, 1999), 62–63; Jörg Oberste, *Visitation und Ordensorganisation: Formen sozialer Normierung, Kontrolle Und Kommunikation bei Cisterziensern, Prämonstratensern Und Cluniensern, 12.- frühes 14. Jahrhundert* (Münster: Lit, 1996), 32–44, esp. 33–35 for the scriptural origin of the visit.

<sup>58</sup> Élisabeth Lusset, *Crime, châtement et grâce dans les monastères au Moyen Âge (XIIe-XVe siècle)* (Turnhout: Brepols, 2017), 26–29.

<sup>59</sup> Oberste, *Die Dokumente*, 47–50. Edition: *Constitutiones generales ordinis fratrum minorum I*, ed. by Cesare Cenci and Romain Georges Mailleux (Rome: Quaracchi, Fondazione Collegio S. Bonaventura, 2007), 18–22.

<sup>60</sup> Cis.1, 103.

Hungarian norms were obviously Farinerian but took the custody rather than the province as a framework.<sup>61</sup> Visitationes were sent by the Chapter to the custodies every two years, in consonance with the rhythm of the assemblies, for an eight-day visit, as opposed to a maximum of six provided for by general texts. Information they gathered was passed on to the custody; the visit ended with the election of the discreti, which was supervised by the visitator. He relayed local grievances or requests at the custodian level, where a discretus custodiae was elected. The latter condensed the complaints and brought them to the vicarial chapter.<sup>62</sup> Other elements specifically requested by the vicar in partial chapter,<sup>63</sup> or out of the visitator's competences, had to be directly referred to the vicarial chapter.

All of this constituted the transposition of general norms. In the constitutions of 1354, visitatores had authority over the provincial ministers in the hierarchy of imposed penance,<sup>64</sup> but in Hungary, the vicars did. This transposition resulted in a proper normative appropriation, as the officium visitationis took up an entire chapter of the constitutions, with a practical chronology for its execution. The visit therefore stood as the fundamental mode of inquiry: it attracted almost every norm of accusations or denunciations promoted by the canonical law *Qualiter et Quando* of the Fourth Council of Lateran, which was later included in the *Liber Extra*.<sup>65</sup>

Furthermore, it particularly codified the individual questioning, which denied the Custos and the guardian any possibility of using it. Since visitatores could demand single interrogation, the text suggests a thin separation between the forum of confession and the external forum. Although the distinction between the fora seems to have been established in ecclesiastical jurisdiction by the 15<sup>th</sup> century, their penitential goals

<sup>61</sup> For detailed analyses, see: Jean-François Morvan, "Observances franciscaines et dynamiques institutionnelles. Remarques sur la visite chez les franciscains observants hongrois de la province du Saint-Sauveur à la fin du Moyen Âge (années 1490-années 1510)", in Andenna et al., eds, *Régler, éduquer et contrôler la société chrétienne* [to be published]. Cevins, *Les franciscains observants hongrois*, 181-83; Ferencz Kollányi, *Magyar ferenczrendiek a XVI. század első felében*. (Budapest: Athenaeum, 1898), 415-17.

<sup>62</sup> *Et tunc visitator praecipiat fratribus, ut quid quid voluerint intimare capitulo pro necessitate loci, scribant in litteris et sibi assignent, qui tandem det discreto electo ad capitulum importandum*. LERH, III, 616a-b, see as well: Cod-Lat-med-aevi-432, f. 70a-b: "Visitatori pro eligendo discreto," ed. in: Cevins, *les franciscains observants Hongrois*, 523-24. Hungarian Observant formularies will be edited by Antál Molnár. Unfortunately, I was unable to consult this work while preparing this paper: Antál Molnár, *Die Formelsammlungen der Franziskaner-Observanten in Ungarn (ca. 1451-1554)* (Rome: Quaracchi, 2022).

<sup>63</sup> The constitutions required that the vicar when noting specific points to be investigated by the visitator, they must have been approved by the partial chapter (B-R-148, f. 3b; Cod-Med-Gy-4, f. 3a-b; LERH III, 612).

<sup>64</sup> Far. VII:55, 191.

<sup>65</sup> Giovanni Chiodi, "La Costituzione *Qualiter et Quando* (c.8) e l'ordo *Inquisitionis* Nella Canonistica Medievale," in *The Fourth Lateran Council and the Development of Canon Law and the *Ius Commune**, ed. Andrea Massironi and Atria Larson (Turnhout: Brepols, 2019), 281-305; Lusset, *Crime, châtement et grâce*, 89-95; Julien Théry, "*Fama*: l'opinion publique comme preuve judiciaire. Aperçu sur la révolution médiévale de l'inquisiteur (XII<sup>e</sup>-XIV<sup>e</sup>)," ed. Bruno Lemesle, *La preuve en justice de l'antiquité à nos jours* (Rennes: Presses universitaires de Rennes, 2003), 119-47.

blurred this separation.<sup>66</sup> Indeed, visitatores had concerns for the soul of the individual undergoing the visitation. At the same time, they had to maintain order in the cloister. The tenuity of the distinction was remarked upon, and even theorized upon, by some reformers like Johannes Schlitpacher, a reformer of the Melk congregation. He formulated the existence of a forum of a specific kind for monasteries that were between the external and the confessional fora.<sup>67</sup> In the Hungarian composition, this porosity is readable, as the redaction departs from the juridical-constitutional tone to adopt a casuistical one. Thus, at any denunciation, Salvatorian visitatores could insinuate in private to reach the truth of the fault, which was a step toward the forum of confession.<sup>68</sup> Yet, at least from 1260, general standards underlined the significance of the proclamation publice in a procedure won by the inquisitory order from the 13<sup>th</sup> century onwards. This aimed at preserving a kind of separation between the fora, such as for the proclamation led by the Hungarian local superiors.<sup>69</sup> Of interest is the fact that, in his constitutions of 1443, Capistrano mentioned the pivotal point of secrecy during the procedure to ensure the guilty friar would be redeemed.<sup>70</sup>

As I have shown, the procedure contributed to the affirmation of the vicariate assembly as a supreme juridical body, since the absence of external visitatores involved in the vicariate government resulted ipso facto in absence of a “court of appeal,”<sup>71</sup> which the General Chapters would have constituted. Besides, it enabled publicity of self-regulation through fraternal correction, while allowing for flexibility in the proclamation of faults. The vicar, capitularies, and visitator controlled what was passed between fora, preventing the disclosure of facts.<sup>72</sup>

*Back to the Observance sub vicariis: A (Re)normation in Cooperation?*

From 1502 onwards, it would have been necessary to cooperate to ensure the transfer of norms. But coming back to the “vicarial observance” required yielding to another visit, those of the Cismontane commissaries. One of their goals was to verify the conformity of the *modus vivendi*, and the norms’ transposition. Petr Hlaváček noted the “Italian paternalism”<sup>73</sup> that went hand in hand with Cismontane Commissaries in Bohemia, Austria, and

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<sup>66</sup> Véronique Beaulande-Barraud, *Les péchés les plus grands: hiérarchie de l'Église et for de la pénitence (France, Angleterre, XIIIe-XVe siècle)* (Rennes: Presses universitaires de Rennes, 2019), 38–42.

<sup>67</sup> Luset, *Crime, châtement et grâce*, 90–92.

<sup>68</sup> “Ille vero qui se non obligat, potest dicere visitatori seu prelato ‘factum hoc scio, sed probare non valeo.’ Quod quidem factum, visitator insinuare potest in private, sed non punire, per se confessus fuerit.” B-R-II-148, f. 7v; Cod-med-Gy4, f. 8a; LERH III, 616.

<sup>69</sup> “Item si aliqua lis, vel controversia, contingat inter fratres, extunc, auditis in communitate partium allegacionibus, tandem litigantibus foras missis, juste cum communitate discuciant ac dijudicent magis culpabili, majorem taxando penitentiam. Postea, illis revocatis, penitentiam taxatam imponant, nec tandem illam relaxent.” B-R-II-148, f. 6b; Cod-Med-Gy4, f. 6b; LERH III, 614.

<sup>70</sup> “Quasi dicat, visitando inquirant; et si delinquentem invenerint, moneant, ne amplius delinquat: et si secretum est crimen, secreta sit correctio; si vero publicum, pari modo publica poenitentia castigetur.” (Cis.1, 106).

<sup>71</sup> Oberste, *Die Dokumente*, 71.

<sup>72</sup> Morvan, “Observances franciscaines et dynamiques institutionnelles.”

<sup>73</sup> Hlaváček, *Die böhmischen Franziskaner*, 49.

Poland in the late 15th century. This was an element for mending a network of norms and practices that fit into a certain idea of what had to be the real “observance.” This supplementary level of visit, doubled by new hierarchy of standards, overlapped with some of the Hungarian *visitatores*’ competences.

The sociology of organizations demonstrated that cooperation and coordination are often the weaknesses of two preexisting organizational arrangements. If the Cismontane chapter accepted the Hungarian constitutions,<sup>74</sup> commissaries in the field called for reforms of what can be called “organizational customs”— elections and the holdings of chapters, as well as visits.

From 1502 to 1513, the Cismontane authorities acted carefully to ensure the integration of the Hungarian friars. Vicar General Torielli was benevolent toward the customs. Every attempt at normative imposition by the commissaries was rejected by the Salvatorians; once the cases were put to the Cismontane chapters, the capitularies systematically opted for compromise.<sup>75</sup> Still, an amendment of the *visitatio* was requested. According to both the Hungarian Observant Chronicle and the decisions of 1507, the commissary and the Chapter of Assisi reproached the procedure to encourage the visitors’ *arbitrium*.<sup>76</sup> They condemned the *acceptio personarum* which could occur. The codification would have promoted a judgment by the subjective dispositions of the inquirer, in contrast with an apprehension by the objective merit of the one being judged.<sup>77</sup> Therefore, it would have opposed the equitability of distributive justice, which Capistrano indeed called for.<sup>78</sup> Hence, Hungarian friars had to conform to Italian practices, where the *visitatio* was mostly conducted *publice*. Looking at the norms adopted in 1507 at Paks in the partial chapter held by Oswald of Laskó, which was gathered to record the Cismontanes’ claims, the reform seems to have been partly approved.<sup>79</sup>

#### *Watching the Normative Transfer by Critical Time*

Normative transfers can be traced in several ways. Hungarian constitutions (now provincial) were amended in 1518 at Ujlák/Illok, after the

<sup>74</sup> “[...] *nec tamen visi sunt modum vivendi nostrum condemnare, nisi in quibusdam duobus punctis, nullius vel parvae importantiae; et tamen intellecta rei veritate, postmodum, nec in altero punctorum nos condemnarunt.*” Ferencz Toldy (ed.), “Blasii de Zalka et continuatorum ejus cronica fratrum minorum de observantia provinciae Boznae et Hungariae,” in *Analecta monumentum Hungariae historicorum literariorum maximum inedita* (Budapest: Magyar Tudomány Akadémia, 1862), 255–56.

<sup>75</sup> Toldy, “Blasii de Zalka,” 256.

<sup>76</sup> *Quoad visitatores, si fieri poterit, bono modo conforment se visitoribus Italiae, ita videlicet, quod aequa lance absque acceptatione personarum visitent omnes tam subditos quam praelatos in praesentia omnium, nisi sint aliqua secreta, ut subditi remaneant satisfacti, quando aliqua dicunt de praelatis.* Toldy, “Blasii de Zalka,” 262.

<sup>77</sup> Pasquale Porro, “Rien de Personnel.’ Notes sur la question de l’*acceptio Personarum* dans la théologie scolastique,” in *Revue des sciences philosophiques et théologiques* 94, no. 3 (2010): 482–84.

<sup>78</sup> Cis!, 103b.

<sup>79</sup> Cod-Med-Gy-4, ff. 30a.-33b; R-II-148, ff. 85a.-86b. On those manuscripts: Balázs Kertész, “A magyarországi obszerváns,” 259; Zoltán Fáy, *A Gyöngyösi ferences könyvtár* (Gyöngyös: Ferences plébánia és rendház, 2012), 20–21.



Ite vos bull. For the Salvatorians, this was an occasion for incorporating standards. The aggiornamento of the visit followed a sinuous path. All articles related to the proclamation disappeared: the visit had to happen in the secrecy of the cell until the correction; accusations or denunciations had to be done in single interrogations.<sup>80</sup> Two articles completed the legislative arsenal, both from the decisions made in 1507 after the Cismontanes' claims. First, the friar's hearing had to take place in the cell of the visitator before any public proclamation. The intention was (explicitly) to encourage the revelations of any fault.<sup>81</sup> Second, there is an article close to what Assisi's capitularies expected. It organized the corrections coram omnibus to avoid the accusation of *acceptio personarum*. As opposed to a simple transposition, the tracks of textual practices in marginal glosses suggest some normative sinuosity. Marginalia are indeed a place to follow the process of writing norms and their adoptions. In a version of the constitutions of Šarengrad transcribed in 1512, the glossator underlined for the visit the importance of examination in private to avoid scandal, or to avoid the potential divulgence of transgressions outside of the cell, not to mention outside of the cloister.<sup>82</sup> With no direct rivalry in the capacity to dictate standards, the new constitutions of Illok thus kept to the publicity of the correctio.

One hypothesis would be to ascribe this to the aftermath of the Peasant War of the spring of 1514. In this instance, I do not wish to reopen any discussion regarding the extent to which the Salvatorians were implicated, which is surely impossible to know.<sup>83</sup> Nevertheless, in 1515, the vicarial partial chapter of Buda adopted repressive decrees. It would be unwise to automatically attribute those decrees to the fight against brothers involved in the rebellion, since the documents were so evasive about delinquent behaviors. Still, the assembly made disciplinary incarceration easier; most of these decrees were incorporated into the constitutions of 1518.

At the interface between standards and practices, procedural writings about the *visitatio* could be a way to ascertain their integration

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<sup>80</sup> *"Quod visitatores non nisi private visitent, ita quod visitationes fideliter conscribantur a visitatore."* BSB, Clm-9071, ff. 46a-87b, here f. 54b; GFK, Cod-Med-6, ff. 1a-41b, here f. 9b.

<sup>81</sup> Clm-9071, f. 56b: *"Preterea dum fiunt visitationes, prius detur audiencia visitatis in cella visitantis, antequam proponent in publico, quia magna sic elucescit veritas defectum."*

<sup>82</sup> Clm-9071, f. 56b; GFK, Cod-Med-6, f. 10a-b: *"Item, quod visitatores, si fieri potest bonomodo, conforment se visitatoribus Italie, quod videlicet equa lancee absque personarum acceptione corrigant omnes, tam subditos quam prelatos, in presencia omnium, nisi essent aliqua secreta."* We can read in margin of the constitutions written in 1512: *"In omnibus istis, sive accusationibus, sive denunciacionibus, debet dari audienciam in privato, ut aadat excusacionem visitati, quia alias scandalum potest configere."* Cod-Med-Gy-4, ff. 6b-8b, here f. 8b.

<sup>83</sup> The debate was initiated by Jenő Szűcs, who saw a direct link between friars involved in the uprising and the first generation of Reformers. The latter connection between observant Franciscans in Hungary and Reformers has been mostly rejected in its broad outlines. See recently: Zoltán Csepregi, *A reformáció nyelve. Tanulmányok a magyarországi reformáció első negyedszázadának vizsgálatá alapján*, (Budapest: Balassi, 2013), esp. 219; Zoltán Csepregi, *"A Magyarországi reformáció első nemzedéke: családi háttér - Tanulmányok - Papszentelés"* in, *Egyházi társadalom a Magyar Királyságban a 16. században*, ed. Varga Szabolcs and Lázár Vértési (Pécs: Pécsi Püspöki Hittudományi Főiskola, Pécsi Egyháztörténeti Intézet, 2017): 138-39.

into practical instructions for the friars.<sup>84</sup> Contradictions are perceptible if we read for instance a version of the *modi visitationis* of the 1520s, which is theoretically posterior to the amendment.<sup>85</sup> Likewise, it suggests that the heart of the visit was reformed in a suitable way for the vicariate, more than more *italice*.

The *visitatio* reveals the ambiguity of the inquiry. Late medieval reformers celebrated a tool for reform to ensure the uniformity of customs. Nevertheless, due to its ambivalent nature, they condemned the mechanism when it encouraged excessive arbitrium and denunciations.<sup>86</sup> In the network of Cismontane vicaries, bound to the center by the commissaries, the incorporation of the Salvatorians sheds light on a process of cooperation and rivalry regarding the capacity to reform customs. Compromises and adaptations encouraged cooperation in the first decades; the increasing inflexibility of the Salvatorian superiors weakened the lineaments of cooperation in the transferal of norms, at least for a while. It is no wonder that it happened in the organization of institutions in the vicariate. Indeed, it was about rivalries in the control of the standards governing a standard-control mechanism.

Though there were some similarities, constitutions were not frozen texts. Composing the statutes was indeed a process:<sup>87</sup> the simultaneity of various norms' strata allowed for the possibility to exploit these levels in strategies of norm-building. It could have left a space for cooperation or adaptation in the event of normative rivalries.

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<sup>84</sup> On the formularies: Molnár, *Die Formelsammlungen*; Antál Molnár, "Formulari francescani della provincia Ungherese dei frati Minori Osservanti del primo Cinquecento" in Bartolacci and Lambertini, eds., *Osservanza francescana e cultura*, 73–86.

<sup>85</sup> "*Tametsi autem ex talis obediencialibus et eciam constitutionibus provincie facultatem habeam visitandi publice vel private, etc. Tamen quia visitacio privata est magis usitata, meum videret est ut fiat visitacio ipsa private.*" Cod-Med-Gy-3, f. 395r.

<sup>86</sup> Schreiner, "Dauer, Niedergang und Erneuerung," 324–25.

<sup>87</sup> Florent Cygler, "Ausformung und Kodifizierung des Ordenrechts vom 12. bis zum 14. Jahrhundert. Strukturelle Beobachtungen zu den Cisterziensern, Prämonstratensern, Kartäusern und Cluniensern," in *De ordine vitae: zu Normvorstellungen, Organisationsformen und Schriftgebrauch im mittelalterlichen Ordenswesen*, ed. Gert Melville (Münster: Lit, 1996), 7–58.

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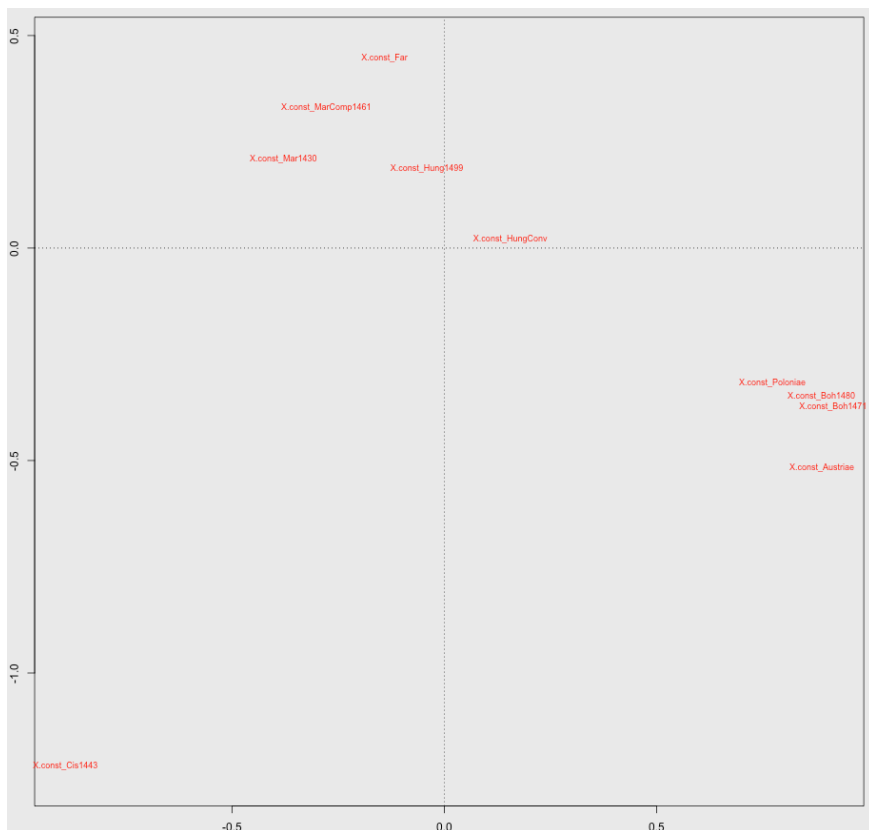
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## Annexes to Jean-François Morvan, Composing the Statutes – Norms and Franciscan Identities among Observants in Central and Eastern Europe (c. 1450–1520): A Lexicometrical Approach

### Figure 1. Correspondence analysis (AC) of the corpus

Over a third of the variance (37,2% of the information) is taken into consideration with the 2 first factors constituting the 2 axes (x axis = factor 1, 18,6%; y axis = factor 2, 18,3% of the variance). Factors 3 and 4 would have touched respectively 12,03% and 11,66% of the information, 5 and 6 respectively 10,83% and 10,13%, 7, 8 and 9 respectively 8,89%, 7,79% and 1,71%.

Far1354 = Farinean constitutions of 1354; Mar1430 = Constitutions of Martin V of 1430; Cap = John of Capistrano's constitutions of 1443; MarComp = Martinian *Compendium* of 1461; HungConv = Hungarian Reformed Conventual constitutions of 1454; Pol1467 = Polish constitutions of 1467; Boh1471 = Bohemian constitutions of 1471; Boh1480 = Bohemian constitutions of 1480; HungObs = Hungarian Observant (Salvatorian) constitutions of 1499; Aust1516 = Austrian constitutions of 1516.



**Table 1: ( $X^2$ ) value (dependance-test)**

Polish constitutions (1467)	Strongest positive correlations (above 4)	debere (21), guardianus (20), item, nullomodo (16), currus (15), procession (14), novus (12), onere, species, hortor (11), urgens (10), assumere, canaparius, commode (9), petens, impropere, crapula, noviter, sericum, ascendere, servatus, interrompere, matutinum, radix, immoderate, palla, fugere, consuetus, predicans, bonomodo, celebrates (8), licere, medicus, convenire, constitutio, mitteztre, mensa, silencium, subvenire (7), penitencia, aperire, locum, posse, aliter, equus, civitas, ubi (6), evitare, occurrens, injungendus, assistere, invitare, juvenis, papalis, ferculum, adesse, parvus, possibilitas, locio, contradicere, injunctus, culpa, consciencia, refectorium, coquinarium, precipiendus, solemnitas, decetero, nocte, determinatus, hora, superesse, communio (5).
	Strongest negative correlations	minister (-8), omnis (-4), custos (-4), capitulum, ( <i>i.e.</i> constitutions, <i>Regula</i> , papal declaration...) carcer, officium, conventus (-3).
Bohemian constitutions (1471)	Strongest positive correlations (above 4)	idioma (16), inconusuetus (15), quinterno, appellare (9), ordinare, miserere, reassumere, tergum, choralis, epistola, decumbens, osculari, durare, tentus, frenum, oneratus (8), puta (7), refectorium, aggravates, equivalens, judicare, constitutio, carnisprivium (6), recusare, singularis, silencium, posterus, uniformitas, clavis (5).
	Strongest negative correlations	minister (-4), custos (-3).
Bohemian constitutions (1480)	Strongest positive correlations (above 4)	arbitrandus (26), idioma (24), dare (11), ordinare (10), item (9), predicator, quinterno, posterus (8), denotare, clinodia, ita missa est, cliens, sustentare, calciare, tenuis, impuritas, cupreus, promotorialis, brochata, concludere, parcus, vigen, retentor, debitor, bibendum, argenteus, miserere, reassumere, refectorium, appellare (7), amplius, activus, passivus (6). ordinacio, aggravatus, prandium, equivalens, pulmentum, mensa, frangere, judicare, demeritus, hora (5).
	Strongest negative correlations	minister (-5), custos (-3).

Austrian constitutions (1516) (reduced by a third of their chapters)	Strongest positive correlations (above 5)	forensis, cantare, ordinate (12), locum (11), festum, capella (10), completorium, localis, Judenburg, oleum, pulsus (9), Johannes de Capistrano, superfluous (8), prius, occupatus duplex, possibilis, dedicatio hymnus, dominica (7), paulatim hora, limphare, indiscretus crocus, labacum, minuere concernens, cerimonia, Bulsanum, pulpetum, paradusis, parabsis, supportare regulariter, Viennensis matutinus, Radegundis inebriatus, stagnea, funus particularis, Quadragesima, ovum, laboriosus (6), discrecio, bibere, panis, vinum, revertens, stare, propinquus, intromittere, benedictus, alter, consensus, procurandus, mensis, moderatus, caritas, antiphona (5).
	Strongest negative correlations	minister (-9), item (-6), custos (-5), ordinare, ordo, predictus (-4).
Hungarian (salvatorian) constitutions (1499)	Strongest positive correlations (above 5)	reverendus (48), pater (31), insinuare (29), familia (29), ibidem (13), capitulum ( <i>i.e.</i> constitutions, <i>Regula</i> , papal declaration...) (12), vero (10), communitas, vicarialis, tandem (9), frater, versiculus, consistorium, importare (8), dicere, necnon, declarandus (7), paternitas, resignacio, consimiliter, denique, vicarius (6), false, interdiceret, monitories, presertim, destitutio, excludere, confrater, specialiter, homicidium, datus, vicia (5).
	Strongest negative correlations	generalis (-16), minister (-14), provincia, provincialis (-13), ordo (-7), debere (-4).
Hungarian (reformed conventuals) constitutions (1454)	Strongest positive correlations (above 5)	conventus (42), vestiture (18), cappa (17), quoniam (16), preterea, oppositum (15), ideo (14), clerica, questionarius, mandare, tentare, kalendarium (13), habere, auferre, nonnullus, mundanus (10), incedere, comestibilis, gula, corda, vestimentum, observatio, benevolus, virtuosus, reformare, lectisterium, dispositus, durissime, violare, evenire, pravus, sutus (9), pulvinar, dormitorium (8), excedere, repertus, immo, semper (7), solere, excipere, acriter, sollicitare (6).
	Strongest negative correlations	vicarius (-5), generalis, item, capitulum ( <i>i.e.</i> constitutions, <i>Regula</i> , papal declaration...), pater (-3).

III

**Table 2. Forms positively correlated around 4 (often hapaxes) in Bohemian and Polish texts**

Polish constitutions (1467)	sexta (hora), coquendus, tertia (hora), jejunans, responsorial, nocturnal, turibularius, bibicio, invitator, sobrietas, decantare, nominaliter, maledicere, perturbans, fugitivus, turpiloquium, subsistencia, noviciatus, aurum, senex, presumptuosus, interficere, insurgens, cognominans, turpis, necessitas, immoderancia, confectio
Bohemian constitutions (1471)	injicere, denunciare, pixis, proterve, linguagium, blasphemans, contradicens, transgressor, ludum, recitacio, proponere, cedula, flectens, spissus, confessoria, ribaldus, proferens, latro, exercitatio, arbitrandus, pulsatio, reaggravandus, noctu, hora

Figures 2 to 7: Frequencies of some forms in the corpus.

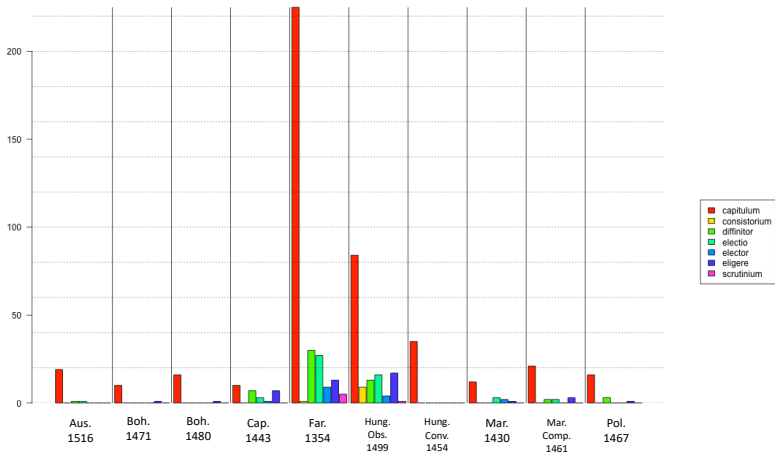


Figure 1: Absolute frequencies of some forms related to the institution of Chapter (vicarial or general).

IV

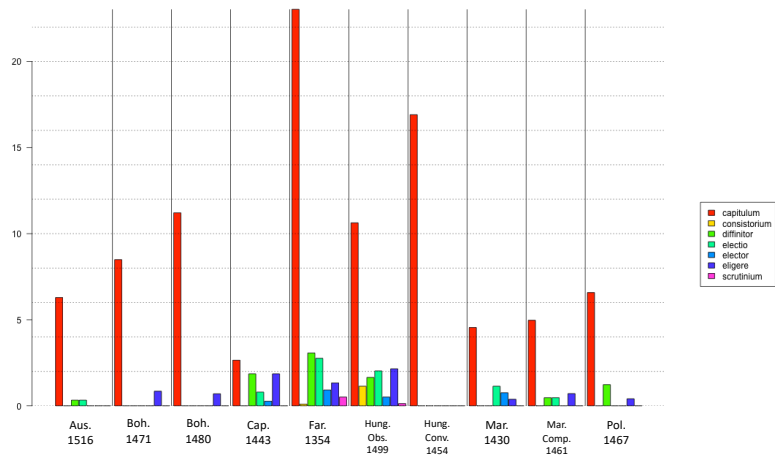


Figure 2: Relative frequencies of some forms related to the institution of Chapter (vicarial or general).

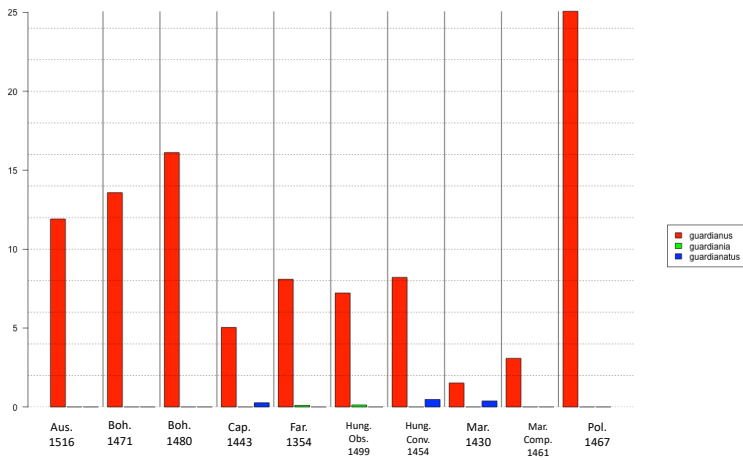
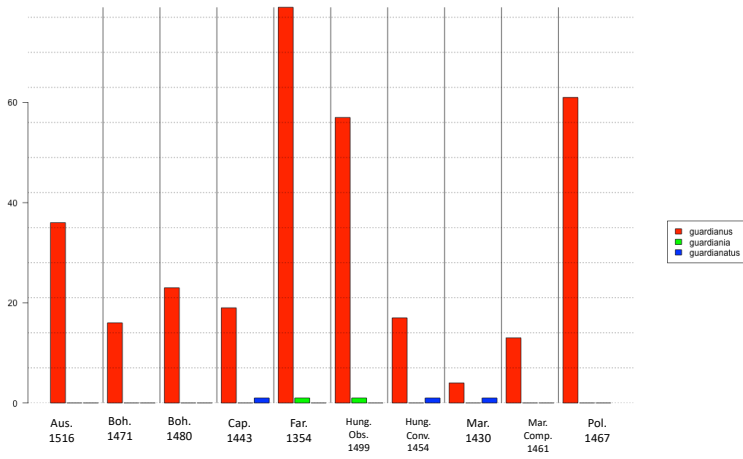
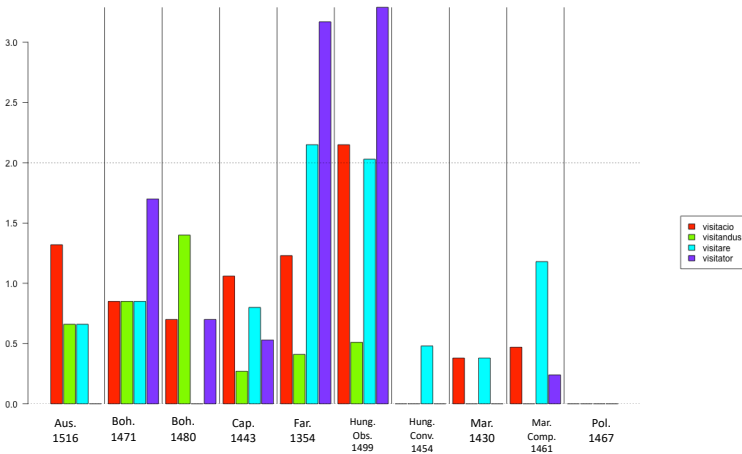
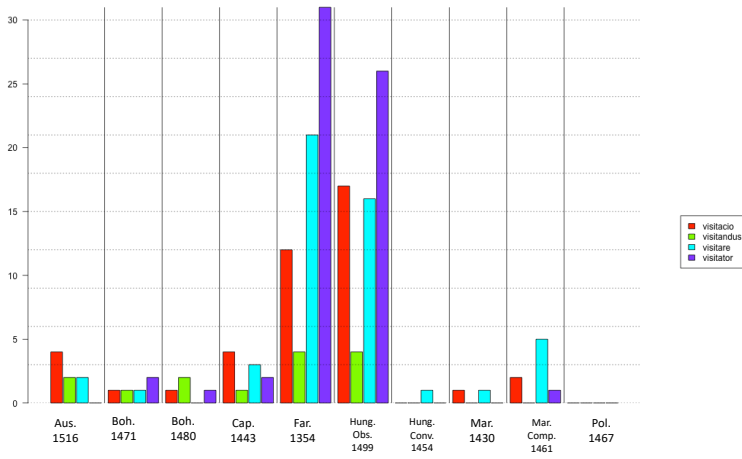


Figure 4a (above) and 4b (below): Relative (4a) and absolute (4b) frequencies of some forms related to the officium of guardian



VI

Figure 5a (above) and 5b (below): Absolute (5a) and Relative (5b) frequencies if some forms related to the visitations in the entire corpus.

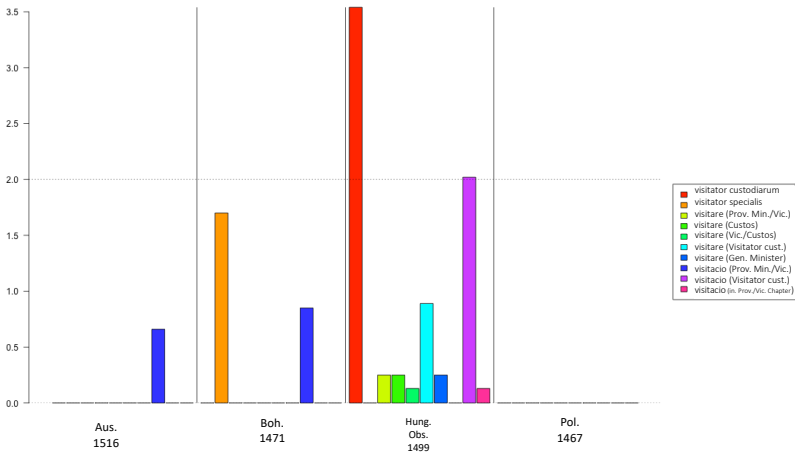
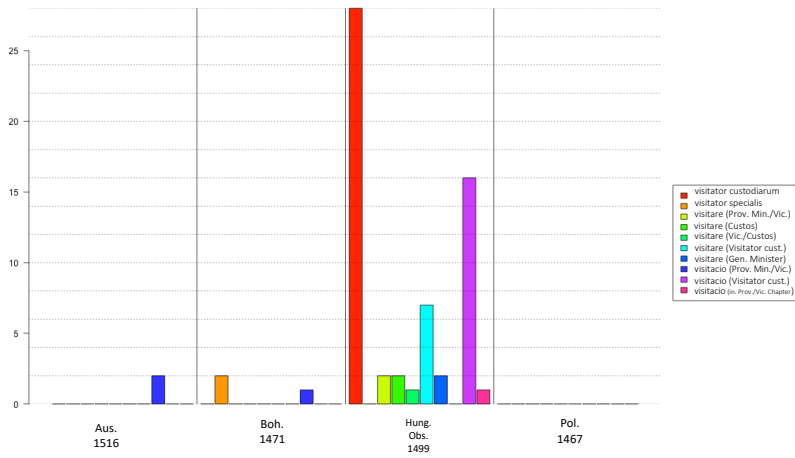


Figure 6a (above) and 6b (below): Relative (6a) and absolute (6b) frequencies of some forms related to the visitationes in the vicarial constitutions.