

# WILL AUSS DER VNORDNUNG NIT SCHREITTEN: A CASE OF FEHDE FROM 17<sup>th</sup> CENTURY STYRIA

Žiga OMAN

Faculty of Arts, University of Maribor, Koroška cesta 160, 2000 Maribor, Slovenia  
e-mail: zigaoman@gmail.com

## ABSTRACT

*In the autumn of 1654 a Fehde (feud) broke out in the Styrian town of Ptuj between the Moscon and Qualandro noble families. With the killing of one of Simon Moscon's subjects, this history acquired another twist, the threat of blood vengeance. The Qualandros, the perpetrator and his son fled the vengeance into monastic asylum and into the burgher estate respectively. The Ptuj town authorities assumed the role of the mediator, in accordance with legal customs, with almost no interference from the princely (state) authorities. With the town's mediation, peace was made in the summer of 1655; also by monetary restitution (composition) to the killed subject's family.*

*Key words: vengeance, vindicta, feud, Fehde, Ptuj, Moscon, Qualandro, 17<sup>th</sup> century*

# WILL AUSS DER VNORDNUNG NIT SCHREITTEN: UN ESEMPIO DI FAIDA NELLA STIRIA DEL SETTECENTO

## SINTESI

*Nell'autunno del 1654 a Ptuj scoppiò una faida tra le famiglie nobili Moscon e Qualandro. Uccidendo uno dei servi dei Mosconi acquistò ulteriori risvolti: la minaccia di una vendetta di sangue. Per evitare la rappresaglia Qualandra, l'autore del reato e suo figlio, si rifugiarono nel monastero ovvero nello status borghese. La mediazione venne assunta dalle autorità cittadine di Ptuj, che la condussero secondo la tradizione giuridica, quasi senza che le autorità del principato regionale (dello Stato) interferissero. Con l'intervento della città si arrivò alla pace nell'estate del 1655, pagando anche un indennizzo (una composizione) per la famiglia del servo ucciso.*

*Parole chiave: vendetta, vindicta, faida, Ptuj, Moscon, Qualandro, secolo XVII*

## PROLOGUE: PTUJ, THURSDAY OCTOBER 22<sup>ND</sup>, 1654

On the day of the feast of St. Salome in 1654 the Styrian town of Ptuj witnessed an unusual event: Simon Moscon leading a force of about forty of his armed subjects entered the town and headed for the *Freihaus*<sup>1</sup> of the Qualandro family. Simon and the Qualandros had by this point already been in an inheritance dispute over the house for about a decade. The court had only ten days earlier allocated the deeds of the house to Simon Moscon, who was now about to take it by force, since his uncle, Fermo Qualandro, had squatted the house in the meantime and barricaded himself inside, supported by a handful of his family's servants and subjects. When Simon's subjects tried to break into the house for the fourth consecutive time, Fermo attempted a warning shot to scare the attackers away. However, his carbine misfired and fatally shot Lukas Pankicher, one of Simon's subjects. The assault on the house ceased as the rest of the attackers scattered. The incident, such as was not within living memory of the town, evoked more than fear and astonishment, it brought to the fore something else that humanity as a whole has in common: the need for vengeance.<sup>2</sup>

## INTRODUCTION: *VINDICTA* AND *FEHDE* IN BRIEF

Due to the length and nature of this paper, a lengthy and detailed discussion of the customary legal institution or, better yet, legal custom (Althoff, 1997, 228) (performed through ritual or enforced by law) of vengeance (*vindicta*) has to be omitted. Therefore, for the purpose of this paper, only the bare basics needed for understanding the matter at hand shall be presented.

As a rule, vengeance followed the pattern of *dispute – injury – hostilities – mediation – truce – peace*. The original dispute could be just about anything that had to do with the real or perceived violation of one's rights and/or honour. Thus, the background of disputes could be just as "trivial" or as serious as today. Generally, disputes were settled within the community. If not among the parties themselves, then with the help of the community's judiciary institutions, which as a rule were comprised of its rulers, respected elders or elected officials *i.e.* its authorities, regardless whether the community was a tribe, village, market town, town, city or the nobility of a certain region or province. It was in every community's interest that vengeance and the violence that as a rule accompanied it, would not break out, and so the customs (rituals) regarding *vindicta* were directed towards ending the violence and the restoration of peace and social balance within the community. As such, vengeance also served as a form of social control (Büchert Netterstrøm, 2007, 8–12; Brown, 2011, 144, 146; Povolito, 2015, 196–199).

- 1 *Freihaus* (free house) was a house, which, while located within a medieval or early modern town or city, was exempt from the jurisdiction of its court. *Freihäuser* (plural) were owned by nobility and religious institutions, and were under the same jurisdiction (Vilfan, 1961, 161).
- 2 Both Austrian and Slovene historiography so far more or less only brushed against the matter (ZAP 0070, R 32, 201–202; ZAP 0070, R 40, 405; Jutro, 28. 9. 1937, 3; Saria, 1965, 47; Valentinitisch, 1973, 74; Tednik, 28. 11. 2002, 13; Hernja Masten, 2005a, 231).



Fig. 1: Ptuj ca. 1681 (Vischer, 2006)

The pursuit of vengeance meant that at least one of the parties to a dispute chose to renounce the orderly and peaceful communal way, *i.e.* the community's judiciary or legal system. A dispute resulted in vengeance because of an injury (*iniuria*), the final draw in violating one's honour or rights, which had to be restituted, *i.e.* avenged or restored by means of vengeance. Once vengeance had been resorted to, its course had to obey certain rules in order not to be regarded as asocial violence and result in the parties being persecuted. To ensure their legitimacy, hostilities had to be declared publicly. This made the other party know that enmity existed between them, also giving sufficient time for them to prepare themselves and their kin (in the first place family, but also "extending" to retainers, subjects, etc.). Kin and similar groups in general, up to different degrees of familiar involvement, always took part in the vengeance, since it was seen as a collective responsibility. In the Holy Roman Empire, on which the following text is centred, from the high Middle Ages to the early modern period, hostilities were announced by a renouncement of fidelity or peace (*Absage* or *diffidatio*), as a rule at least three days prior to any acts of violence (*e. g.* Peace of Mainz 1235). The German term for such a state of enmity was *Fehde* (*faida*), the meaning of which is somewhat narrower than the English word feud<sup>3</sup> despite their common origin (*fæhde* or *faithu*: enmity), and shall therefore be used in the paper (Büchert Netterstrøm, 2007,

3 For instance, it can also encompass blood feud, for more on the matter see: Halsall, 1999, 7–29.

38–39). As all forms of vengeance, *Fehde* aimed at the restoration of one's rights and/or honour by coercing the adversary (enemy) back on the judiciary course, preferably on one's own terms. Violence was not the goal of vengeance, but its means. A *Fehde* mostly employed it as "robbery and arson" (*Raub und Brand*), i.e. the dispossession and destruction of the adversary's means of (agricultural) production (save for the prohibited destruction of orchards and vineyards, gardens, plows, mills or killings of animals). This included claiming the other's subjects in a *Fehde* between noblemen. Killing in a *Fehde* was not only prohibited as an ideal, but fairly uncommon in reality, since the injury had to be restituted (avenged) by a peace settlement, which is possible only with living people (Brunner, 1990, 79–80, 84–89; Patschovsky, 1996, 164–168; Wadle, 1999, 79, 86; Þorláksson, 2007, 83–85, 89–90; Zmora, 2007, 149–158).

Also, homicides could lead to blood vengeance. This form of vengeance followed the law of talion: (human) blood for (human) blood, and generally was not part of a *Fehde*, but could "help" bring it to an end, i.e. bring about truce followed by a peace settlement (Vilfan, 1996, 461; Þorláksson, 2007, 77–79, 85–86).

Truce and peace could be negotiated among the parties themselves, if this proved impossible however, through mediation by a third party of the aforementioned rulers, respected elders or members or the elected authorities of a community, for instance (aside from rulers), by the town or city authorities, tribal or village elders, the courts or by an individual whom both hostile parties respected and trusted to be impartial and just in the matter. It was in this way that customary and communal law (e. g. town statutes) incorporated vengeance into its rites to contain the violence when hostilities broke out, and to direct the parties towards a peaceful resolution on its own terms. Since the late Middle Ages, the role of the mediator was increasingly claimed and transformed by the rulers, i.e. the state and its judiciary (Büchert Netterstrøm, 2007, 17–18; Þorláksson, 2007, 77–79, 85–86; Povolo, 2015, 206–215, 221–225).

After hostilities broke out, truce (*Friede, treuga*) had to be achieved first, which stopped the violence and gave the parties time to negotiate terms for a peace settlement. At this point, hostilities could still erupt again and the *Fehde* could resume. Sometimes the truce was made possible by the renouncement of vengeance or hostilities (*Urfehde*); an *Urfehde* was also vowed by freed crime suspects to the authorities that had them imprisoned. Once the terms were negotiated, a formal and public peace settlement (*Sühne, pax*) could be made. In the Middle Ages, such formalities could also be sealed by a "kiss of peace" (*osculum pacis*) (e. g. Petkov, 2003). The kiss of peace symbolised that the parties to the *Fehde* would (ideally) become closer to each other, not only in peace, but also in friendship and love (*Minne*) (e. g. Kos, 1994, 78) as the opposite of hostility (*Fehde*). This was sometimes additionally strengthened by marriage (Brunner, 1990, 105–106; Darovec, 2014, 492, 498–499).

Blood vengeance followed much the same course. The restitution for a homicide or drawing of human blood could also be made by (payment of) composition: in goods or cash, i.e. weregild (*Wergeld*). As stated above, marriages were also a means of ensuring peace and friendship between former enemies (Brunner, 1990, 105–106; Þorláksson, 2007, 77, 88, 91; Darovec, 2014, 492, 498–499; Povolo, 2015, 196).

While blood vengeance had been common and legitimate for all estates for the longest period of time, *Fehde* was most common among, but not exclusive to, nobles. For the nobility, it also remained legitimate for the longest period of time. The first prohibition for the nobility in the Holy Roman Empire came with Emperor Maximilian's General Peace of 1495 (confirmed in 1512), yet the implementation thereof generally started more vigorously only following the *Constitutio Criminalis Carolina* (1532) and the *Reichsexecutionssordnung* of 1555 (Carl, 1996, 473–474, 492). The first to lose their right to *Fehde* were the peasants, but it could still regionally be regarded as somewhat legitimate, for instance in Brandenburg (Reinle, 2007, 164). The burghers were somewhere in between. Towns and cities as communities had the right to announce hostilities, even if it was generally their lord who led the *Fehde*, but individual burghers were prohibited to renounce peace, because in so doing, they could draw the town and its lord into a *Fehde*, as both had the obligation to protect their burghers. Only those who could own estates, *i.e.* rich enough or burghers raised into nobility (as a rule because their wealth was of use to the Land Sovereign or prince (*Landesfürst*)), were allowed an *Absage*. Towards the end of the Middle Ages, a *Fehde* between different estates had come to be increasingly regarded as rebellion or outright criminality. By the end of the 15<sup>th</sup> century, the right to renounce peace or announce hostilities had been greatly diminished, and as a rule reserved for towns and nobility, with the latter managing to cling to it as legitimate for at least another century. Still, as late as in 18<sup>th</sup> century Habsburg Monarchy, announcing hostilities due to a suffered grave injury could still be regarded as an attenuating circumstance for the otherwise criminal offence (CCT 1769, Article 73, § 5, 201–202, § 14, 205). This is proof of the resilience of legal custom of vengeance, regardless of its criminalisation. In the meantime, the role of the community in settling vengeance was steadily taken over by the early modern state and its professional judiciary. *Vindicta* began to be claimed by the state alone (within the Empire, at first by the princely state), and its institutions and codified law intruded increasingly into customary and communal proceedings and rites, until finally prevailing towards the end of the 18<sup>th</sup> century. Today, only the State retains the legal right to avenge an injury or attack. Since the high Middle Ages, it had gained this monopoly on violence with the use of *Fehde* itself. For the rest of society, vengeance has acquired the infamy of savagery, crime or in folk and popular culture – vigilante romanticism (Brunner, 1990, 50–54; Patschovsky, 1996, 162–172; Rill, 1996, 106–114; Reinle, 2003, 40–41; Büchert Netterstrøm, 2007, 12, 25–28, 45–46; Povolo, 2015, 197–198, 212–214, 222–223).

## THE ORIGINS OF THE MOSCON-QUALANDRO DISPUTE

As pointed out in the introduction, every vengeance had its origin in an actual or at least perceived violation of one's rights and/or honour, in some kind of sustained injury (*iniuria*). Since the dispute that led to the *Fehde* between the Moscon and Qualandro<sup>4</sup> families was one over inheritance, their kinship has to be analysed first.

4 Since Helfried Valentinitich has already done thorough research on the genealogy of the Qualandro family in Ptuj (Valentinitich, 1973, 66–78), only the information pertaining to their dispute with Simon Moscon is given here. A few wrong dates and similar data by Valentinitich have been corrected without indication.

Othmar Pickl presumed that the Moscon (*Muscon*, *Muschkhon*) family originated from the town of Lovere near Lago d’Iseo, northeast of Bergamo. Its members are believed to have immigrated to Inner Austrian lands<sup>5</sup> at the beginning of the 16<sup>th</sup> century, when their presumed birthplace lay in the Italian continental part of the Republic of Venice, the Terraferma. The area surrounding Lovere in the early modern period was famous for its sheep and wool production. Venetian merchants also traded wool and wool products (textiles) with Hungary over the so-called Ljubljana road,<sup>6</sup> which ran through the Styrian town of Ptuj. It was in this way that the Moscons joined the Venetian-Hungarian cattle trade. Among them was Alexius Moscon, the first family member attested in Styria, who already in 1513 had been a Ptuj burgher. Alexius had become rich trading cattle, hides and textiles, but also through dealing in finance. By 1532 he was already wealthy enough to buy the pawned princely County of Pazin in Istria. Even after the family split into several lines, some of which settled in Carniola as well, its main seat of commerce remained Ptuj (Valentinitsch, 1998, 98, 105).

The family acquired lordships in Carniola and Styria respectively and was raised into the nobility in the first half of the 16<sup>th</sup> century. One family line completely renounced commerce around 1600, while another was awarded the title of barons in 1618 and counts a century later. The Ptuj line however, remained in commerce regardless of its new estate (Valentinitsch, 1973, 105–106).

The first Moscons relevant to this paper were the brothers Bernhardin and Josef who were burghers not nobles. They were hide and textile merchants, operating together with Gabriel Caccia, a member of another Ptuj merchant family, originating from somewhere in northern Italy. The roots of Simon Moscon’s dispute with the Qualandro family lay in Josef’s marriage in 1624 to Otilia,<sup>7</sup> the daughter of the wealthy and infamous Ptuj merchant, Matthias Qualandro. Otilia outlived her husband and married Hans Schauer in

- 
- 5 An entity of Habsburg hereditary lands (1564–1619/1749) encompassing the Duchies of Styria, Carniola and Carinthia, the Princely County of Gorizia and Gradisca, the Free City of Trieste and the Margraviate of Istria and other smaller territories (Bakar, Bovec, Rijeka/Fiume, Tolmin). Its capital until 1619, when the Princely court moved to Vienna, was the Styrian capital Graz, which remained the seat of the Inner Austrian Government until 1746. The latter was the Princely governing body second only to the Princely Privy Council in Inner Austria. The Government had the authority over those at the lower Land level, *i.e.* the *Landeshauptmann*, the courts, Princely towns, market towns and parishes (Spreitzhofer, 1988, 64–66).
  - 6 Booming international trade with cattle, hides and textiles along this route and through Ptuj, situated near the border to Hungary, was the main factor for Italian merchants to have established a foothold in town. The boom started in mid-15<sup>th</sup> century, subsiding in the second half of the 16<sup>th</sup> century and coming to an end in 1641 with the break-down of trade between Venice and Hungary. Until then, starting in 1500, many Italian merchant families established themselves in town: Asti, Caccia, Qualandro (Qualandro), Guffante, Inzaghi, Liscutin, Marenzi, Miglio, Molfetti (Mofetti) and Moscon. Many other Italian merchants only remained briefly. Most of these families had died out in Ptuj by the 18<sup>th</sup> century (Valentinitsch, 1998, 98–108).
  - 7 Or Otilia Alda, since (only) Alda was supposedly written on the couple’s commemorative wedding bowl, which was still kept at the Ptuj Conventual Franciscan monastery in the mid-19<sup>th</sup> century (ZAP 0070, R 32, 151, 201). It seems that Otilia never used her other given name, as it is not attested in other historical sources. Judging by Simon Moscon’s approximate age upon his return to Ptuj in 1642, it would seem impossible that the names Otilia and Alda would have meant two different wives of Josef, *i.e.* two different women.



1630, a high-ranking employee of the Styrian Land Estates (*Landstände*).<sup>8</sup> At the time of Josef's death in 1629, the goods from his inheritance alone were worth several thousand guildens, but all the wealth went into less capable hands. The guardianship over his inheritance and underage sons Simon and Dominik<sup>9</sup> was entrusted to Josef's brother Bernhardin, who invested all the money into a commercial enterprise trading in oxen and grain. Bernhardin had founded it with two Italians, Carlo Miglio and Antonio Campioli, most likely immigrants from Milano. Campioli was later succeeded by Miglio, his nephew Tulio Miglio and Peter (*Pietro*) Curti, and it seems that Fermo Qualandro joined the enterprise as well (Gestrin, 1981, 233; Gestrin, 1986, 420). However, the enterprise fell into ruin in the years 1641–1642, supposedly under scandalous circumstances. Bernhardin squandered his brother's and his nephews' inheritance. At the end of 1643 the once respected, wealthy man and former town councilman (*Stadtrat*) died in Ptuj, destitute and ill. Following Bernhardin's ruin, his late brother's father-in-law Matthias Qualandro provided for him. At his death, Bernhardin left not only his nephews in debt, but also his wife Magdalena Anzella (née Minussi), whom he married on 6<sup>th</sup> February, 1629. They had no children of their own (Valentinitsch, 1998, 102, 106).<sup>10</sup>

If Ludvik Pečko was right about the year of marriage between Josef Moscon and Otilia Qualandro, then Simon Moscon could not have been more than 18 years old when he returned to Ptuj<sup>11</sup> in 1642, at which point he tried to reclaim at least his mother's inheritance following his uncle's bankruptcy. She, *i.e.* her widowed husband Hans Schauer, was supposedly dispossessed by her brothers Fermo and Cyprian following the death of their father Matthias Qualandro, or so Simon had claimed. Simon, however, also needed the money to repay his late uncle's debts. By demanding his mother's inheritance he started a decade-long dispute with his mother's kin, the Qualandro family. Apparently, he did not even live to see the dispute end, dying in 1686 (Valentinitsch, 1973, 73, 75).<sup>12</sup>

8 Simon Moscon acquired a stepsister named Eva Sidonia from the marriage. She married Hieronimus von Hornburg on 25<sup>th</sup> July 1654. Both of her parents had passed away by then, Otilia in 1635 and Hans in 1644 (StLA, LAA, LR 736, Collated transcript of the marriage agreement between Eva Sidonia Schauer and Hieronimus von Hornburg, 24<sup>th</sup> March, 1657, Graz; Valentinitsch, 1973, 70, 75).

9 He later joined the Dominican monastery in Ptuj and took the name Maria Dominik (StLA, LAA, LR 736, Order by the Inner Austrian Government regarding the request of Simon Moscon regarding the inheritance of Matthias Qualandro, 7<sup>th</sup> August, 1657, Graz).

10 StLA, LAA, LR 736, Inheritance inventory of the late Berhardin Moscon, 7<sup>th</sup> December, 1643, Ptuj; StLA, LAA, LR 736, Certificate of the Ptuj town judge and council for Simon Moscon, 6<sup>th</sup> July, 1657, Ptuj; StLA, LAA, LR 736, Edict of the *Landesverwalter* Count Maximillian von Saurau in the case of Matthias Asti vs. Antonio Campioli (transcript), *sine dato, sine loco*; StLA, LAA, LR 736, Legal opinion in the case of Simon Moscon vs. the heirs, inheritance caretakers and creditors of Matthias Qualandro, 22<sup>nd</sup> February, 1656, *sine loco*.

11 Simon also married here, taking Ana Schauer as his wife, a relative of his stepfather. Their only known child was Ferdinand Moscon (StLA, LAA, LR 736, Letter of the Styrian *Landeshauptman* regarding the capital from the Schauer inheritance, 30<sup>th</sup> July, 1655, Graz; Valentinitsch, 1998, 106). Dejan Zadravec (ZAP), to whom I am grateful for his observation, is of the opinion, that Simon Moscon inherited his noble title from his stepfather (not before his death in 1644) if ever at all.

12 StLA, LAA, LR 736, Legal opinion in the case of Simon Moscon vs. the heirs, inheritance caretakers and creditors of Matthias Qualandro, 23<sup>rd</sup> August, 1656, *sine loco*.

The Qualandro (*Guallandri*, *Guallandro*, *Quallandro*) family originated from Bergamo and arrived in Ptuj literally in the person of Simon's grandfather Matthias, originally presumably *Matteo Guallandri*. Just like the first Ptuj Moscon, Alexius in the 16<sup>th</sup> century, Matthias proved himself a very capable merchant a century later. He probably arrived in Styria with other Venetian merchants at the beginning of the 17<sup>th</sup> century. Here, he is first attested in a document from 1609, as a cattle merchant in Ptuj, yet he initially traded with textiles and groceries. Matthias presumably gained a command of the language or, rather, both languages (German and Slovene) of his new homeland – at least a working understanding, although he never mastered writing. Nevertheless, this did not impede his becoming the wealthiest merchant in the Land of Styria over the following two decades. He mainly traded with oxen, but also with textiles and other goods, beginning at first as a salesman for other Venetian merchants. His big break came with the extreme debasement of money and the following financial crisis of the *Kipper- und Wipperzeit* (1619–1623). In 1622, when the meat supply of the Styrian capital Graz collapsed, Matthias was immediately able to stand in as a supplier, which brought him huge profits. He also supplemented his wealth with illegal business methods: smuggling and the exchange of bad currency. This certainly did not bode well for his reputation in Styria, as he was already hated for his rough methods,<sup>13</sup> because of which he was referred to using the pejorative term *Bergamasco* after the region of his origin. Nevertheless, his relentless and rough methods certainly aided him in taking over the entire Hungarian-Venetian trade in 1626. This was without a doubt made possible solely due to him being raised into nobility by the Styrian Land Sovereign and Holy Roman Emperor Ferdinand II in 1621, who also bestowed the title of Imperial Servant (*kaiserlicher Diener*) on him. In addition to that title, he signed himself as Matthias Qualandro at Pogled and Plumberk (*auf Pogled und Brunnberg*), after his main lordships. Hungarian magnates eventually did manage to dissolve his monopoly, but he did not live to see all the consequences after his death, as it seems, prior to 26<sup>th</sup> May<sup>14</sup> 1636. Matthias had a splendid funeral in the former Minorite<sup>15</sup> Church in Ptuj, which was destroyed in 1945. He left approximately 185,000 guildens to his heirs, in addition to 72,000 guildens worth of debts. His estates<sup>16</sup> amounted to the largest part of his inheritance, including the *Freihaus* in Ptuj. Matthias also bought estates around his native Bergamo, which were managed and, following his death,

13 For instance, some time prior to 1631, he had his employee Ulrich Engel imprisoned in one of the Ptuj towers, because he had not repaid his debt of 4,000 guildens (ZAP 0177, 2, Town protocol 1653–1655, f. 184v–185r). But he was soon freed and already in the same year was attested as Matthias' heir in the textile and groceries business. Still, Engel found himself in trouble because of him again in 1631 or 1632, when Matthias' subjects from Zavrč, whom the merchant-made-noble treated very badly, seized and robbed him (Valentinitsch, 1973, 69, 71).

14 StLA, LAA, LR 950, Inventory of financial transactions that Fermo Qualandro inherited after the death of his father Matthias Qualandro and further expenses, 1640, Ptuj; ZAP 0177, 7, Repertory of inheritance inventories of the town of Ptuj (1590)–1777–1808.

15 Church of the Ptuj monastery of the Order of Friars Minor Conventual.

16 Which lordships and estates these encompassed is somewhat disputed. Helfried Valentinitsch counted Dornava, Pogled, Pobrežje, Plumberk and Zavrč (Valentinitsch, 1973, 69–70; Valentinitsch, 1998, 108), while Hans Pirchegger was of the opinion that at the time of his death, Matthias Qualandro had owned only Pogled, Plumberk and Zavrč (Pirchegger, 1962, 73–74, 93, 102–104, 148–149, 182).



taken over by his brother Marco Antonio who had remained in Italy (Valentinitsch, 1973, 67–68, 70; Valentinitsch, 1998, 107–108).

Matthias had three children of his own, one adoptee<sup>17</sup> and was married at least twice. His first wife was probably a Marenzi<sup>18</sup> widow. His second wife was Katharina née Delfaro (*Delfaro*), whom he married in November 27<sup>th</sup> 1626.<sup>19</sup> She might have been from the Croatian town of Varaždin,<sup>20</sup> where she still had a house of her own after Matthias' passing.<sup>21</sup> Yet it seems Matthias had all of his children from his first marriage: the daughter Otilia, who first married Matthias' business partner Josef Moscon (Valentinitsch, 1973, 74), and the sons Cyprian and Fermo. The elder Cyprian was an imperial officer and took over the lordship Pogled while his father was still alive. He had however treated his subjects so harshly that they joined the so-called second Slovene peasant revolt in 1635 and burned the Pogled mansion to the ground. Six years later, his demeanour, which he had "inherited" from his father, got him in trouble again: he provoked a duel with Count Gottfried von Tattenbach and was fined 200 guldens because of it (Valentinitsch, 1973, 74). Cyprian quickly squandered the inheritance, got in debt and fled to Italy in 1642 or 1643, most likely to the Republic of Venice, never to return to Ptuj again. His wife Margarethe (*Margherita*) was the daughter of the wealthy Triest merchant Germanico von (*di*) Argento. Cyprian married her in 1628 in Triest and they had a son, Johannes (*Giovanni*) Antonio, baptised on the 9<sup>th</sup> of October, 1635. Margarethe died in 1637. Abandoned in Ptuj, Johannes Antonio was taken into care by his father's uncle Marco Antonio from Bergamo who occasionally visited his relatives in Ptuj. Following Cyprian's flight, the debts to Matthias' creditors fell onto the shoulders of his younger son. Fermo Qualandro tried to re-join the oxen trade, without success. As an unfortunate consequence he had to sell or pawn lordship after lordship, estate after estate, and only with his uncle's financial help was the family able to retain the *Freihaus* in Ptuj, the lordship Zavrč and the estates Pobrežje and, as it seems,<sup>22</sup> Pogled as well. Fermo's children left the trade business. Rather unsurprisingly, his eldest son was named Marco Antonio, after the relative who saved the family from ruin (Valentinitsch, 1973, 70–72, 74; Valentinitsch, 1998, 108).<sup>23</sup>

17 Prospero Marenzi. Matthias' first wife probably married into the Marenzi family, which came to Ptuj in the 16th century, allegedly from either the Counties of Gorizia or Gradisca, the Free City of Triest or the Margraviate of Istria (Valentinitsch, 1973, 67–68).

18 Valentinitsch, 1973, 67–68.

19 StLA, LAA, LR 949, 2, Recording of the first day in the dispute between Katharina Qualandro, née Delfaro, and Baron Georg Heinrich von Helfenburg, 1643, *sine loco*; ZAP 0177, 2, Town protocol 1653–1655, f. 296r.

20 The family is also attested in Leibnitz (today Austrian Styria), so Helfried Valentinitsch thought that Katharina could have been the daughter of the Leibnitz town councilman Lorenz (Valentinitsch, 1973, 68, 73). This might be just as plausible. Even if the historical sources never mention her as a widow prior to her marriage to Matthias, she was over 40 years of age at the time of their marriage, so she could just as well have been one. Be that as it may, she had lived in Varaždin before marrying Matthias.

21 StLA, LAA, LR 949, H. 2, Recording of the first day in the dispute between the heirs of Katarina Qualandro and Count Jakob Leslie, 1671, *sine loco*; ZAP 0177, 2, Town protocol 1653–1655, f. 296r.

22 Two of the subjects who helped Fermo Qualandro defend the *Freihaus* from Simon Moscon were from Pogled (ZAP 0177, 2, Town protocol 1653–1655, f. 303v).

23 StLA, LAA, LR 950, H. 2, Reply of Matthias Qualandro's heir to the Inner Austrian Government regarding the dispute with Johannes Antonio Qualandro, received 26<sup>th</sup> September, 1678, *sine loco*; StLA, LAA, LR

Next to Marco Antonio, Fermo had at least the son Johannes Baptist and the daughter Anna Maria with his wife, who is however not attested in historical sources.

Fermo's younger son lived secluded on the Pobrežje estate, which he inherited from Katharina Qualandro. Johannes Baptist married late, taking Anna Katharina, the widow of some lieutenant in Count Leslie's regiment, as his wife in 1685. They had no children of their own, but Johannes provided for Anna's after her death in 1690 (Valentinitsch, 1973, 76).

Anna Maria Qualandro married the Ptuj burgher Horatio Caccia, a member of an allegedly northern Italian family that is first attested in Ptuj in the first half of the 17<sup>th</sup> century (Valentinitsch, 1973, 77; Valentinitsch, 1998, 102).<sup>24</sup>

Marco Antonio, whose part in the *vindicta* shall be elaborated below, was married twice. His first wife was Virginia Caccia who died in 1666 and bore him four children. Their affection for each other must have been great, since the widower had not remarried until 14 years later, taking Susanna Barbara Marenzi as his second wife. They had three sons. Marco Antonio died on 4<sup>th</sup> July 1678 (Valentinitsch, 1973, 72, 75).<sup>25</sup>

## FROM THE INHERITANCE DISPUTE TO THE *FEHDE*

Losing his father's inheritance as a result of his uncle's negligence, misfortune or commercial ineptitude, Simon Moscon returned to Ptuj to reclaim at least his mother's inheritance. Wherever in La Serenissima or elsewhere in Italy where he used to live until then, he probably didn't have it easy if he returned to the distant, if native Ptuj, knowing full well how his uncle Bernhardin fared. Yet without a doubt, Simon's actions were also driven by a strong sense of honour.

At the time of the outbreak of hostilities between the relatives, Simon Moscon was the Lord of Dranek and Lancova vas. He had been the owner of Dranek mansion and estate at least between 1649 and 1658, and acquired the mansion and estate of Lancova vas sometime after 1636 and held it until 1665. The money that he got from selling both must have been used to buy the Podlehnik estate (Pirchegger, 1962, 96, 98, 102–103).

His uncle Fermo was, at the time the *Fehde* began, the Lord of Zavrč and the Pogled estate, which, as it seems, was at that time no longer pawned. The Pobrežje estate, owned by Fermo's stepmother Katharina, was also in the family's hands.

---

950, H. 2, Excerpt from the parish register of the Ptuj parish regarding the baptism of Johannes Antonio Qualandro, January 25<sup>th</sup> 1661, Ptuj.

24 StLA, LAA, LR 949, H. 2, Recording of the first day in the dispute between the heirs of Katarina Qualandro and Count Jakob Leslie, 1671, *sine loco*.

25 The children from Marco Antonio's first marriage were: Ruprecht, who became a Benedictine at St. Paul in Lavanttal in Carinthia, Johannes Karl who pursued a military career and later inherited Zavrč, Maximillian who supposedly became a monk somewhere as well, and Esther Katharina. The sons he had with Suzanna Barbara were: Alois Franz Xaver, who served in the military – and later inherited Zavrč (Hernja Masten, 2005b, 113) –, and Johannes Georg and Matthias who became Conventual Franciscans in Ptuj (StLA, LAA, LR 949, H. 1, Letter of Balthasar Pauritsch to the Styrian *Landesverwalter* regarding the inheritance of Marco Antonio Qualandro, 28<sup>th</sup> May, 1680, Ptuj; StLA, LAA, LR 949, H. 1, Letter of Balthasar Pauritsch to the Styrian *Landesverwalter* regarding the inheritance of Marco Antonio Qualandro, 4<sup>th</sup> June 1680, Ptuj).



Fig. 2: The former Qualandro Freihaus in Ptuj (photo: Žiga Oman, 2015)

Yet, as it seems, the ownership of these lordships and estates was not contended. Simon Moscon only claimed his mother's inheritance (only once<sup>26</sup> in the historical sources referred to as Hans Schauer's inheritance) that included: the Qualandro *Freihaus* in Ptuj (valued at 2,250 guildens), two burgher houses in the same town, a downtrodden grange (*Meierhof*) at the St. Oswald church, a few pastures, fields, gardens and a vineyard. Apart from the houses, the real estate was valued at around 1,900 guildens, although Simon also demanded a substantial amount of money in cash and at least some of his mother's jewellery, totalling at 6,678 guildens. This total excludes the two burgher houses, which were in the meanwhile seized by the town council<sup>27</sup> (*Stadtrat*) and bought by Simon Moscon for 1,600 guildens.<sup>28</sup>

26 StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon's subject, Lukas Pankicher, 23<sup>rd</sup> July, 1655, Ptuj.

27 According to Article 12 of the Ptuj town statute of 1513, the town council had 12 members who elected the town judge from among their number (Hernja Masten, Kos, 1999, 74, 76). In 1654 the town council had 11 councilmen, coming back to 12 the following year (Hernja Masten, 2005a, 219).

28 StLA, LAA, LR 736, Appraisal of the inheritance of Otilia Moscon, née Qualandro, 30<sup>th</sup> August 1655, *sine loco*; StLA, LAA, LR 736, Certificate of the Ptuj town judge and council for Simon Moscon, 6<sup>th</sup> July, 1657, Ptuj; ZAP 0177, 2, Town protocol 1653–1655, f. 256v.

But how did the *Fehde* start, who set it in motion and why? The lawsuit of Simon Moscon against the heirs, inheritance caretakers and creditors of the late Matthias Qualandro probably started soon after his return from Italy to Ptuj in 1642 or, at the very latest, after Bernhardin's death a year later. After what were certainly many years of litigation, on 24<sup>th</sup> February 1648 the sentence was passed that the Qualandro *Freihaus*, which through Otilia came into Hans Schauer's inheritance, belonged to Simon Moscon and those he represented in court, his brother Maria Dominik and stepsister Eva Sidonia.<sup>29</sup>

Yet this did by no means settle the dispute. In the only preserved Ptuj town protocol, the historical source that by far best records the dispute and the resulting *Fehde*, the matter was first recorded on 12<sup>th</sup> March, 1653. Exactly one month earlier, the town council prompted Matthias Qualandro's heirs to pay the taxes due for their "smaller house", one of their two burgher houses, before the town would pawn it, since a buyer had been found.<sup>30</sup>

The dispute was resumed before the town court (*Stadtgericht*) in the summer.<sup>31</sup> As the parties to the dispute, the town council recorded Fermo Qualandro and Simon Moscon. This happened on 20<sup>th</sup> June, when the town councilman Gregor Liscutin<sup>32</sup> (*Lischkhutin*) was supposed to testify before the town judge (*Stadttrichter*), Simon Doring. A problem arose when Simon Moscon insisted that the councilman ought to swear a special oath as witness, whereas the latter countered that the oath, which he had sworn when he became a town councilman ought to suffice. Simon's claim, however, prevailed in the end; he then demanded that the testimony be postponed.<sup>33</sup>

A month later, the Ptuj town protocol records the *Freihaus* being mentioned for the first time, but for other reasons: its roof and a part of the walls were in very bad condition. The town council urged Matthias' heirs to take proactive measures to prevent the structural problems affecting the whole house.<sup>34</sup>

29 StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon's subject Lukas Pankicher, July 23<sup>rd</sup> 1655, Ptuj.

30 ZAP 0177, 2, Town protocol 1653–1655, f. 28r–v, 53r, 61r.

31 In the meantime, on May 16<sup>th</sup>, Simon Moscon started a fight with the ferryman Georg Luedel and his assistant Simon Gallätsch in Ptuj, when Luedel refused to ferry him across the Drava river due to bad weather. Moscon must have taken the refusal as an injury of or, rather, an attack on his honour, and first struck a blow at Gallätsch with his fist and then with the flat of his sword, going after Luedel next. Yet the ferryman overwhelmed Moscon and went to seek advice from the town judge. In the meantime, Moscon left for the Ptuj Dominican monastery, which then took care of ferrying the nobleman across the river (ZAP 0177, 2, Town protocol 1653–1655, f. 73v–74r). Any potential sanctions or reprisals because of this incident have not been preserved in historical sources.

32 Georg Liscutin was a descendant of Italian immigrants (Valentinitsch, 1998, 101). He was most likely born in 1593, and came into the employ of Matthias Qualandro in September 1631 (ZAP 0177, 2, Town protocol 1653–1655, f. 184v–185r), in which he stayed until the merchant's death. Afterwards, Liscutin at least occasionally worked for Fermo Qualandro as well, who at least once sent him on business to Venice. Fermo also paid him 1,000 guildens from Matthias' inheritance, which the latter had owed Liscutin (StLA, LAA, LR 950, Inventory of financial transactions that Fermo Qualandro inherited after the death of his father Matthias Qualandro and further expenses, 1640, Ptuj).

33 ZAP 0177, 2, Town protocol 1653–1655, f. 82v–83r.

34 ZAP 0177, 2, Town protocol 1653–1655, f. 97v; StLA, LAA, LR 736, Appraisal of the inheritance of Otilia Moscon, née Qualandro, August, 30<sup>th</sup> 1655, *sine loco*.

The Qualandro family also continued to experience legal issues with its two burgher houses which faced seizure by the town council, arising because it could or would not pay the due taxes. On 1<sup>st</sup> December 1653, the council grew tired of waiting for the payment, and the town judge ordered their appraisal. As it seems, the family had also taken no action in their dispute with Simon Moscon, despite the town council having summoned them before the town judge in this matter a couple of times, to no avail before the end of 1653.<sup>35</sup>

It appears there was no response on the Qualandro side until the spring of 1654. The witness examination however took place on 17<sup>th</sup> June 1654. The Qualandro family, *i.e.* Fermo and Katharina, was represented in court by Johannes Kaspar Pfanzelter, Simon Moscon on the other hand, by a certain Michelitsch whose first name remains unknown. Pfanzelter explained that the opponents were ignored, because the Qualandros were of the opinion that the matter of the inheritance dispute was not in jurisdiction of the town court. Michelitsch, *i.e.* Moscon, however was arguing that Matthias had been a burgher and died as one, so that his heirs belonged in jurisdiction of the Ptuj town court. As this had not been the case, Pfanzelter rightfully countered that Matthias, although a burgher at first, was raised into nobility and thus the matter had to be settled at the *Landeshauptmann* Court (*Landschranngericht*) in Graz.<sup>36</sup>

The two parties found themselves at that same court on 15<sup>th</sup> September, apart from Katharina, for whom a special exception was made, most likely due to her old age, being 73 or 74 years old at the time; she was allowed to testify at the Ptuj town court eleven days later. Katharina testified in the matter of the disputed jewellery and silverware: a gold necklace, two bracelets, one ring, three small silver belts and two silver gilded cups. The widow claimed that the gold jewellery was a gift from Matthias Qualandro, received in Varaždin prior to their wedding, the rest having been presented as gifts afterwards.<sup>37</sup>

With this she obviously rejected some claim by Simon Moscon that the items were a part of his mother's or even his grandmother's inheritance, thus belonging to him. Yet Katharina's claims are also the last time the Qualandro-Moscon dispute is recorded in the town protocol prior to the eruption of violence, so the question remains of how the dispute moved into hostilities, *i.e.* turned into a *Fehde*.

Other historical sources clarify the matter. Some time prior to 12<sup>th</sup> October, the *Landeshauptmann* Court in Graz finally ruled that the Qualandro *Freihaus* belonged to Simon Moscon. With the deed (*intimation schreiben*) in hand, he then took over the house, sealed it and changed the locks on the same day. When his uncle Fermo Qualandro learned about this, he squatted the house, trying to prevent its takeover. Being thoroughly fed up with the decade-long dispute with his relatives, primarily with his uncle, Simon responded differently to the occupation than Fermo had evidently expected. The latter namely claimed that he expected Simon to take further legal action against him in court, after he had occupied the *Freihaus*. However, a "few days" after the occupation, Simon responded with force.<sup>38</sup>

35 ZAP 0177, 2, Town protocol 1653–1655, f. 98r, 105r, 111v, 153r–v.

36 ZAP 0177, 2, Town protocol 1653–1655, f. 192r, 201r, 256v–257v.

37 ZAP 0177, 2, Town protocol 1653–1655, f. 295r–296r.

38 StLA, IÖReg, Cop-1655-XII-23, Supplication of Fermo Qualandro to the Holy Roman Emperor etc. for *salvus conductus* (transcript), 29<sup>th</sup> October, 1654, *sine loco*; StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon's subject Lukas Pankicher, 23<sup>rd</sup> July, 1655, Ptuj; StLA,



The injury (*iniuria*) inflaming the dispute was Fermo's occupation of the *Freihaus*, which led to a *Fehde* when Simon took leave from the legal procedures and took the matter into his own hands (self-redress) with the armed arrival into town and attempted storming of the house. A formal declaration of hostilities (*Absage*, *diffidatio*) is not attested in the historical sources, probably because in mid-17<sup>th</sup> century it was already illegal to do so explicitly.<sup>39</sup>

# DIESES SELZAME SPECTÄCHKL: OUTBREAK OF HOSTILITIES

Here, finally, the storyline from the prologue can be continued. Two days after the attempted storming of the *Freihaus* and the killing of Lukas Pankicher, on 24<sup>th</sup> October, Wilibald Werlmayr testified under oath in the matter before the town judge.<sup>40</sup> The twenty-year-old Bavarian (most likely from Moosburg (*Möchburg*)) was a servant of Fermo's son Marco Antonio, and one of the men who helped Fermo Qualandro occupy and defend the disputed house that fateful day. It is safe to assume that Werlmayr probably knew the house well, since his master used to live in it. The testimony he gave was demanded from him by Simon Moscon. Even though it was Simon who started the *Fehde*, as his subject was killed in it,<sup>41</sup> he seems to have been regarded as the more injured party and thus could dictate the proceedings.

So what happened on the day the *Fehde* erupted, according to Werlmayr's testimony? When the *Freihaus* had been delegated to belong to Simon Moscon, he had sealed it off and left. This happened on 12<sup>th</sup> October. It was some time afterwards, neither Werlmayr nor any known historical sources give an exact date, Fermo decided to occupy it. At first, Werlmayr and two subjects of the Qualandros from Pogled, Tomaž (*Thomäs*) Gaulländer and Martin Gonsmäkh, crept into the *Freihaus* through Wolf Lorenz Lampertitsch's house and garden, next into the *Freihaus*' garden through a hole in the garden wall, then through the back door into the house itself. Only after that did Fermo Qualandro enter the house with three more men by the main door, from which Simon's lock was struck off. Two of them were subjects of the Qualandros from Pobrežje, whom Werlmayr did not recognise; the third one was Thoman, the coachman of Katharina Qualandro. As the head of the family, Fermo could obviously command all of the family's "resources" for the occupation (defence) of the *Freihaus*.<sup>42</sup>

IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for killing of Moscon's subject Lukas Pankicher (transcript), *sine dato, sine loco*.

39 The *Ferdinande* (1656) stipulated, that those who broke or, rather, cancelled the peace and fidelity, *i.e.* declared hostilities or a *Fehde* (*Diffidatores, oder Absager*), were regarded as violators of state peace (*Landfriede*), and dealt with the same way as offenders of His Majesty, rebels, conspirators, money forgers and traitors (CA 1704, Lit. L, *Ferdinande*, Article 61, 690). The earlier *Carolina* (1532) left the decision whether an *Absage* was legitimate to the legal authorities (CCC 1609, Article 129, 58).

40 Article 27 of the Ptuj town statute from 1513 stipulated, that when the perpetrator of a homicide is unknown, everyone present at the killing had to be arrested, reported, interrogated and charged. Should one of them admit that he was the killer, charges against the others should be dropped and they should be set free, provided they had nothing to do with the homicide (Hernja Masten, Kos, 1999, 92).

41 ZAP 0177, 2, Town protocol 1653–1655, f. 302r–303v.

42 ZAP 0177, 2, Town protocol 1653–1655, f. 303r–v.



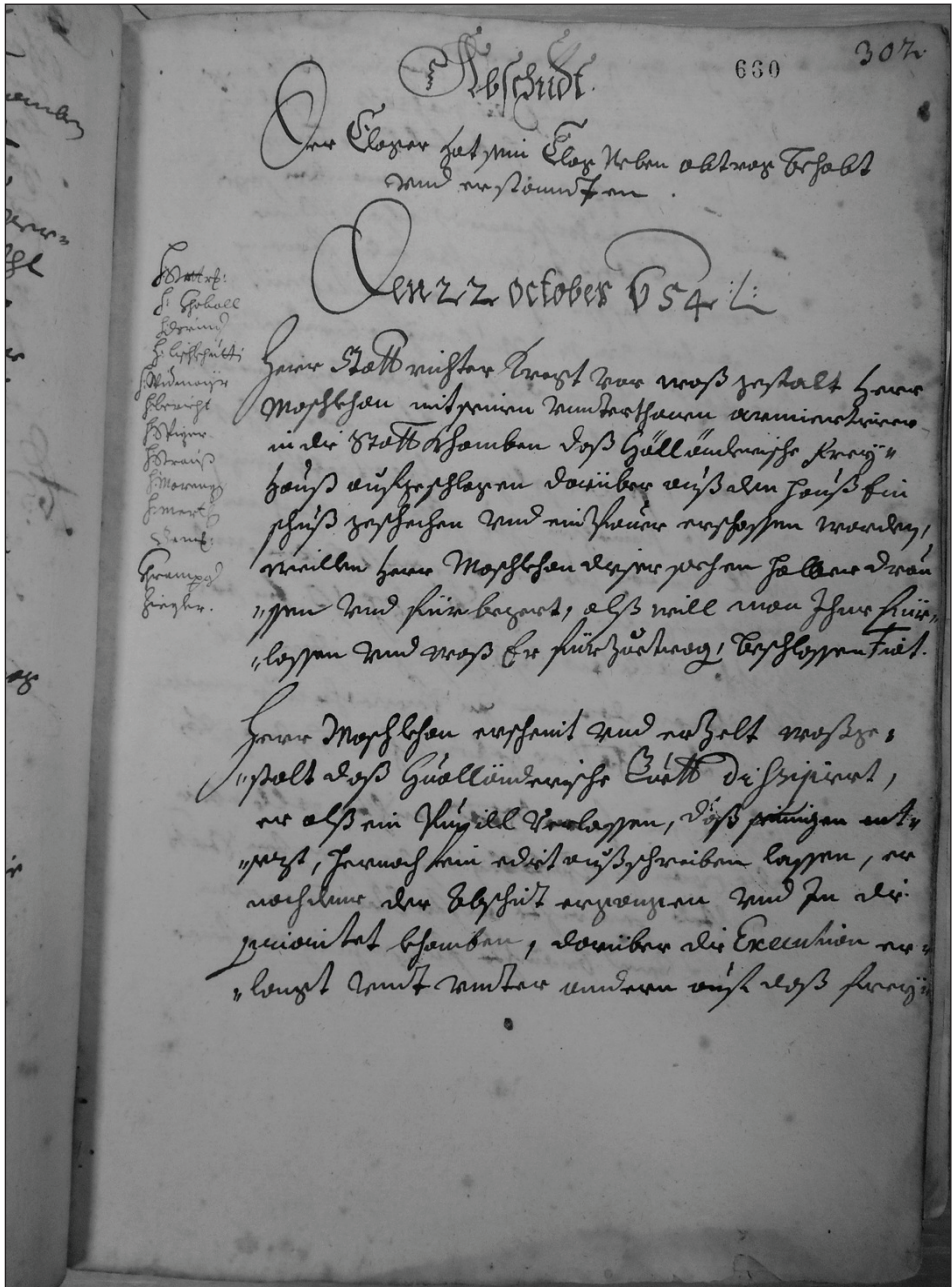


Fig. 3: ZAP, Ptuj town protocol 1653–1655 f. 302r; record of the shooting (photo: Žiga Oman, 2014)

As mentioned above, a “few days” had passed between Fermo’s occupation of the *Freihaus* and Simon’s armed entry into town on 22<sup>nd</sup> October with “many peasants”, as Werlmayr had put it. Seeing the group of about forty armed men, Fermo ordered his six men in the house to prepare themselves for a break-in and to strike down any who would attempt to break in. At the time of the attackers’ first charge, the occupiers were at a meal – they’d made some cabbage stew. Simon’s subjects had tried to break through the front door with some sort of an improvised battering ram or a simple log (*tremblen*). At this Fermo called, ‘lads, brace yourselves!’ (*pursch zuer weher*) to the “defenders”, and excluding himself and Werlmayr, who stayed at the meal, the five rushed to the front door.<sup>43</sup>

A part of what happened next was a few days later explained in a letter by Fermo himself, and not given by Werlmayr. Fermo claimed that following the first charge at the door, he called out to his attacker to stop the action and take the orderly path (*der ordnung nach*), i.e. take the matter to court; to no avail, as the besiegers, spurred by Fermo’s call, charged roaring at the door with even more ferocity.<sup>44</sup> If Fermo really did call out to Simon remains somewhat doubtful. Werlmayr did not mention it, and Fermo might have only written this to justify his actions.

Referring back to Werlmayr’s testimony, whether Fermo called out to Simon or not, his subjects unsuccessfully attempted to storm the gate three times. Then, at the fourth charge, Werlmayr heard a shot and immediately ran upstairs, to where he had heard it originate. There, he found Fermo Qualandro holding a carbine, who said to him that ‘a shot went off’. Werlmayr seems to have been confused, since he asked who fired, to which Fermo responded that he had brushed up against the trigger and the carbine fired. After the shot was fired, Simon’s subjects scattered. Save for Lukas Pankicher<sup>45</sup> who was killed by Fermo’s shot. Werlmayr however emphasized that he could not say that Fermo had the intention to harm (*zubelaidigen*) or shoot anyone.<sup>46</sup>

In his supplication to the Emperor, Fermo had claimed the same: that he only wanted to scare the attackers away with a warning shot, when he brushed up against the trigger too soon and the weapon misfired, with the unfortunate effect of killing one of Simon Moscon’s subjects.<sup>47</sup>

The *Fehde* gained another twist with this killing, as it could now turn into blood vengeance (*Blutrache*, *Totschlagsfehde*), due to the obligation that a lord had to avenge his subjects if they were killed or their blood was spilled by another lord or his subjects (Brunner, 1990, 57, 62).

As mentioned above, since Simon’s subject was killed, he was now, as it seems, regarded as the more injured party in the conflict and dictated the proceedings, even if he had initiated the *Fehde*. Right after the shooting, he requested to appear before the town

43 ZAP 0177, 2, Town protocol 1653–1655, f. 304r.

44 StLA, IÖReg, Cop-1655-XII-23, Supplication of Fermo Qualandro to the Holy Roman Emperor etc. for *salvus conductus* (transcript), October 29<sup>th</sup> 1654, *sine loco*.

45 ZAP 0177, 2, Town protocol 1653–1655, f. 391r.

46 ZAP 0177, 2, Town protocol 1653–1655, f. 304r–v.

47 StLA, IÖReg, Cop-1655-XII-23, Supplication of Fermo Qualandro to the Holy Roman Emperor etc. for *salvus conductus* (transcript), 29<sup>th</sup> October 1654, *sine loco*.

council, which had already been notified of the incident. The town protocol registered that (Simon) Moscon had entered the town armed, together with his subjects and tried to break into the Qualandro *Freihaus*, from which then a shot was fired, killing one of his subjects.<sup>48</sup>

When the nobleman was allowed to appear before the Ptuj town judge and council, Simon reiterated the origins of the dispute with the Qualandros, which included the *Freihaus*, and that the *Landeshauptmann* Court in Graz ruled that the house belonged to him. Simon tried to take possession of it, but Fermo Qualandro who rejected paying him out, claiming that Simon had no right to it, overtook him and occupied the *Freihaus* himself.<sup>49</sup>

Regarding the *Fehde* – the word itself is never used in any of the pertaining historical sources – and the shooting, Simon urged the town council to finally decide to whom the house belonged (although this was not within its jurisdiction) and take action in the matter of “this unusual spectacle, which has probably never happened in Ptuj before” (*dieses selzame spectächkl seÿe vielleicht niemahlen zue Pettau geschechen*), of this “sad case” (*der laidige fahl*) in which one of his subjects had been shot from within the *Freihaus*. By action he specifically demanded the intervention of the town council in the house, the arrest (*verwahrung*) of those inside and a fitting punishment (*gebürlichen bestraffen*) for the perpetrator (*thätter*).<sup>50</sup>

Yet, before the town council took action against the then still unknown shooter, Simon Moscon also had to answer for his actions. He was told that he faced two or three<sup>51</sup> days in prison because he had severely violated town privileges<sup>52</sup> and caused a breach to the peace (*die ordnung weit ÿber schritten*) with the storming of the *Freihaus*<sup>53</sup> – nothing, however, had been specifically recorded regarding his armed arrival into town. The attempted break-in had been a violation of the sanctity of one’s home (*Heimsuchung*), which was also a violation of *Fehde* rules (Brunner, 1990, 95; Reinle, 2003, 76, 81). Whether Simon really was imprisoned or only apprehended and threatened with arrest remains unknown. The latter seems somewhat more likely, as he had already on the day of the shooting taken the oath of renouncement of vengeance against his captors – in this case, the town council, which had arrested him. It was recorded that “Sir Moschkhon erbitt sich des er wegen des eingriffs in die behaussung ein er: rathe khünfftig ohne allen schaden halten will).<sup>54</sup>

48 ZAP 0177, 2, Town protocol 1653–1655, f. 302r.

49 ZAP 0177, 2, Town protocol 1653–1655, f. 302r–v.

50 ZAP 0177, 2, Town protocol 1653–1655, f. 302v.

51 The number is smudged.

52 Article 103 of the Ptuj town statue from 1513 stipulated, that those who broke into someone else’s house (home) with malicious (criminal) intent or dragged someone out of it, should be fined the sum of 32 guldens or executed (Hernja Masten, Kos, 1999, 142).

53 StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon’s subject Lukas Pankicher, 23<sup>rd</sup> July, 1655, Ptuj.

54 ZAP 0177, 2, Town protocol 1653–1655, f. 303r.

The legal term of the renouncement of vengeance against ones captors or *Urfehde*<sup>55</sup> had thus not been recorded in the protocol, only implied in the descriptive form quoted above. Even so, had he been arrested, Simon was obligated by law (Brunner, 1990, 24–27) to issue a written renouncement (also known as *Urfehdebrief*). Since he probably had not, a formal *Urfehde* was perhaps deemed unnecessary.

When considering the shooting, it is possible even before the matter of Simon's (alleged) *Urfehde* was settled that the town council had taken the action the nobleman had demanded.

The town judge, Francesco Guffante,<sup>56</sup> entrusted the task to town councilman Peter Khobäll. He was to make sure that the town guard was posted at the houses of town councilmen, Lucio Bonicelli and Wolf Lorenz Lampertitsch, at the Zimmerman house and the house of the woman (probably widow) Steiner.<sup>57</sup>

The mentioned were, if not simply neighbours to the *Freihaus*, known as relatives, friends or allies of the Qualandro family. Since the first three of Fermo's men to enter the house did so through the Lampertitsch house and garden, at least Wolf Lorenz seems to have been both a neighbour and an ally.

Guards were also posted on the way to Ptuj castle and at the town gates, so that no one would escape the town before the suspect could be interrogated and processed. It goes without saying that guards were also posted at the Qualandro *Freihaus*. The town council decided to interrogate Fermo Qualandro, especially in the matter of whether he intended to hand over the perpetrator.<sup>58</sup>

The following day on the 23<sup>rd</sup> of October, the town council sent a member, Gregor Liscutin, to talk to Fermo,<sup>59</sup> presumably with the thought that the former employee of both Matthias and Fermo would have most success in persuading the nobleman to hand over the shooter responsible. It would seem, Liscutin's visit to Fermo has to be regarded as the first mediation in the *Fehde*. Sending Liscutin was a double-edged sword, however, as he might have felt obliged to help "his" family in a time of need instead of helping the town council, whose stakes in the matter were not nearly as high. In the end, Liscutin's loyalty lay with the Qualandro family, as he withheld the information from the town council concerning the shooter's identity. The council might have suspected who the perpetrator was, but his identity had only been confirmed a day later by Willibald Werlmayr's testimony.

Werlmayr had namely claimed that he did not himself see Fermo fire the carbine, but that he could confirm that this had happened, as he had heard it from Fermo himself. The nobleman admitted to this to Gregor Liscutin, when the councilman visited him, explaining that he did not shoot a burgher but a peasant.<sup>60</sup>

55 For a contemporary example from neighbouring Carniola see: ARS 781, Iustitalia, 7, *Urfehde* by Jurij Sauerschnig for the Ljubljana town judge Ludwig Schönleben et al., 20<sup>th</sup> July, 1645, Ljubljana.

56 The family arrived in Ptuj in mid-16<sup>th</sup> century, supposedly from the today Swiss town of Lugano, then part of the Duchy of Milan (Valentinitsch, 1998, 103–104, 109).

57 ZAP 0177, 2, Town protocol 1653–1655, f. 302v–303r.

58 ZAP 0177, 2, Town protocol 1653–1655, f. 303r.

59 ZAP 0177, 2, Town protocol 1653–1655, f. 304v.

60 ZAP 0177, 2, Town protocol 1653–1655, f. 304v.

Knowing that an interrogation before the town judge and council was imminent, Liscutin had in the meantime bought his former employer some time by withholding the crucial information to the town authorities. Thus the town's attempt at mediation really turned out a typical case of familiar, friendship and alliance bonds that were at work in every feud.

Fermo Qualandro took advantage of the time that Liscutin provided him to flee the guarded *Freihaus* and seek asylum at the Ptuj monastery of the Order of Friars Minor Conventual (Conventual Franciscans), which he was granted. The rumours of this came to the attention of the town council prior to the testimony given by Willibald Werlmayr on 24<sup>th</sup> October. The servant had claimed that all he knew of Fermo leaving the house was that he ordered him to seal the ground door when he left, and that "there is no one at the monastery but the Franciscans".<sup>61</sup>

Fermo must have fled<sup>62</sup> in the night of 23<sup>rd</sup>–24<sup>th</sup> October, through the neighbouring Čavisch house, which was, as it seems, not under guard. Neither, as it happened, was the Conventual Franciscan monastery – the only place in town where Fermo could ask for asylum considering the entrances to the other two were guarded, lying as they did between the house and the Ptuj castle: the fortified house of the Ptuj castellan, the so-called Mali grad (small castle) and the Dominican monastery.<sup>63</sup>

Following Fermo's flight to the monastery, the town council had the guards moved there. Altogether, the guard was set at various buildings for 14 days.<sup>64</sup>

#### WILL AUß DER VNORDNUNG NIT SCHREITTEN: VENGEANCE

As stated above, with Fermo Qualandro's killing of Simon Moscon's subject, Lukas Pankicher, the *Fehde* took a turn that could well lead to blood vengeance, since Lukas' lord was obligated to avenge his death by another lord. Fermo had fled the direct consequences into asylum at the monastery – but what of his kin, who were now also in danger?

Right after Werlmayr's testimony ended, his master and Fermo's eldest son, Marco Antonio Qualandro, requested to appear before the town judge and council, which request was granted that same day, 24<sup>th</sup> October. Marco Antonio appeared accompanied by Johannes Kasper Pfanzelter, who already represented his father before the council earlier that same year, and requested to be granted citizenship by the town council, which would

61 ZAP 0177, 2, Town protocol 1653–1655, f. 304r.

62 The distance through the same streets today can be managed in under five minutes on foot at a leisurely pace.

63 According to Article 22 of the town statute from 1376 and Article 47 of the statute from 1513, the castellan had the right to grant asylum in his house, and the monasteries in their respective administrative buildings (*Amthof*) (Hernja Masten et al., 1998, 119; Hernja Masten, Kos, 1999, 16, 104). Asylum could not be granted by anyone to violators of peace, the so-called "peaceless" (*Friedlose*) (Brunner, 1990, 31), "malicious persons" (*malefiz personen*) or criminals (Reinle, 2003, 85). During the early modern period the increased containment of feuds reflected in the churches becoming increasingly more reluctant to grant asylum to those who were involved in a *Fehde* (Reinle, 2003, 159; Povolo, 2015, 223).

64 StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon's subject Lukas Pankicher, July 23<sup>rd</sup>, 1655, Ptuj.



make him a burgher of Ptuj. The council, which had no reservations, save that its representation was numerically too weak to decide on the matter, decided that Marco Antonio was to wait until the following Friday 30<sup>th</sup> October. Yet, since he intended to depart on some urgent business before that, Marco Antonio requested to be granted citizenship as soon as Monday, 26<sup>th</sup> October. Due to the town council's failure to agree to that, the young Qualandro had to wait for almost a week to have his burgher's oath confirmed. Still, the admission into the burgher estate was granted to him; meanwhile, Marco Antonio was also allowed to take the oath.<sup>65</sup>

At first sight, the matter in which Fermo's son came before the town judge and council might seem as having nothing to do with the shooting; however, this was without doubt not the case. Two things stand out here: the descent of a member of a noble family to the burgher estate,<sup>66</sup> from which it had relatively recently arisen to nobility, and the rather quick procedure<sup>67</sup> of Marco Antonio's admission among Ptuj burghers. The cause of this is evident from the aforementioned events. That Marco Antonio's request to be admitted as a burgher would be simple coincidence seems highly unlikely. His father Fermo Qualandro had just killed Lukas Pankicher, a subject of Simon Moscon's, for which he and his kin were now under the threat of blood vengeance. Fermo got to safety by requesting and being granted asylum at the Ptuj Conventual Franciscan monastery, while his son Marco Antonio obviously took refuge in the burgher estate, thus coming under the protection of the town community,<sup>68</sup> perhaps also supporting his father's right to asylum in so doing.

Should Simon Moscon have attempted reprisal, *i.e.* vengeance against Marco Antonio now, he would have most likely come into conflict with the town itself (Brunner, 1990, 51), a princely town no less. Thus, should he start a *Fehde* with Ptuj, Simon could have even gone against the owner of the town (Brunner, 1990, 51), the Styrian Land Sovereign and Holy Roman Emperor Ferdinand III. Had only the fear of the courts dictated the actions of Fermo and Marco Antonio, becoming a burgher would not have helped the latter. Thus, everything points to the conclusion that it was the fear of vengeance, because a death had to be avenged, even the fear of blood vengeance that dictated the actions of both father and son. It is in this context that the "urgent matters" for which Marco Antonio was to depart town were likely, more than anything, a form of pressure on the town council for a faster admission into the burgher estate. Running away, especially publicly implied, would not have helped him much, if at all.

65 ZAP 0177, 2, Town protocol 1653–1655, f. 304v–305v.

66 Generally, only lower nobility with little economic power voluntarily descended into the burgher estate (Štih, 2011, 8). Even if the Qualandro family could at the time of the *Fehde* clearly be counted among lower nobility, the context reveals, that Marco Antonio's burgher oath had no direct economic background. Indirectly, the *Fehde* of course had its origins in the inheritance dispute.

67 The applicant for citizenship as a rule came before the town council with two burghers as witnesses, made his request, swore the oath, payed the admission fee of 24 guldens and presented his confession paper. The admission ceremony and issue of documents were then held on Saint Lucy's Day (Hernja Masten, 2005a, 222–223), 13<sup>th</sup> December.

68 Article 74 according to the town statute of 1513 (Hernja Masten, Kos, 1999, 122).



It also is noteworthy that it is somewhat unusual for Marco Antonio to have even been admitted. Town authorities generally did not give citizenship to those involved in feuds, as to not become involved (Brunner, 1990, 63).

After waiting for almost a week, Marco Antonio Qualandro took his burgher's oath on Friday, October 30<sup>th</sup> 1654.<sup>69</sup> This time he came forward with the other required witness, the burgher Matthias Asti(us). As he was born in Ptuj, Marco Antonio did not have to present any birth certificates. Only his confessional papers had to be acquired from the town parish priest, since Marco Antonio for some reason had them from the town's gatekeeper. Nevertheless, he was allowed to take the oath, after paying 20 guildens as an admission fee.<sup>70</sup>

Marco Antonio was now in relative safety, but how about his father Fermo Qualandro? In the time between Marco Antonio's request for admission among Ptuj burghers and his oath, the town judge and council attempted to intervene with the Conventual Franciscans to deliver the shooter. Town judge Francesco Guffante and, presumably (Hernja Masten 2005a, 219), town councilman Melchior Widmayer went to see Anthonius Gotscheer,<sup>71</sup> the guardian (custos) of the monastery, with the request to deliver the fugitive, Fermo, to the town authorities. This happened on 28<sup>th</sup> October, four days after Fermo was granted asylum. The town judge and councilman were however given the answer that Fermo can freely go by the same door he came to the monastery, but that he cannot be sent away against his will. The same answer was repeated on two subsequent occasions.<sup>72</sup> The monastery's right to grant asylum prevailed and the town judge, realising that Fermo would not be delivered, had the guard at the monastery strengthened. At the same time, presumably on 28<sup>th</sup> October, the Inner Austrian Government (*Innerösterreichische Regierung*) in Graz was notified about the matter.<sup>73</sup>

Both the posting and strengthening of the guard at the monastery points primarily to the fear of the town judge and council that Fermo could flee town, but could also have been useful in the rather unlikely case that Simon Moscon would not respect the asylum given to his uncle.

On 29<sup>th</sup> October 1654, a day after his delivery to the town authorities had first been prevented by the guardian of Conventual Franciscans, Fermo Qualandro finally gave his own view of the day of the shooting, from which time, exactly a week has passed. Fermo's account was presented in his supplication to the Holy Roman Emperor Ferdinand III for safe escort (*salvus conductus* or *sichere gelaith*) (Vilfan, 1995, 87) for a period of three months, so that he could prepare his defence.<sup>74</sup>

69 In the following years Marco Antonio came to be both a town councilman and town judge of Ptuj, yet even if he was a burgher, he allegedly continued to live solely off his estates (Valentinitsch, 1973, 76).

70 ZAP 0177, 2, Town protocol 1653–1655, f. 305v–306r.

71 ZAP 0070, R 32, 201.

72 StLA, IÖReg, Cop-1655-XII-23, Trial protocol in the case of Fermo Qualandro for the killing of Moscon's subject Lukas Pankicher, 23<sup>rd</sup> July, 1655, Ptuj.

73 ZAP 0177, 2, Town protocol 1653–1655, f. 306v.

74 StLA, IÖReg, Cop-1655-XII-23, Supplication of Fermo Qualandro to the Holy Roman Emperor etc. for *salvus conductus* (transcript), 29<sup>th</sup> October 1654, *sine loco*.

Safe conduct was of utmost importance to Fermo as it protected fugitives from arrest when they appeared in court (CA 1704, Lit. L, *Ferdinande*, Article 28, 668–669), especially guaranteeing protection from aggravating circumstances in advance to those suspected of homicide (Povolo, 2015, 217). Furthermore, it was in general only granted to those, who were already given the chance to make peace with their opponents or the court (Reinle, 2003, 89).

As Fermo's perspective on the development prior to the *Fehde* and the shooting is given above, there is no need to repeat it in detail here. In his supplication he confessed to the homicide, stressing that it was accidental and that he was very repentant for the killing of Simon Moscon's subject.<sup>75</sup>

Fermo's supplication to the Emperor (who was, as mentioned above, also the Styrian Land Sovereign and town lord of Ptuj), meant that by the end of October the state (princely) authorities, *i.e.* the Inner Austrian Government, were involved in the matter as well. The report which was to be sent to them by the town judge and council however, was obviously not sent prior to Fermo's supplication, as the government demanded a report from them on the matter by 3<sup>rd</sup> November.<sup>76</sup> According to the town statute,<sup>77</sup> following Fermo's confession to the killing the town authorities interrogated no further witnesses, allowed the remaining "defenders" of the *Freihaus* to leave town<sup>78</sup> and disbanded the guard posted at the monastery.<sup>79</sup>

In accordance with the government decree, the Ptuj town judge set Fermo's trial for March 1655. Both following the decree and at the request of the defendant, the town council also attested that Fermo's parents had been well respected in Ptuj and that the councilmen never heard that he had ever caused any trouble (*vngelegenheit oder insolenz*). They also were certain (just as Willibald Werlmayr) that the shot happened against Fermo's will, which his written purgation<sup>80</sup> should confirm.<sup>81</sup>

A week after the first government decree,<sup>82</sup> another decree came from Graz, this time regarding the involvement of Fermo's son Marco Antonio and stepmother Katharina Qualandro in the killing. The decree demanded the arrest of Matthias Qualandro's heirs, by whom the government regarded the aforementioned two, along with the inheritance

75 StLA, IÖReg, Cop-1655-XII-23, Supplication of Fermo Qualandro to the Holy Roman Emperor etc. for *salvus conductus* (transcript), 29<sup>th</sup> October 1654, *sine loco*.

76 StLA, IÖReg, Cop-1655-XII-23, Decree of the Inner Austrian Government to the Ptuj town judge and council to report regarding Fermo Qualandro's supplication for *salvus conductus*, 3<sup>rd</sup> November, 1654, Graz; StLA, LAA, LR 736, Report by the Ptuj town judge and council to the Inner Austrian Government regarding the trial against Fermo Qualandro, 29<sup>th</sup> July 1655, Ptuj.

77 Article 27 of the Ptuj town statute from 1513 (Hernja Masten, Kos, 1999, 92).

78 Probably requiring them to issue their own renouncements of vengeance (*Urfehde*) to the town authorities.

79 StLA, IÖReg, Cop-1655-XII-23, Trial protocol in the case of Fermo Qualandro for the killing of Moscon's subject Lukas Pankicher, 23<sup>rd</sup> July 1655, Ptuj.

80 In this case meant as a public vow of clearing oneself from suspicion or guilt (Carl, 1996, 488).

81 ZAP 0177, 2, Town proctol 1653–1655, f. 311v, 313r.

82 The documents of the Inner Austrian Government for the year 1654 were not preserved and with that at least some regarding the killing of Lukas Pankicher. Among them the government decrees from November 1654, which are now only mentioned in the Ptuj and Inner Austrian Government protocols (StLA, IÖReg, Cop. Protokollband 1654).

caretaker, Francesco Brosin. Because of this, the Ptuj town council incited the interested parties to appear before it, notifying them of the decree, implying that it would follow through.<sup>83</sup>

This, without much doubt, must have been an attempt to force the hostile parties into the peace process, while at the same time maintaining town autonomy, keeping the involvement of the state (princely) authorities at bay.

Thus, on the 16<sup>th</sup> of November 1654, Simon Moscon, as well as Marco Antonio and Katharina Qualandro, appeared before the town council. First the Qualandros appeared and rejected the allegations on which the government decree had been based as unfounded. They also vowed not to leave town, stated that they were able and willing to pay the fine (*i.e.* composition for the killing or weregild) and promised to be at all times at the town council's disposal. For Simon, who appeared next, this was not enough. He claimed that the two Qualandros gave the "murderer advice and support" (*zue der mortt thatt rath vnd thatt geben*), and that he would therefore not "step out of disorder" (*will auß der vnordnung nit schreiten*), if they would not be arrested and executed as both he and, it seems, the government demanded.<sup>84</sup>

Here, the question has to be raised, what Simon Moscon's "disorder" (*vnordnung*) had meant and, without much doubt, it can be assumed that it meant a breach of peace, the opposite of order peace, court path, *Un-Ordnung*, an implied threat of vengeance or hostilities, as well as the *Fehde* itself. As *Absage* had probably already been illegal, the implied threat of "disorder" had most likely been the maximum extent to which Simon could go, without also getting himself in trouble with state law. From Simon's words one can only assume that he would avenge the killing himself, should the town council not meet his demands and the government's orders.

Up until this point, the town council, both in its own and the "outlaw's" (*banditten*) – as Simon had described Fermo – defence replied that the latter had never in the over twenty years during which he had been living in town committed anything of the like, and that the town council had ordered him to be seized immediately after the shooting. The council also decided to place Marco Antonio and Katharina Qualandro under arrest until a new government decree regarding the matter should arrive. Still, Simon persisted in his demand that the council should follow the government's order right away, threatening to inform Graz himself if it would not.<sup>85</sup>

Now the town council approached the furious nobleman in private. First, it reprimanded Simon Moscon not to insult the council with such (hostile) words and to satisfy himself with the Qualandros' arrest and their ability and willingness to pay the fine (composition). They were also once again forbidden by the council to leave town and had to pay any expenses that the town authorities would suffer because of them. Furthermore, and this was surely most important of all, they were forbidden to "allow themselves to cause either Sir Simon Moscon or his [people] even the slightest harm or danger" (*sich nit unterste-*

83 ZAP 0177, 2, Town protocol 1653–1655, f. 330v.

84 ZAP 0177, 2, Town protocol 1653–1655, f. 330v–331r.

85 ZAP 0177, 2, Town protocol 1653–1655, f. 331r.

hen sollen ihme h: Moschkhon weder für sich noch die seinigen den geringisten schaden oder gefahr zuezuefliegen). Marco Antonio and Katharina Qualandro thus had to renounce vengeance against Simon Moscon. This was a mandatory step in the peace process since the latter had just threatened with hostilities or to breach the peace, *i.e.* avenge his killed subject, should the town authorities not take action. At first, the renouncement seems to have had no effect on Simon, who persisted that the two Qualandros were “outlaws” (*banditten*), who had supported Fermo in the “murder” (*morthatt*). There was some truth to that, which the council surely knew, even if it did not have it recorded, as both Marco Antonio’s servant Willibald Werlmayr and Katharina’s coachman and her two unnamed subjects from Pobrežje took part in the occupation of the *Freihaus*. In the end the town council was able to persuade Simon to submit to its wishes, and content himself with the arrest of the two Qualandros, and to accept their vow not to leave town nor “themselves, their own [people] or outsiders undertake any actions against him” (*weder fur sich selbst noch die ihrigen oder frembde ihme ainigen thättligkheitt zuemuetten*).<sup>86</sup>

The “second *Urfehde*” by the two Qualandros seems to have finally persuaded Simon Moscon to take the path the town council had envisioned, the path of the peace process through the town court, *i.e.* the customary legal procedures. Simon’s threats of continuing the hostilities or breaching the peace were just as successful for the truce to take place as the town council’s mediation had been.

Following the renouncement of vengeance by Marco Antonio and Katharina Qualandro, Simon also surely must have issued his own *Urfehde*, even if it is not attested in the town protocols. However, the legal term for the obligatory step had not been used in any of the renouncements of vengeance recorded in the protocol, neither with Simon’s to the town council, nor of the Qualandros’ to him.

The procedure or, rather, the legal custom or ritual of the *vindicta*, had in mid-17<sup>th</sup> century in Ptuj remained much the same as in the past, albeit in the case at hand, without the expected legal (customary) terms. *Urfehde* is recorded in descriptive forms only in both or, rather, all three cases. *Absage* or *diffidatio* on the other hand could have only been implied in any case, as the explicit announcement was probably already illegal and harshly persecuted, at least on paper. It was either Simon Moscon or the Ptuj town council who opted for the word “disorder” (*vnordnung*) in which the former threatened to either remain or step in (also, as it seems, being an euphemism for *Fehde*). Perhaps not so much as a local term, if at all, but as an effort to avoid state (princely) sanctions and/or intervention. A further argument for this thesis is that there was no formal announcement of hostilities by Simon Moscon to the heirs of Matthias Qualandro, *i.e.* Fermo, prior to his attack on the occupied *Freihaus*, at least none are attested in the historical sources.

Be that as it may, with the mutual renouncement of vengeance and agreement to take the legal path (agree to the trial), as the town authorities had envisioned, the parties in the *Fehde* had entered into a truce. The threat of the blood vengeance had been curbed, but not completely averted. The peace process was handed over to the mediator, *i.e.* the Ptuj town council. The latter did not commit to this role simply because the killing occurred

86 ZAP 0177, 2, Town protocol 1653–1655, f. 331r–v.



*Fig. 4: The old Ptuj town hall (photo: Žiga Oman, 2015)*

in its jurisdiction, but also because it had to protect its newest burgher, doubtlessly also to retain its autonomy against the state (princely) authorities. The rather quick success the council had with persuading Simon Moscon to commit to the peace process also shows that it had been in the latter's interest as well.

#### TRIAL AND PEACE

During the winter, the town council, as it seems, gave the matter no further attention, at least not officially. It was not until March 1655, as was also decided in November, that the council let Fermo Qualandro know that it was time to prepare his defence for the killing of Simon Moscon's subject Lukas Pankicher. Both his widow and heirs in like manner as Fermo himself were to be notified on the date of his defence.<sup>87</sup>

It was only in March 1655 that Lukas Pankicher was for the first time mentioned by his name in the protocol. This goes for other preserved historical sources as well, since the subject's name is not attested in any documents prior to the court proceedings.

<sup>87</sup> ZAP 0177, 2, Town protocol 1653–1655, f. 391r.

At this time Fermo Qualandro had already been a Conventual Franciscan himself, as he entered the order on the 1<sup>st</sup> of March, 1655.<sup>88</sup> Right at the end of the month, it was finally decided that Fermo was to present his defence on 16<sup>th</sup> April. Lukas Pankicher's widow and heirs were notified of the date, so that they could then bring their potential objections forward as well. In the end, Fermo's defence was given before the town court a month later.<sup>89</sup>

For the duration of the trial, Fermo had on 10<sup>th</sup> May finally been granted *salvus conductus*, for which he supplicated to the Holy Roman Emperor on 29<sup>th</sup> October 1654. However, it was only granted for two of the three requested months.<sup>90</sup>

Finally, on the 15<sup>th</sup> of May, 1655, Fermo Qualandro, the occupier (or defender) of the disputed *Freihaus* that bore his family name, the killer of Simon Moscon's subject Lukas Pankicher, and as of the 1<sup>st</sup> of March also a monk, stood trial before the Ptuj town judge and council, ready to present his defence. From the injured party, none were present, neither Pankicher's widow or heirs nor his lord Simon Moscon.<sup>91</sup>

The town council's session, *i.e.* the trial, was opened by one Dr Kreuzer (*Creüzer*, *Khreuzer*). Fermo started his purgation by first reiterating the events of October, starting with Simon Moscon taking over the *Freihaus* that had been ruled to belong to him on 12<sup>th</sup> October 1654. As Fermo's view of the events is given throughout the paper, there is no need to repeat it again here, save for one detail. It was only now that Fermo or anyone else in the historical sources had claimed that the inheritance dispute regarding the *Freihaus* originated from Cyprian Qualandro's debt. Hence, claimed Fermo, he had to occupy the house to keep it, as he could not pay off his older brother's debt.<sup>92</sup>

The claim should not come as a surprise, as it was Fermo who took over Matthias Qualandro's inheritance, including his debts, after Cyprian fled to Italy. What is interesting is that this was the only time this came forth in the matter at hand.

Apart from this, Fermo had claimed nothing new. Again, he admitted to have accidentally shot and killed Simon Moscon's subject Lukas Pankicher, after attempting a warning shot at the former's forty men, who tried to force their way into the *Freihaus*.<sup>93</sup> Yet how did Fermo justify the killing?

In his defence, Fermo pointed out that by law there are two kinds of homicide, unpremeditated (*simplex*; manslaughter) and premeditated (*deliberatorium*; murder), refer-

88 He remained with the order until his death in 1685. Upon receiving his orders, Fermo Qualandro surrendered half his wealth to the order (ZAP 0070, R 32, 201).

89 ZAP 0177, 2, Town protocol 1653–1655, f. 402r, 416r.

90 StLA, LAA, LR 949, Heft 2, *Salvus conductus* for Fermo Qualandro for the killing of Moscon's subject, 10<sup>th</sup> May 1655, Graz.

91 StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon's subject Lukas Pankicher, 23<sup>rd</sup> July 1655, Ptuj.

92 StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon's subject Lukas Pankicher (transcript), *sine dato, sine loco*; ZAP 0177, 2, Town protocol 1653–1655, f. 416r–v.

93 ZAP 0177, 2, Town protocol 1653–1655, f. 416v.



ring to the writings<sup>94</sup> of the influential Cologne jurist Andreas von Gail<sup>95</sup> (1526–1587).<sup>96</sup> According to Fermo, von Gail had written that a person who is assaulted and then kills one, two or even three of his attackers, should be acquitted, not sanctioned, as “a forced homicide [self-defence] or such that is not sanctioned by law has to go unsanctioned” (*ein gedrengt tottschlag oder der, welicher wegen gebüerenter vnstraffung beschehen nit straffbar*). Fermo stressed that Simon Moscon “came with force” twice – first sealing off the *Freihaus*, and then assaulting it – so that he was forced to defend himself. Furthermore, he accused Simon of being the one whose actions were the more illegal as he had violated town privileges through the use of force. Thus, even if he had shot at Simon’s men with intent, Fermo claimed that he would not have broken the law. Again, Fermo referred to von Gail’s words that “force has to be driven off by force” (*gewalt seye mit gewalt zuvertreiben*), which even the “ignorant animals” (*vnuerñfftig thüren*) know, and the Italians say ‘*homo semel incitato mezo*’. As the same had happened to him, Fermo claimed that even if the facts and the course of his actions would not have been known, he would have to be found innocent of the charges, as he was attacked by forty peasants, who attempted to break through his door by force, and who could say how they would have treated him, had they succeeded.<sup>97</sup>

Fermo then had to present his defence to the town council in writing<sup>98</sup> (*memorial*), so that the latter could decide upon the date of its ruling in the case of Fermo Qualandro vs. the widow and heirs of Lukas Pankicher. At first, it was decided that this should happen on 16<sup>th</sup> June, but then got delayed by a week due to unspecified circumstances.<sup>99</sup>

Thus, it was on the 23<sup>rd</sup> of June 1655, eight months after the killing of Lukas Pankicher, that the Ptuj town council fined Fermo Qualandro 150 guildens, of which he had to pay a third to each: the widow and heirs of Lukas Pankicher (this was composition, *weregild*), the chapel of St. Roch<sup>100</sup> and the town judge, *i.e.* the town, for its costs; all in cash within 14 days, so that he would then “be acquitted of homicide in return” (*entgegen von den begangenen homicidio ledig unnd maessig erkhent*).<sup>101</sup>

94 *Andreas Gaillius 1: 2. pract. obser. obser ito gebe n: 8. 9. vnd hernach* (ZAP 0177, 2, Town protocol 1653–1655, f. 416v). Perhaps meant is his work *Practicarum observationum tam ad processum judicarium praesertim imperialis camerae, quam causarum decisiones pertinentium libri duo* (Cologne 1578) (Nehlsen-von Styrk, 1994, 704).

95 His renown was largely founded in his work as Imperial Chamber Court (*Reichskammergericht*) judge and his publications on its judicial order. For more see: Nehlsen-von Styrk, 1994.

96 On how exactly the so-called *Ferdinanda* (*Landgerichtsordnung des Erzherzogthums Österreich unter der Enns*, 1656) addresses self-defence see: CA 1704, Lit L., *Ferdinanda*, Article 63, 693–695. Fermo’s defence of course firmly followed its provisions.

97 ZAP 0177, 2, Town protocol 1653–1655, f. 416v–417r.

98 StLA, IÖReg, Cop-1655-XII-23, Recording of the defence of Fermo Qualandro for the killing of Moscon’s subject Lukas Pankicher (transcript), *sine dato, sine loco*.

99 ZAP 0177, 2, Town protocol 1653–1655, f. 417v, 421v–422r, 436r.

100 The saint was commonly invoked for protection from the plague that had struck Ptuj and its environs more than once during the 17<sup>th</sup> century. The chapel was erected in 1650, following the outbreak five years prior (Travner, 1934, 109–117).

101 ZAP 0177, 2, Town protocol 1653–1655, f. 436r–v.

Delayed by (so-called) witch trials,<sup>102</sup> the Ptuj town judge and council had only reported on the trial and its outcome to the government in Graz over a month later. Thus, on 29<sup>th</sup> July 1655, the town authorities had requested that the Inner Austrian Government approve their ruling in the matter, with the argument that Fermo Qualandro had recently (1<sup>st</sup> March) entered the Order of Friars Minor Conventual, in which he would do much good with the celebration of holy mass and so redeem himself against his “evil act” (*begangne yble factum*). As for the amount of the fine, the town council defended it by stating that Fermo Qualandro had no assets of his own (being a monk). Already in the trial protocol, written yet obviously not sent on 23<sup>rd</sup> July, the town authorities had as an attenuating circumstance pointed out that Fermo did not even know Lukas Pankicher, whom he had killed, let alone ever having a quarrel with him in his life.<sup>103</sup> Also, in the eyes of the Ptuj town judge and council, the original culprit in the matter had been Simon Moscon, who had “against all custom and privileges” (*wider die gebühr vnnd alle rechten*) entered the town “in arms” (*armierter*) and attempted to take over the *Freihaus* by force (*gewaltetige stürmbung*), attacking (*attachiert*) Fermo Qualandro and thus forcing him to react in self-defence in so doing, instead of pressing charges against him in court. “Nobody could carry away the house and the estates belonging to it [from Simon] in the meantime anyway” (*das hauß vnnd angesezte grundstückher niemandt entzwischen daruon hette tragen khünnen*), as the town authorities humorously noted. Regarding the right to kill in self-defence, they, like Fermo, referred to the writings of Andreas von Gail.<sup>104</sup>

As for the response by Simon Moscon along with the widow and heirs of Lukas Pankicher to the outcome of the trial against Fermo Qualandro, historical sources offer no information, aside from, as is given above that none of the injured parties had been present during Fermo’s defence testimony.

The belated reply of the Ptuj town judge and council had then almost caused Fermo’s arrest by the office of the Styrian *Landeshauptmann*. The latter had been ordered to do so by the Inner Austrian Government, due to the fact that it had by this time been over two weeks since Fermo’s *salvus conductus* had run out, and his written defence still had not been handed over.<sup>105</sup>

The arrest almost without a doubt did not take place, yet this was, as far as the preserved historical sources make clear, about the most “interest”<sup>106</sup> the government had

102 As the Ptuj town authorities had explained their delay (StLA, IÖReg, Cop-1655-XII-23, Report by the Ptuj town judge and council to the Inner Austrian Government regarding the trial against Fermo Qualandro, July 29<sup>th</sup> 1655, Ptuj).

103 This was supposed to be further proof, that the homicide had been a spontaneous, not a premeditated act.

104 StLA, IÖReg, Cop-1655-XII-23, Trial protocol of Fermo Qualandro for the killing of Moscon’s subject Lukas Pankicher, 23<sup>rd</sup> July, 1655, Ptuj; StLA, IÖReg, Cop-1655-XII-23, Report by the Ptuj town judge and council to the Inner Austrian Government regarding the trial against Fermo Qualandro, 29<sup>th</sup> July 1655, Ptuj.

105 StLA, LAA, LR 949, Heft 2, Decree by the Inner Austrian Government to the Styrian *Landeshauptmann* regarding Fermo Qualandro, 24<sup>th</sup> July, 1655, Graz.

106 This is not surprising, since even the *Codex Criminalis Theresiana* in the 18<sup>th</sup> century did not include homicides nor *Absage* among the crimes that had to be reported straight to the government (Dolenc, 1935, 462). The *Ferdinandea* a century prior however counted declarations of *Fehde* among those crimes which the *Theresiana* later demanded to be reported straight to Vienna (CA 1704, Lit. L, *Ferdinandea*, Article 61,

shown the matter as a whole. Still, it agreed to the town court decision on December 16<sup>th</sup> at the latest, on the condition that Fermo Qualandro remained a monk.<sup>107</sup> However, this was surely not one of the decisive reasons for him remaining a Conventual Franciscan until his death, as his devout faith and sincere repentance can hardly be questioned.

That Fermo's<sup>108</sup> payment of his fine, ought not have occurred prior to November 27<sup>th</sup> 1659, as Simon Povoden put it, is, however, refutable. The town council's order, issued to Fermo that autumn, ordering him to pay the 100 guildens he still owed, was completely unrelated to the homicide.<sup>109</sup>

In the end, Fermo Qualandro's claim of self-defence had succeeded. The fine he had to pay, especially<sup>110</sup> to the victim's family, is to be seen as composition or weregild. Thus, his payment is to be regarded as a peace settlement (*Sühne*), the end of the *Fehde* and the final aversion of blood vengeance that had threatened Fermo and his kin following the homicide.

The dispute over Otilia Moscon's inheritance however was not settled by this and went on at least into the following year.<sup>111</sup> In fact, as stated at the beginning of this paper, the dispute over Matthias Qualandro's inheritance had not been resolved neither prior to Fermo Qualandro's death in 1685 nor Simon Moscon's in the following year.

## EPILOGUE

The *Freihaus* had, in this way or another, remained in the hands of the Qualandro family up until 1746, when, with the death of Alois Franz Xaver<sup>112</sup> Qualandro that spring, the family died out in the male line. The dilapidating house had been renovated towards the end of the 17<sup>th</sup> century and again at the beginning of the 18<sup>th</sup>. The last time renovations were carried out by the Qualandro family was after 1708, following the fire that devastated Ptuj in 1704 (Valentinitsch, 1973, 77).<sup>113</sup>

690). Had the town authorities not acted as they did, the government would, however, surely had stepped in.  
107 StLA, IÖReg, Cop-1655-XII-23, Resolution of the Inner Austrian Government to the Ptuj town authorities regarding the ruling in the case of Fermo Qualandro, 16<sup>th</sup> December 1655, Graz.

108 Meaning, that it has not been paid by the caretaker of his inheritance, in 1655 Hieronimus Angelati (StLA, LAA, LR 736, Resolution of the Styrian *Landeshauptmann* Johannes Maximillian Count Herberstein regarding the appraisal committee for the property of Cyprian and Fermo Qualandro, 9<sup>th</sup> June 1655, Graz).

109 ZAP 0070, R 40, 405; ZAP 0397, 3, Supplication of Simon Moscon to the guardian of the Ptuj Conventual Franciscan monastery regarding the payment of owed interest by Fermo Qualandro, 18<sup>th</sup> September, *sine loco*.

110 The payment to the chapel was also an important part of the peace settlement in (blood) vengeance (*e. g.* Wackernagel, 1965, 299), as it was without a doubt made for the salvation of Lukas Pankicher's soul.

111 StLA, LAA, LR 951, Heft 1, Legal opinion in the case of Simon Moscon vs. the heirs, inheritance caretakers and creditors of Matthias Qualandro, 22<sup>nd</sup> February 1656, *sine loco*.

112 He also got involved in a violent dispute, with the Croatian Counts Drašković. In the first half of the 18<sup>th</sup> century, the dispute over the border between their respective lordships turned into cross-border violence, including devastations, claims and murder of subjects, even extrajudicial executions of so-called witches. Allegedly the outcome of the dispute, which Alois lost, determined a tiny fraction of the Styrian-Croatian border, supposedly due to the inertia of the Styrian Land Estates (Hernja Masten, 2005b, 113–117). Further research however is needed to establish if the dispute ought to be regarded as a *Fehde*.

113 StLA, LAA, LR 951, Heft 1, Inheritance inventory of the late Alois Franz Xaver Qualandro's property and possessions, 11<sup>th</sup> April 1746, Zavrč; ZAP 0070, R 32, 201; ZAP 0070, R 40, 405.



Fig. 5: Zavrč ca. 1681 (Vischer, 2006)

In the inheritance inventory of Alois' father, Marco Antonio made in 1679, there were tens of arms listed in Ptuj and at Zavrč. No carbine is explicitly mentioned, but it may have been "tucked away" among the 14 muskets listed as the property of Alois' great-grandfather, Matthias Qualandro.<sup>114</sup>

The memory of the *Fehde* and resulting vengeance faded away over the centuries, but allegedly survived in the inscription, which to this day still adorns the portal of the former Qualandro *Freihaus*: *QVID AD TE ZOILE SI ITA DOMINO PLACET* AÑO '692 or "what is it to you, Zoilus, if it pleases the lord?" Regarding the infamy of the Ancient Greek Cynic philosopher as a criticaster,<sup>115</sup> the connection between the inscription and the *Fehde* might be substantiated. The ridicule with Zoilus would then of course be directed at the "quarrelsome" Simon Moscon, the assailant of 22<sup>nd</sup> October 1654.

The major consequences of the *Fehde* and resulting threat of blood vengeance for the Qualandro family was that it retained the *Freihaus*, tightened its bonds with the Ptuj Conventual Franciscan monastery, whose ranks it later strengthened with a few more monks,<sup>116</sup> and, last but not least that the Qualandros seemed to have become a burgher family once again. For the Moscon family, specifically Simon, the *Fehde* in the end meant

114 StLA, LAA, LR 951, Heft 2, Inheritance inventory of the late Marco Antonio Qualandro's property and possessions, 29<sup>th</sup> May 1679, Zavrč.

115 [http://encyclopedia.jrank.org/YAK\\_ZYM/ZOYLUS\\_c\\_400\\_320\\_BC\\_.html](http://encyclopedia.jrank.org/YAK_ZYM/ZOYLUS_c_400_320_BC_.html) (20. 8. 2015).

116 ZAP 0070, R 32, 201–203.

the loss of the *Freihaus*, and of a subject. The latter, Lukas Pankicher and his family were the true victims of the conflict.

The violence that was occasionally part of life for the Moscons and Qualandros cannot, of course, be taken as some greater predisposition towards brutality. In part, it was a reflection of a more violent period, especially regarding violence among acquaintances and associates or colleagues, particularly in relation to honour (Ruff, 2004, 75–77, 248–253). Injuries to it demanded retribution, sometimes including vengeance. Just as well, the fact that both families originated from the Venetian, *i.e.* Italian, territories and maintained close relations with them, cannot be taken as some sort of greater “Mediterranean” sensitivity towards injuries to honour or a greater inclination towards feuds. The latter were an all-European phenomenon (Büchert Netterstrøm, 2007), and are attested as *Fehde* in Styria prior (*e. g.* Brunner, 1990, 43–44, 47, 53, 57; Kos, 1994, 115–116, 119) to the immigration of Italian merchants to Ptuj.

## CONCLUSION

Given the theoretical framework presented in the introduction, the *Fehde* and vengeance (*vindicta*) that erupted in the autumn of 1654 in Ptuj between Simon Moscon and his relatives the family Qualandro, passed through all the anticipated stages. In the beginning, there is the preceding inheritance dispute that had already dragged on for over a decade. Then, Simon’s uncle Fermo Qualandro, with a handful of men squatted the disputed Qualandro *Freihaus*, which had recently been allocated to Simon; the occupation was the injury (*iniuria*) to his rights and honour. Simon’s answer or, rather, act of retribution (vengeance) was his armed entry with forty of his subjects into Ptuj. With the attempted forced entry into the *Freihaus* and Simon’s breach of town peace, the dispute turned into a *Fehde*. The latter term however, was never recorded in any of the pertaining historical sources. Nor was a formal declaration of *Fehde* or hostilities (*Absage, diffidatio*). In an effort to prevent the storming of the house, Fermo Qualandro ventured a warning shot at the attackers to scare them away. This was the only “retaliation” to the attempted armed entry, yet Fermo misfired and fatally shot one of Simon’s subjects, Lukas Pankicher. The expression “unusual spectacle”, how Simon had labelled the homicide, cannot be understood only in the literal sense that the latter had not been a usual sight in Ptuj, but specifically that it was unusual to have happened with the use of firearms.<sup>117</sup> As homicides during a *Fehde* could also start blood vengeance, this event consequently became a serious threat for Fermo Qualandro and his kin, as Simon Moscon had the obligation as the lord over his subjects, to protect and consequently avenge the deaths of any aforementioned peasants (from threat of other lords or their subjects). Hence, from the moment of Lukas Pankicher’s killing onwards, the *Fehde* was inexorably tied to the threat of blood vengeance. The communal, *i.e.* town authorities, the Ptuj town judge and council, started working towards the de-escalation of violence, a peace settlement between the parties,

<sup>117</sup> A similar case of shooting in a *Fehde* (*faida*) in the mid-17<sup>th</sup> century occurred in the Venetian town of Cividale del Friuli (Makuc, 2015, 218).



almost immediately. Interestingly, the mediation was started by the visit of town councilman Gregor Liscutin, a long-time employee and, as it turned out, ally of the Qualandro family, at the *Freihaus*, where Fermo and his men were still barricaded in, surrounded by the town guard. It remains unclear, as to what exactly the town council had intended with Gregor's visit, as it appears to have partially backfired. The councilman had not only started the mediation directed at negotiations towards a peace settlement, but also covered for Fermo, thus enabling him to flee the house for the Ptuj Conventual Franciscan monastery, where he was granted asylum. Meanwhile, the *Fehde* passed into legal action before the town council, the terms of which were dictated by Simon Moscon. Even if it was he, who started the *Fehde*, he was regarded as the more injured party due to the killing of his subject. Still, as his armed entry into town and the subsequent attack on the *Freihaus* were serious violations of town privileges and peace, he had to renounce vengeance (perhaps with a formal *Urfehde*) to the town council under threat of pending arrest. Again, the term (*Urfehde*) is not used explicitly in the historical sources, but in a descriptive way. The same goes for Simon's threat of vengeance or "disorder" (*vnordnung*), as he called it, by which the *Fehde* itself most likely was implied as well. Why the term *Urfehde* was not recorded, remains unclear, as it was an integral part of the state (princely) legal system. *Absage* however, was perhaps already harshly persecuted by the state (princely) authorities, and thus veiling it as "disorder" would be logical. That *Absage* was implicitly threatened at the time during which mediation between the parties had already started, should come as no surprise: to Simon Moscon it could have simply been a means of leverage. That he was somehow hell-bent on revenge, should Fermo's family not be brought to (state) justice, would however, probably be assuming too much. Be that as it may, the town council soon convinced Simon to agree to a truce (*Friede, treuga*) with Fermo's aforementioned family, his son Marco Antonio and stepmother Katharina Qualandro. However, interestingly, this came to be only after both of them vowed to renounce vengeance (*Urfehde*, again only implied) against Simon Moscon (twice!) without him doing the same before. The reason for this might have been that it was Simon, who urged the town council to act in accordance with the government decree, which, like Simon at first, demanded their arrest and possibly even their execution for helping Fermo occupy the house (true) and kill Lukas Pankicher (unfounded). As was the case with all suspects it was they who had to renounce vengeance against their persecutors, captors and jailers. Also Simon's *Urfehde* to the Qualandros is assumed if not recorded. In any case, up until the truce both parties in the conflict were active in legal proceedings. These were dictated throughout by the Ptuj town authorities with barely any interference from state (princely) authorities, the Inner Austrian Government, which seems to have taken little interest in the matter. The town autonomy in legal matters, *i.e.* its privileges, remained intact and the town judge and council acted according to legal custom, not state law. The latter would have however surely intervened, would the town council's attempts at peace not take place or fail. The *Fehde* and the threat of blood vengeance were eventually brought to an end by the trial before the Ptuj town council in the spring of 1655. The trial acquitted Fermo Qualandro (by then a Conventual Franciscan, himself) who pleaded self-defence against the accusation of murder, and convicted him of manslaughter in self-defence instead. For that he



was fined and had to pay a third of the fine as composition (weregild) to the widow and heirs of Lukas Pankicher. The payment of the composition meant that the hostilities had ended and that Simon Moscon and the Qualandro family had reached a peace settlement (*Sühne, pax*), ending both the *Fehde* and the threat of blood vengeance. As with the aforementioned terms, neither brokering the truce, composition or weregild were mentioned in the historical sources. Still, the case evolved according to expectations: dispute – injury – *Fehde* (homicide – (blood) vengeance) – mediation – truce – peace. All proceedings were in accord with legal customs, more or less within the community and with very little interference from the state. As a whole, the presented case was not very different from similar ones known from the late Middle Ages (*e. g.* Vilfan, 1996, 457–458). As late as the mid-17<sup>th</sup> century, the legal customs or ritual of *vindicta* (in the form of both *Fehde* and (the threat of) blood vengeance respectively) had thus evidently remained an integral part of the legal procedure among at least the (Lower) Styrian *niederer Adel* (“gentry”) and burghers, retaining at least some of its medieval legitimacy.

WILL AUSS DER VNORDNUNG NIT SCHREITTEN:  
PRIMER FAJDE NA ŠTAJERSKEM V 17. STOLETJU

Žiga OMAN

Filozofska fakulteta, Univerza v Mariboru, Koroška cesta 160, 2000 Maribor, Slovenija

e-mail: zigaoman@gmail.com

POVZETEK

*Dolgotrajni spor med plemiškima družinama Moscon in Qualandro je 22. oktobra 1654 na Ptujju prešel v fajdo. Simon Moscon je z množico oboroženih podložnikov skušal iz Qualandrove svobodne hiše, ki mu jo je prisodilo sodišče, prepoditi svojega strica Ferma Qualandra, ki jo je s peščico pomočnikov zasedel. Fermo je napadalce skušal pregnati s strašilnim strelom, ki pa je ubil Simonovega podložnika Luka Pankicherja. Fajdi se je tako pridružila še grožnja s krvnim maščevanjem. Fermo se je uspelo pred maščevanjem zateči v azil v minoritski samostan na Ptujju, njegovemu sinu Marku Antoniju pa v meščanski stan pod zaščito mesta. S posredovanjem mestnih oblasti je fajda prešla v mediacijsko fazo, ki je vse do sklenitve miru med rodbinama potekala skoraj brez vmešavanja deželno knežjih oblasti. Mir je bil sklenjen tudi s plačilom kompozicije družini ubitega podložnika. Pravni običaji oziroma obred maščevanja v predstavljenem primeru ni zgolj šel po podobnih korakih kot v srednjem veku, mesto je bilo v reševanju fajde povsem avtonomno.*

*Ključne besede: maščevanje, vindicta, fajda, Ptuj, Moscon, Qualandro, 17. stoletje*

## SOURCES AND BIBLIOGRAPHY

**ARS 781** – Arhiv Republike Slovenije (ARS), Samostan Stična (fond 781).

**CA 1704** – Codicis Austriaci ordine alphabetico compilati. Pars prima, Das ist: Eigentlicher Begriff und Inhalt, aller unter deß durchleuchtigsten Erz-Hauses zu Oesterreich Fürnemblich aber Der Allerglorwürdigsten Regierung Ihro Röm. Kayserl. auch zu Hungarn und Böheimb Königl. Majestät Leopoldi I, Erz-Herzogens zu Oesterreich k. k. Außgangenen und publicirten in das Justitz und Polizey Wesen und was einem oder anderen anhängig ist [...] (1704). Wien, Leopold Voigt, Univers. Buchdrucker.

**CCC 1609** – K. Karls deß V., vnd deß h. Roemischen Reichs Peinlichs Gerichts Ordnung (1609). Frankfurt/Main. Wolfgang Richter in Verlegung Nicolai Bassaeisaemptlichen Erben.

**CCT 1769** – Consitutio Criminalis Theresiana oder der Römisch Kaiserl. zu Hungern und Boheim ec. ec. Koenigl. Apost. Majestaet Mariä Theresiä Erzherzogin zu Oesterreich, ec. ec. Gerichtsordnung (1769). Wien, Johann Thomas Edler von Trattner, kaiserl. Koenigl. Hofbuchdrucker und Buchhaendler.

**Jutro** – Ljubljana, 1920–1945.

**StLA, IÖReg** – Steiermärkisches Landesarchiv (StLA), Innerösterreichische Regierung (IÖReg).

**StLA, LAA, LR** – StLA, Landschaftliches Archiv-Antiquum (LAA), Landrecht (fond LR).

**Tednik** – Ptuj, 1961–2003.

**ZAP 0070** – Zgodovinski arhiv Ptuj (ZAP), Rokopisna zbirka (fond 0070).

**ZAP 0177** – ZAP, Arhiv mesta Ptuja (fond 0177).

**ZAP 0397** – ZAP, Minoriti Ptuj (fond 0397).

**Althoff, G. (1997):** Spielregeln der Politik im Mittelalter: Kommunikation in Frieden und Fehde. Darmstadt, Primus Verlag.

**Brown, W. C. (2011):** Violence in Medieval Europe. Harlow et al., Pearson.

**Brunner, O. (1990):** Land und Herrschaft: Grundfragen der territorialen Verfassungsgeschichte Österreichs im Mittelalter. Darmstadt, Wissenschaftliche Buchgesellschaft.

**Büchert Netterstrøm, J. (2007):** The Study of Feud in Medieval and Early Modern History. In: Büchert Netterstrøm, J., Paulsen, B. (eds.): Feud in Medieval and Early Modern Europe. Aarhus, Aarhus University Press, 9–67.

**Carl, H. (1996):** Landfriedenseinung und Standessolidarität – der Schwäbische Bund und die “Raubritter”. In: Roll, C. (ed.): Recht und Reich im Zeitalter der Reformation: Festschrift für Horst Rabe. Berlin, etc., Peter Lang, 471–492.

**Darovec, D. (2014):** Cum lampulo mantelli. The Ritual of Notarial Investiture – Example from Istria. Acta Histriae, 22, 3, 453–508.

**Dolenc, M. (1935):** Pravna zgodovina za slovensko ozemlje: sostavni očrt. Ljubljana, Akademsko založba.

- Gestrin, F. (1981):** Italijani v slovenskih deželah od 13. do 17. stoletja. *Zgodovinski časopis*, 35, 3, 223–241.
- Gestrin, F. (1986):** Gospodarstvo na Slovenskem in Vojna krajina. *Zgodovinski časopis*, 40, 4, 413–421.
- Halsall, G. (1999):** Reflections on Early Medieval Violence. The example of ‘Blood Feud’. *Memoria y Civilisation* 2, 7–29.
- Hernja Masten, M. (2005a):** Upravna dejavnost mestnega sveta Ptuj v času 1653–1655. *Studia Historica Slovenica: Mlinaričev zbornik I.*, 5, 1–2–3, 215–233.
- Hernja Masten, M. (2005b):** Nemirna meja borlsko završke gosposčine z ogrsko Hrvaško. In: Prašnički, Martin et al. (eds.): *Cirkulane: svet Belanov. Cirkulane, Halo*, 109–118.
- Hernja Masten, M., Kos, D. (1999):** Statut mesta Ptuja 1513. Ptuj, Ljubljana, *Zgodovinski arhiv Ptuj, ZRC SAZU*.
- Hernja Masten, M., Kos, D., Milde, W., Simič, V. (1998):** Statut mesta Ptuj 1376 / Das Stadtrecht von Ptuj aus dem Jahre 1376. Maribor, Ljubljana, Umetniški kabinet Primož Premzl.
- Kos, D. (1994):** Imago iustitiae: historični sprehod skozi preiskovanje, sojenje in pravo pri plemstvu v poznem srednjem veku. Ljubljana, *ZRC SAZU*.
- Makuc, N. (2015):** Noble Violence and Banditry Along the Border Between the Venetian Republic and the Austrian Habsburgs. *Mediterranea: ricerche storiche*, 12, 33, 211–226.
- Nehlsen-von Stryk, K. (1994):** Andreas Gaill. In: Laum, D. (ed.): *Rheinische Justiz. Geschichte und Gegenwart: 175 Jahre Oberlandesgericht Köln*. Köln, Schmidt, 1994, 701–715.
- Patschovsky, A. (1996):** Fehde im Recht: eine Problemskizze. In: Roll, C. (ed.): *Recht und Reich im Zeitalter der Reformation: Festschrift für Horst Rabe*. Berlin, etc., Peter Lang, 145–178.
- Petkov, K. (2003):** The Kiss of Peace: Ritual, Self and Society in the High and Late Medieval West. Leiden, Boston, Brill.
- Pirchegger, H. (1962):** Die Untersteiermark in der Geschichte ihrer Herrschaften und Gülden, Städte und Märkte. München, Verlag R. Oldenburg.
- Povolo, C. (2015):** Feud and Vendetta: Customs and Trial Rites in Medieval and Modern Europe: A Legal-Anthropological Approach. *Acta Histriae*, 23, 2, 195–244.
- Reinle, C. (2007):** Peasant’s Feuds in Medieval Bavaria (Fourteenth–Fifteenth Century). In: Büchert Netterstrøm, J., Paulsen, B. (eds.): *Feud in Medieval and Early Modern Europe*. Aarhus, Aarhus University Press, 161–174.
- Reinle, C. (2003):** Bauernfehden: Studien zur Fehdeführung Nichtadliger im spätmittelalterlichen römisch-deutschen Reich, besonders in den bayerischen Herzogtümern. Wiesbaden, Franz Steiner Verlag.
- Rill, G. (1996):** Arbitrium – tertia pars. Beobachtungen zur Völkerrechtlichspraxis der frühen Neuzeit. In: Roll, C. (ed.): *Recht und Reich im Zeitalter der Reformation: Festschrift für Horst Rabe*. Berlin, etc., Peter Lang, 97–119.

- Ruff, J. R. (2004):** Violence in Early Modern Europe 1500–1800. New Approaches to European History. Cambridge, Cambridge University Press.
- Saria, B. (1965):** Pettau: Festgabe für Hans Pirchegger: Entstehung und Entwicklung einer Siedlung im deutsch-slowenischen Grenzraum: mit einer Würdigung des Jubilars und einer Bibliographie. Zeitschrift des Historischen Vereines für Steiermark, Sonderband 10. Graz, Historischer Verein für Steiermark.
- Spreitzhofer, K., et al. (1988):** Notranjeavstrijska centralna oblastva in uprava notranjeavstrijskih dežel do srede 18. stoletja. In: Žontar, J., et al. (eds.): Handbücher und Karten zur Verwaltungsstruktur in den Ländern Kärnten, Krain, Küstenland und Steiermark bis zum Jahre 1918: ein historisch-bibliographischer Führer / Priročniki in karte o organizacijski strukturi v deželah Koroški, Kranjski, Primorju in Štajerski do leta 1918: zgodovinsko-bibliografski vodnik / Manuali e carte sulle strutture amministrative nelle province di Carinzia, Carniola, Litorale e Stiria fino al 1918: guida storico-bibliografica. Graz, etc., Steiermärkisches Landesarchiv, etc., 64–75.
- Štih, P. (2011):** Plemstvo in mesta med severnim Jadranom in Panonijo v srednjem veku (Nekaj zapažanj, prvenstveno na slovenskih primerih). In: Mlinar, J., Balkovec, B. (eds.): Mestne elite v srednjem in zgodnjem novem veku med Alpami, Jadranom in Panonsko nižino / Urban Elites in the Middle Ages and the Early Modern Times between the Alps, the Adriatic and the Pannonian Plain. Ljubljana, Zveza zgodovinskih društev Slovenije, 8–24.
- Travner, V. (1934):** Kuga na Slovenskem. Ljubljana, Življenje in svet.
- Valentinitsch, H. (1973):** Die Familie Qualandro in Pettau. Ein Beitrag zur Wirtschafts- und Sozialgeschichte des 17. Jahrhunderts. Südostdeutsches Archiv, 15/16, 66–78.
- Valentinitsch, H. (1998):** Italienische Kaufmannsfamilien in Ptuj im 16. und 17. Jahrhundert. In: Kranjc, S. (ed.): Ptujška župnijska cerkev sv. Jurija: zbornik znanstvenega simpozija ob praznovanju 1150. obletnice posvetitve mestne cerkve in 850. obletnice »Konradove cerkve«. Ptuj, Minoritski samostan sv. Viktorina, Župnija sv. Jurija, 98–112.
- Vilfan, S. (1995):** Obljuba varnosti in njen prelom od dogodka do krajevnega izročila (pripovedka o Andreju Baumkirchnerju). In: Stanonik, M. (ed.): Slovstvena folklor. Ljubljana, Slovenska akademija znanosti in umetnosti, 85–94.
- Vilfan, S. (1996):** Zgodovinska pravotvornost in Slovenci. Ljubljana, Cankarjeva založba.
- Vilfan, S. (1961):** Pravna zgodovina Slovencev: od naselitve do zloma stare Jugoslavije. Ljubljana, Slovenska matica.
- Vischer, G. M. (2006):** Topographia Ducatus Stiriae: izbor. Maribor, Umetniški kabinet Primož Premzl.
- Wackernagel, H. G. (1965):** Fehdewesen, Volksjustiz und staatlicher Zusammenhalt in der alten Eidgenossenschaft. Schweizerische Zeitschrift für Geschichte / Revue suisse d'histoire / Rivista storica svizzera, 15, 3, 289–313.
- Wadle, E. (1999):** Zur Delegitimierung der Fehde durch die mittelalterliche Friedensbewegung. In: Brunner, H. (ed.): Der Krieg im Mittelalter und der frühen Neuzeit: Gründe, Begründungen, Bilder, Bräuche, Recht. Wiesbaden, Reichert Verlag, 73–89.



**Zmora, H. (2007):** Values and Violence: The Morals of Feuding in Late Medieval Germany. In: Büchert Netterstrøm, J., Paulsen, B. (eds.): *Feud in Medieval and Early Modern Europe*. Aarhus, Aarhus University Press, 147–160.

**Zoylus**, [http://encyclopedia.jrank.org/YAK\\_ZYM/ZOYLUS\\_c\\_400\\_320\\_BC\\_.html](http://encyclopedia.jrank.org/YAK_ZYM/ZOYLUS_c_400_320_BC_.html)

**Þorláksson, H. (2007):** Feud and Feuding in the Early and High Middle Ages: Working Descriptions and Continuity. In: Büchert Netterstrøm, J. & Paulsen, B. (eds.): *Feud in Medieval and Early Modern Europe*. Aarhus, Aarhus University Press, 69–94.