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## **THE LEGISLATIVE ACTIVITY OF THE DUKE OF MAZOVIA JANUSZ I OF WARSAW 1381-1429**

The Duke of Masovia Janusz dies on [...] November<sup>1</sup> and is buried in the Warsaw Collegiate Church, which he himself renamed from the parish church to the Collegiate Church and made famous by bestowing some income on it. He was an eminent man, the wisest among the contemporary dukes. By creating fair courts, he made his land flourish again. He was so modest in administering his land that he was called a mirror and a model for others.  
Jan Długosz<sup>2</sup>

### **Territorial coverage of the domain of Janusz I of Warsaw**

Janusz I of Warsaw<sup>3</sup> was the first-born son of Siemowit III, Duke of Mazovia<sup>4</sup>, born from first marriage to Euphemia of Opava<sup>5</sup>, who also gave birth to Siemowit IV<sup>6</sup>. Between 12 May

<sup>1</sup> Jan Długosz erroneously set the date of death of Janusz I of Warsaw as 8 November 1428. In fact, the Duke died on 8 December 1429. [K. Jasiński, *Rodowód Piastów mazowieckich*, Poznań-Wrocław 1998, p. 80].

<sup>2</sup> J. Długosz, *Roczniki, czyli kroniki sławnego Królestwa Polskiego*, book XI: 1413-1430, Warszawa 1985, p. 255.

<sup>3</sup> Janusz I of Warsaw (ca. 1346-1429), the son of Siemowit III, brother of Siemowit IV and Henryk Mazowiecki. As a result of the division, from 1381 the Duke of Warsaw, Nura, Łomża, Liw, Ciechanów, Wyszogród and Zakroczym, from 1386 the hereditary fiefdom of Poland, and from 1391 in Podlasie. [O. Balzer, *Genealogia Piastów*, Kraków 1895, pp. 465-467; J. Grabowski, *Dynastia Piastów mazowieckich. Studia nad dziejami politycznymi Mazowsza, intytulacją i genealogią książąt*, pp. 345-354, 444-450; K. Jasiński, op. cit., pp. 78-83; See: B. Sobol, *Janusz I Starszy (ca. 1329-1429)*, *Polski Słownik Biograficzny* (hereinafter: PSB), vol. 1-7, Kraków 1935-1958; vol. 8-15, Wrocław-Warszawa-Kraków 1959-1970; vol. 16-25, Wrocław-Warszawa-Kraków-Gdańsk 1971-1980; vol. 26-31, Wrocław-Warszawa-Kraków-Gdańsk-Łódź 1981-1988; vol. 32-34, Wrocław-Warszawa-Kraków 1989-1993; vol. 35-50, Warszawa-Kraków 1994-2015, vol. 10, pp. 581-582].

<sup>4</sup> Siemowit III (1316/25-1381), the son of Trojden I, brother of Boleslaw George II and Casimir I. he co-ruled with his brother Casimir I in Warsaw and Czersk from 1341, in the Rawa Land from 1345, from about 1349, he was the Duke in Czersk, Liw and Rawa as a result of the division, from 1351 in Gostynin, from 1351 a fiefdom of Poland, from 1352 a pledged Duke of Płock, from 1355 in Warsaw and Sochaczew, from 1370 a sovereign ruler, also in Płock, from 1370 in Zakroczym and Wizna. [O. Balzer, op. cit., pp. 457-458; J. Grabowski, op. cit., pp. 288-297, 443-444; K. Jasiński, op. cit., pp. 61-68; See: K. Jasiński, Siemowit III (ca. 1320-1381), PSB, vol. 37, pp. 73-75].

<sup>5</sup> Eufemia Opawska (ca. 1319-1356/57), the daughter of Mikołaj II Opawski Przemyśl, the wife of Siemowit III from 1343/45 [O. Balzer, op. cit., pp. 459-460; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 63-67; see more on the topic: J.M. Marszalska, *Księżniczki śląskie, żony książąt mazowieckich*, in: *Ślązacy w oczach własnych i obcych*, ed. A. Barciak, Katowice – Zabrze 2010, pp. 144-146].

<sup>6</sup> Siemowit IV (ca. 1353/56-1425/26), the son of Siemowit III, brother of Janusz I of Warsaw and Henryk Mazowiecki. As a result of the division, from 1381 the Duke of Rawa, Płock, Sochaczew, Gostynin, Płońsk and Wizna,

1373 and 5 January 1374, Siemowit III decided to endow his sons from his first marriage, assigning them districts during their lifetime, which was frequently practised in Mazovia<sup>7</sup>. Janusz I of Warsaw received the lands of Ciechanów, Wizna, Warszawa and Zakroczym, whereas Siemowit IV was granted the lands of Czersk with Liw and Rawa Lands, whereby their father retained the lands of north-western Mazovia with Gostynin, Płock, Płońsk, Sochaczew and Wyszogród for life<sup>8</sup>.

Then, the Senior Duke issued a diploma in Płock on 25 February 1379, in which he defined the conditions and principles of the succession of Mazovia by his sons from the first marriage, omitting the youngest Henry<sup>9</sup>, whose mother was Princess Anna of Ziębice<sup>10</sup>. On the basis of the aforementioned document, Janusz I of Warsaw was to receive the lands of Eastern Mazovia, namely: Ciechanów, Czersk, Liw, Łomża, Nursk, Różan, Warsaw, Wyszogród and Zakroczym, and Siemowit IV was to take over the lands of: Gostynin, Płock, Płońsk, Rawa, Sochaczew and, located in the northeastern extremities of the Czersk-Warsaw district, Wizna (then still including the Goniądz district)<sup>11</sup>. Admittedly, Henry was omitted in the acts of succession but his parent pointed out that if the youngest son decided to give up his clergyman's career, the brothers were to assign him an undefined domain from their districts<sup>12</sup>. The division of power of the Mazovian Piasts presented above was to come into effect after Siemowit III's death, which took place on 16 June 1381 and *de facto* initiated a permanent division of the Mazovian lands into Western Mazovia and Eastern Mazovia, where the ruling was taken over by Janusz I of Warsaw.

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from 1386 the hereditary fiefdom of Poland, from 1388 in Belz. [O. Balzer, op. cit., pp. 473-475; J. Grabowski, op. cit., pp. 298-318, 450-451; K. Jasiński, op. cit., pp. 87-91; See: A. Supruniuk, *Siemowit IV (ca. 1352-1426)*, PSB, vol. 37, pp. 76-81].

<sup>7</sup> The principle of dividing the state among the members of the dynasty reached the beginning of Polish statehood. During the lifetime of Mieszko I, the oldest of his progenitors, Bolesław I Chrobry, received his own district with Cracow as the capital city. Probably the same was done by the above-mentioned ruler when he settled his son Mieszko II in Cracow, when he married Rycheza of Lorraine, the niece of Emperor Otto III, in 1013. Similarly, their son, Casimir I the Restorer, at the end of his life shared his power between his three sons, i.e. Bolesław II the Generous, Władysław I Herman and Mieszko. In other Slavic countries, such as Bohemia and Ruthenia, such divisions of the state were also practiced. [G. Labuda, *Pierwsze wieki monarchii piastowskiej*, Poznań 2012, p. 206].

<sup>8</sup> *Nowy kodeks dyplomatyczny Mazowsza*, p. 3: Documents from 1356-1381 (hereinafter: NKDM, p. 3), ed. J. Sułkowska-Kuraś, S. Kuraś, Wrocław 2000, No. 136.

<sup>9</sup> Henryk Mazowiecki (1368/70-1392/93), the son of Siemowit III, the brother of Janusz I of Warsaw and Siemowit IV, the Płock prepositary since 1378, a nominee for bishop of Płock since 1390. (he did not get higher ordination). He married Ryngała, sister of Witold. [O. Balzer, op. cit. pp. 477-480; J. Grabowski, op. cit., pp. 297-298, 453-454; K. Jasiński, op. cit., pp. 93-96; see: Idem, *Henryk Siemowitowic i jego żona Ryngalla. Studium historyczno-genealogiczne*, in: idem, *Prace wybrane z nauk pomocniczych historii*, Toruń 1996, pp. 117-124; D. Poppe, *Henryk mazowiecki*, PSB, vol. 9, pp. 413-414].

<sup>10</sup> Anna, by older historiography called Ludmilla (d. 1368/70), Princess Ziębicka, the second wife of the Siemowit III. She was strangled by her husband's order for alleged treason, the fruit of which was to be Henryk Mazowiecki. [O. Balzer, op. cit. pp. 460-461; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 67-68; to read more on Anna's tragic fate see: Jan z Czarnkowa, *Kronika*, trans. J. Żerbiłło, Kraków 2001, chapter 49, pp. 83-85; A. Swieżawski, *Tragedia rawska i jej echa w Anglii*, in: idem, *Mazowsze i Ruś Czerwona w średniowieczu. Wybór prac*, Częstochowa 1997, pp. 185-188].

<sup>11</sup> *Iura Masoviae Terrestria: pomniki dawnego prawa mazowieckiego ziemskiego* (hereinafter: IMT), ed. J. Sawicki, vol. 1 (1228-1471), Warszawa 1972; vol. 2 (1471-1526), Warszawa 1973; vol. 3 (1526-1540), Warszawa 1974, vol. 1, No. r 23; NKDM, part 3, No. 216.

<sup>12</sup> On 23 September 1379, Janusz I of Warsaw and Siemowit IV issued a separate act confirming the division of the State effected between them by their father. [NKDM, p. 3, No. 224].

The territory, which was ruled by the Elder Siemowit, was, with few exceptions, unchanged throughout his reign. By virtue of the perpetual usufruct granted to King Władysław II Jagiełło on September 2, 1390, Janusz I of Warsaw's rulership extended to a part of Podlasie, i.e. the land of Drohice with Bielsko, Drohiczyn, Mielnik and Suraż, and the land was still to be part of the Lithuanian state, whereas the Duke of Warsaw and the land was still to be a part of the Lithuanian state, and the Duke of Warsaw was from that moment on counted among the Lithuanian dukes and was to perform similar services as they did in Podlachia<sup>13</sup>. At the same time, from 30 December 1401, the domain of Janusz I of Warsaw was extended by the Wizna Land together with the Goniądz County because it was pledged to the Duke of Warsaw by his brother Siemowit IV for 9 years for 4595 threescores of Prague groschen<sup>14</sup>. However, it was reunited with the Płock Mazovia by Duke Władysław I<sup>15</sup>, who bought it back in the first half of 1435<sup>16</sup>.

### **An outline of the reign of Janusz I of Warsaw in Eastern Mazovia**

The principality of Janusz I of Warsaw was twice as big as that of his brother Siemowit IV and required more care in governance. In the first place, the Duke of Warsaw focused on the expansion of the settlement in undeveloped areas in order to strengthen the economic potential and defence of his country. When Janusz I of Warsaw took over the reign in the district assigned to him by his father at the turn of 1373/1374, in Eastern Mazovia, only Czersk, Ostrołęka, Warka, Warsaw and Wizna enjoyed the city rights<sup>17</sup>. The older son of Siemowit III renewed and extended the privileges of the indicated cities, and during his entire reign he chartered (granted charter rights) 24 cities, whereby this action was intensified during the second period of his reign<sup>18</sup>. More than 50% of new locations concerned the seats of the Duke, who probably saw them as a means of increasing the income of the monarch's treasury from the commodity and money economy, based on dynamically developing urban centres<sup>19</sup>.

At the same time, Janusz I of Warsaw continued the policy of his father, who initiated a new action of the bestowal of land estates in the second half of the 14th century, popularised during the reign of his firstborn son. The aforementioned land endowments usually consisted of ten-volok, wooded areas intended for agricultural development, and in return beneficiaries were obliged to perform military service on horseback, in light weapons, and were expected to provide various services to the ruler, so-called *ad servitia communia*<sup>20</sup>. Those who did not appear on the expedition were threatened with the confiscation of the bestowed lands. The above system worked perfectly well in the times of Janusz I of Warsaw and thanks to

<sup>13</sup> IMT, vol. 1, No. 41.

<sup>14</sup> Ibidem, No. 56.

<sup>15</sup> Władysław I Płocki (1406/09-1455), the son of Siemowit IV, the brother of Trojden II, Siemowit V, Kazimierz II and Aleksander. He was a co-ruler with his brothers in Płock, Rawa, Gostynin, Sochaczew, Bełz, Płońsk and Wizna in the years 1426-1434, in the land of Płock, Płońsk and Zawkrzeż in the years 1434-1442, in the land of the Wizna from 1435, over the whole of his fatherhood (without Gostynin) from 1442 [O. Balzer, op. cit., pp. 507-508; J. Grabowski, op. cit., pp. 331-336, 467-470; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 133-136].

<sup>16</sup> IMT, vol. 1, No. 81-82.

<sup>17</sup> M. Wilska, *Książę Janusz Starszy*, Warszawa 1986, p. 22.

<sup>18</sup> Ibidem.

<sup>19</sup> Ibidem.

<sup>20</sup> A. Supruniuk, *Mazowsze Siemowitów (1341-1442). Dzieje polityczne i struktury władzy*, Warszawa 2010, p. 65.

it the Duke was able to mobilise considerable military forces in war campaigns conducted against the Teutonic Order in the years 1409-1411 and 1414-1422<sup>21</sup>.

Moreover, the Duke of Warsaw placed great emphasis on the expansion and erecting new residences, which performed economic, administrative and defensive functions<sup>22</sup>. In order to exploit the taxes and resources accumulated in individual castle-towns, which were due because of the lease agreements previously concluded with the starosts and governors, Janusz I of Warsaw visited the castles on a regular basis during the tours around his domain, thanks to which personal supervision thereof was possible with respect to its economy<sup>23</sup>.

The visits in Mazovia, which also resulted from the Duke's obligation to exercise his judicial power, are confirmed by sources from the middle of the 14th century. The basis for the maintenance of the Duke and his entourage during the journeys in question were the stations which were maintained by the starosts in exchange for the lease and the right to collect certain income from the duke's domain. However, if the monarch did not make use of the stations to which he was entitled in a given starosty, the starost had to pay the remaining amount of money to the duke's treasury<sup>24</sup>. The continuously conducted travels by the Duke should be evaluated positively because, by means of administration control, they provided insight into the lives of individuals in the state, the possibility of personal supervision over its economic system and the consumption of resources accumulated in individual castle-towns. At the same time, during the tours, the ruler exercised the administration of justice and controlled the officials who ruled on his behalf.

### The legal acts promulgated by Janusz I of Warsaw

The legislative activity of the Mazovian Piasts on issuing statutes was initiated by Siemowit III, who announced the first Mazovian statute on 27 April 1377 in Sochaczew<sup>25</sup>. Previously, the basic source of the Mazovian law was the customary law, constituting a compilation of unwritten legal norms in every legal system which arose as a result of actions practised publicly by members of a particular group with the consent of the majority.

The desire to unify customs and adapt them to changing social conditions was strongly visible in the legislative activity of the Mazovian dukes. On the legislative ground, two types of legal acts should be distinguished in this respect, namely statutes and general and land privileges, because the scope of their regulations covered either all subjects and the whole

<sup>21</sup> K. Pacuski, S. Russocki, *Ustrój polityczny i prawo*, in: *Dzieje Mazowsza*, vol. 1, ed. H. Samsonowicz, Pułtusk 2006, p. 428.

<sup>22</sup> During the reign of Janusz I of Warsaw, the castles were either expanded or rebuilt in the town of Ciechanów, Czersk, Liw, Łomża, Maków, Nowogród, New Town, Opiniogóra, Ostrołęka, Różan, Warsaw, Wizna, Wyszogród and Złotoryja. [M. Wilska, op. cit., p. 23].

<sup>23</sup> A. Supruniuk, op. cit., p. 102.

<sup>24</sup> Ibidem, p. 103.

<sup>25</sup> IMT, vol. 1, No. 22, pp. 28-33; *Ius Polonicum* (hereinafter: IP), ed. J. Bandtkie, Warszawa 1831, pp. 417-420; *Prawa książąt mazowieckich* /translation into Polish by Maciej z Różan (1450), homographic reprint from Kórnik code by A. Piliński, Kórnik 1877, pp. 1-4 (according to the pagination adopted by the author of the article, in the face of Maciej z Różan's failure to do the numbering); *Starodawne prawa polskiego pomniki poprzedzone historyczno-krytycznym tak zwanego prawodawstwa wiślickiego Kazimierza Wielkiego w texcie ze starych rękopism krytycznie dobranym*, ed. A. Helcel, vol. 1, Warszawa 1856, pp. 269-274; to read more on the criminal law covered by this act see: P.E. Herod, *Regulacje w zakresie prawa karnego w statucie sochaczewskim z 27 kwietnia 1377 roku*, „Saeculum Christianum”, 22/2015, pp. 73-83.

country (statutes), or a specific group of subjects, and more precisely, the whole state or more states, and extended to the whole country (general privileges) or its part (land privileges).

After taking power in Eastern Mazovia in 1381, Janusz I of Warsaw issued 14 statutes, 13 of which were proclaimed by him independently and covered the whole of his state, and one, which extended to all of the Mazovian lands, he issued together with his nephews, i.e. the sons of Siemowit IV. At the same time, the Duke of Warsaw announced the first known land privilege in Mazovia, which represents an isolated case in his legislative activity and deserves special attention.

All the above-mentioned acts were issued in print by Jakub Sawicki in *Iura Masoviae Terrestria: pomniki dawnego prawa mazowieckiego ziemskiego (monuments to the former Mazovian land law)*<sup>26</sup> and Jan Wincenty Bandtky in *Ius Polonicum* (except for the land privilege)<sup>27</sup>, whereby the Sawicki's edition is the basic Latin edition used in the presented considerations.

In the context of the statute content, the translation of the said acts into Old Polish, carried out before 1450 „na przykazanye”<sup>28</sup> of the Duke Bolesław IV of Warsaw<sup>29</sup> by Father Maciej of Różan<sup>30</sup>, is also extremely helpful, as sometimes the Latin version does not provide the regulations that are found in the Old Polish text. The present translation has been preserved in a parchment manuscript called the *Puławy Code*, which contains the statutes of Mazovia from 1377-1426, promulgated in Eastern Mazovia<sup>31</sup>. The homographical reprint of the manuscript in question, made by Adam Piliński, was announced by the Kórnik Library in 1877<sup>32</sup>. It was published in its entirety by Joachim Lelewel in 1824 where its original spelling was preserved<sup>33</sup>.

The legislative activity of Janusz I of Warsaw was triggered by the statute regarding the rapes inflicted on women, which was proclaimed with the participation of the knights and nobility on July 31, 1387 during the court sessions (pol. roki wielkie) in Zakroczym<sup>34</sup>. In Jakub Sawicki's edition, the act in question was divided into an introduction and seven articles, and in Maciej of Różan's translation into nine paragraphs, whereby the first article, *Członky drugich roków wyelikich vstawyone*<sup>35</sup>, constituted an introduction in which the date,

<sup>26</sup> IMT, vol. 1, No. 32-33, 37, 39-40, 48, 55, 58-64, 66, 73.

<sup>27</sup> IP, pp. 420-437.

<sup>28</sup> *Prawa...*, p. 29.

<sup>29</sup> Bolesław IV Warszawski (1418/20-1454), the grandson of Janusz I of Warsaw, from 1429 the Duke of Ciechanów, Czersk, Liwsk, Łomża, Nursk, Różan, Warsaw, Wyszogrod and Zakroczym (from 1436 an independent governance, previously the regency of Anna Fiodorówna's mother), from 1440-1444 the Duke of Podlasie. [O. Balzer, op. cit., pp. 521-522; J. Grabowski, op. cit., pp. 356, 477-478; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 157-160; see: K. Małczyński, *Bolesław IV (1421-1454)*, PSB, vol. 2, pp. 280-281].

<sup>30</sup> Maciej of Różan, called Maciej Różański (ca. 1420-1467), Chancellor of Mazovia, treasure writer, the canon of Plock and Warsaw, the parish priest in Czersk and Makow. [See: I. Sułkowska Kurasiowa, A. Wolff, *Maciej z Różana (ca. 1420-1467), kanclerz księcia mazowieckiego Bolesława IV*, PSB, vol. 19, pp. 35-36].

<sup>31</sup> The collection in question also includes a translation of Polish statutes by Świętosław of Wojcieszyn. [O. Balzer, *Słowo o przekładach polskich statutów średniowiecznych zwłaszcza o kodeksie dzikowskim przekład taki zawierającym*, Lwów 1888, pp. 6-7].

<sup>32</sup> See: *Prawa...*

<sup>33</sup> J. Lelewel, *Księgi ustaw polskich i mazowieckich*, Vilnius 1824, pp. 133-152.

<sup>34</sup> IMT, vol. 1, No. 32 (part 1 comprising 4 paragraphs), No 33 (part 2 comprising 3 paragraphs), pp. 47-48; cf. IP, pp. 420-421; *Prawa...*, pp. 4-7; cf. J. Lelewel, op. cit., pp. 136-137.

<sup>35</sup> *Prawa...*, p. 4.

place and circumstances of its publication were provided along with a brief explanation of the addressed topic. Thus, it should not be treated as a legal provision, especially since its content is identical with the introduction present in the Latin version. However, it should be stressed that Maciej of Rózan's old Polish translation contains an article that is missing from both Sawicki's and Bandtky's editions, i.e. *Gwalt slachczyancze albo vsylstwo przez chlopa uczinyoni*<sup>36</sup> presented under paragraph eight.

Then, during the court's meeting in Czersk (pol. roki wielkie) the Duke, with the participation of the council and officials of the Czersk lands, issued a statute on 25 July 1389, regulating certain matters related to a peasant's right to leave the village belonging to the feudal lord (pol. prawo wychodu) and the amount of certain court fees<sup>37</sup>. With regard to the act in question, it should be noted that, unlike previously mentioned, it is Maciej of Rózan's translation that is not complete because it lacks one paragraph, which in Jakub Sawicki's edition is the fourth article, *De penis premissa non facientibus*<sup>38</sup>, as a result of which the Latin version contains seven paragraphs and the old Polish translation includes six thereof.

The next act was promulgated by Janusz I of Warsaw with the participation of the council and the nobility at the Sejm in Zakroczym on March 20, 1390, and regulated certain issues of judicial law, in particular, the punishment for murder and matters associated with the propinquity law<sup>39</sup>. Although in the Sawicki's edition the indicated statutes were divided into eight articles, and in the old Polish translation into nine, the content of both versions is identical, as the different number of paragraphs results from the fact that the Latin edition the fourth article, *Homicidium militis per nobilem et econverso*<sup>40</sup>, contains two consecutive paragraphs from Maciej of Rózan's translation, namely the fourth one, *Gdi slaychczicz zabye wlodikan*<sup>41</sup>, and the fifth one, *Gdi wlodika zabye slyachczycza*<sup>42</sup>.

The right to leave the village (pol. pr. wychodu) by peasants, or more specific gardeners, craftsmen and cottagers (pol. ratajowie) was regulated for the first time by the Duke of Warsaw, with the participation of his officials and nobility, in the statute announced on April 9th, 1391, during the court's session (pol. roki wielkie) in Zakroczym.<sup>43</sup> The Latin editions of the statute in question contain one article<sup>44</sup>, whereas the old Polish translation consists of three paragraphs<sup>45</sup>, but the content range of both versions is identical.

<sup>36</sup> Ibidem, p. 6.

<sup>37</sup> IMT, vol. 1, No. 37, pp. 54-56; cf. IP, pp. 421-422; *Prawa...*, pp. 7-8; cf. J. Lelewel, op. cit., pp. 137-138.

<sup>38</sup> IMT, vol. 1, No. 37, p. 55; Bandtky's edition also lacks this provision. [IP, p. 422].

<sup>39</sup> IMT, vol. 1, No. 39, pp. 57-59; cf. IP, pp. 422-424; *Prawa...*, pp. 8-10; cf. J. Lelewel, op. cit., pp. 138-139.

<sup>40</sup> IMT, vol. 1, No. 39, p. 58; In Bandtky's edition, just like in Maciej of Rózan's translation, the statute in question was divided into nine articles and between the fourth paragraph, *Homicidium militis per nobilem*, and the sixth one, *Homicidium militis per militem*, there is a fifth paragraph, *Homicidium nobilis per militem, et veniae modus*, which in the Sawicki's edition is the second part of the fourth article. [IP, p. 423; cf. art. 4: *Homicidium militis per nobilem et econverso*, IMT, vol. 1, No. 39, p. 58].

<sup>41</sup> *Prawa...*, p. 9.

<sup>42</sup> Ibidem.

<sup>43</sup> IMT, vol. 1, No. 40, pp. 59-60; cf. IP, p. 424; *Prawa...*, p. 10; cf. J. Lelewel, op. cit., pp. 139-140.

<sup>44</sup> *De ortulanis*, IMT, vol. 1, No. 40, p. 60; *Quid tenetur homo in censu aut labore residens domino suo*, IP, p. 424.

<sup>45</sup> *Vyna za vardansnya, Carczmarzs, Rathay*, in: *Prawa...*, p. 10; cf. J. Lelewel, op. cit., pp. 139-140.

The next act, dated 26 November 1397, was also issued in Zakroczym by Janusz I of Warsaw and regulated penalties and court proceedings for damage and theft in the meadows<sup>46</sup>. With regard to the said statute, it is also important to notice a difference in editing, which relied on the fact that the first article in the Latin editions<sup>47</sup> in Maciej of Rózan's translation was divided into two paragraphs, respectively the first<sup>48</sup> and the second one<sup>49</sup> so that the act included two and three provisions respectively.

During the court's session held on 24 April 1401, the eldest of Siemowits announced the statute, with the participation of the most prominent dignitaries of his country, in which they were mentioned for the first time both by name and ex officio, which was scrupulously noted in the Old Polish translation<sup>50</sup>. The aforementioned act concerned beekeepers and wild beehives as well as the enforcement of financial liabilities<sup>51</sup>. In the editions of Bandtky and Lelewel, the above statute was divided into six paragraphs, which resulted from the fact that both of them, (respectively Sawicki<sup>52</sup> and Maciej of Rózan<sup>53</sup>), separated two provisions from the second article<sup>54</sup>.

On the other hand, the statute, consisting of one article, announced in Zakroczym in 1404 without providing a daily date with respect to a wreath for women a noble birth was omitted in the Old Polish translation and nowadays it is known only in the Latin version<sup>55</sup>.

The second act that Janusz I of Warsaw issued during the court's session (pol. roki wielkie) in Warsaw was the statute of 23 April 1406, regulating some issues of the court law such as court fines, court oaths and surety<sup>56</sup>. The dignitaries present at the promulgation of the statute, were again mentioned both by name and ex officio<sup>57</sup> in Maciej of Rózan's translation.

For the second time, some issues related to peasants' right to leave the village (pol. pr. wychodu)<sup>58</sup> were dealt with by Janusz I of Warsaw who devoted to them the entire statute of 4 July 1407, promulgated in Nowe Miasto (New Town) in the presence of the Masovian nobility.

The next act, which regulated the compensatory damages for hitting someone in the face and taking the oath by the plaintiff in civil cases, was promulgated on March 10, 1410 in Warsaw during the court's session (pol. roki wielkie)<sup>59</sup>, whereby the Old Polish translation

<sup>46</sup> IMT, vol. 1, No. 48, pp. 70-71; cf. IP, p. 424; *Prawa...*, pp. 10-11; cf. J. Lelewel, op. cit., p. 140.

<sup>47</sup> Art. 1: *Depascens prata violenter penam L luet*, IMT, vol. 1, No. 48, p. 71; *Depascens frumenta aut prata*, IP, p. 424.

<sup>48</sup> *Spassyenye lanky albo zytha gwalthem*, in: *Prawa...*, pp. 10-11; cf. J. Lelewel, op. cit., p. 140.

<sup>49</sup> *O kradzyezu brzemienya trawi*, in: *Prawa...*, p. 11; cf. J. Lelewel, op. cit. p. 140.

<sup>50</sup> *Obyczay wsdawanya barczy*, in: *Prawa...*, p. 11; cf. J. Lelewel, op. cit., pp. 140-141.

<sup>51</sup> IMT, vol. 1, No. 55, pp. 84-86; cf. IP, pp. 425-426; *Prawa...*, pp. 11-14; cf. J. Lelewel, op. cit., pp. 140-142.

<sup>52</sup> Art. 2: *Resignas mellificia cautionem imponat*, IMT, vol. 1, No. 55, pp. 84-85.

<sup>53</sup> *Wsdawayqnczi barcz ma postawicz rankoyemstwo*, in: *Prawa...*, p. 12.

<sup>54</sup> *Resignans mellificia cautionem imponat*, *Ad idem*, IP, p. 425; art. II: *Wsdawayqnczi barcz ma postawicz rankoyemstwo*, art. III (has no heading), J. Lelewel, op. cit., p. 141. Lelewel clearly misinterpreted the second paragraph of Maciej of Rózan's translation, considering the red underlining to be the beginning of the new provision, which led him to move the further part of the article to the next paragraph and to mark it as III without marking it with a heading, actually, it is missing from the old Polish translation. However, the absence of the headline, which was always marked in red by the author of the translation, indicates that the further part of the text under the underlined text belongs to the second paragraph. [see: *Prawa...*, p. 12].

<sup>55</sup> IMT, vol. 1, No. 58, p. 90; cf. IP, p. 426.

<sup>56</sup> IMT, vol. 1, No. 59, pp. 91-92; cf. IP, pp. 427-428; *Prawa...*, pp. 14-16; cf. J. Lelewel, op. cit., pp. 142-143.

<sup>57</sup> *O vynach czso placzoni mayqn bicz sandowi*, in: *Prawa...*, pp. 14-15.

<sup>58</sup> IMT, vol. 1, No. 60, pp. 93-94; cf. IP, p. 428; *Prawa...*, pp. 16-17; cf. J. Lelewel, op. cit., pp. 143-144.

<sup>59</sup> IMT, vol. 1, No. 61, pp. 94-95; cf. IP, pp. 428-429; *Prawa...*, pp. 17-18; cf. J. Lelewel, op. cit., pp. 144-145.

recorded the dignitaries present at its announcement by name and ex officio<sup>60</sup>. Both in Jakub Sawicki's edition and in Maciej of Rózan's translation, one article is missing, which bears the headline *De commutatione perpetua bonorum immobilium* in Jan Wincenty Bandtki's edition and is provided as the fourth, thus closing the said act<sup>61</sup>.

Subsequently, during the General Court's meeting in Zakroczym in 1412, Janusz I of Warsaw announced the statute, on the advice of lords, which instituted a severe ban on usury in the form of penalties for the debtor's delay and specified both the penalty for reprimanding the nobility in case the reprimanded party carried out the procedure of clearing of the nobility and the amount of the compensatory damages for wounds inflicted on a nobleman<sup>62</sup>.

The entire statute promulgated by the Duke of Warsaw on 2 July 1414 in the court's session in Warsaw was devoted to the inheritance law for women<sup>63</sup>. Moreover, during the court's session (*roki wielkie*) held in Warsaw on 22 July 1421, Janusz I of Warsaw announced an extensive act regulating a number of issues in the field of judicial, civil, criminal and procedural law, which consisted of 12 articles<sup>64</sup>. In the old Polish translation, the dignitaries present at the issue of the statute were again registered both by name and ex officio<sup>65</sup>. It is regrettable that one card is missing, namely the third from the end<sup>66</sup> in both the *Puławy Code* and its homographic reprint, as a result of which, the statute in question ends with paragraph 11, while the next act begins only in Article 10 in Maciej of Rózan's translation.

The statutory activity of the first-born son of Siemowit III is crowned by the act going beyond the areas of his authority, as it regulates a number of issues in the field of judicial law (private, criminal and procedural) between the districts. The statute in question was issued on 4 August 1426 in Zakroczym not only by Janusz I of Warsaw, but also by his nephews: Siemowit V<sup>67</sup>, Trojden II<sup>68</sup> and Władysław I<sup>69</sup>, who at that time, as Sunday rulers<sup>70</sup>, reigned

<sup>60</sup> *Polyczek slyachathni*, in: *Prawa...*, p. 17.

<sup>61</sup> IP, p. 429.

<sup>62</sup> IMT, vol. 1, No. 62, pp. 95-96; cf. IP, pp. 429-430; *Prawa...*, pp. 18-20; cf. J. Lelewel, op. cit., pp. 145-146.

<sup>63</sup> IMT, vol. 1, No. 64, pp. 98-99; cf. IP, pp. 430-431; *Prawa...*, pp. 20-21; cf. J. Lelewel, op. cit., pp. 146-147.

<sup>64</sup> IMT, vol. 1, No. 66, pp. 109-113; cf. IP, pp. 431-434; *Prawa...*, p. 21-27; cf. J. Lelewel, op. cit., pp. 147-150.

<sup>65</sup> *O wstawyeny na drugich roczech*, in: *Prawa...*, pp. 21-22.

<sup>66</sup> See the preface of the Kórnik librarian, Dr Zygmunt Celichowski. [*Prawa...*, the page preceding the reprinted miniature from the Code of Puławy].

<sup>67</sup> Siemowit V (1388/91-1442), the son of Siemowit IV, brother of Trojden II, Kazimierz II, Władysław I and Alexander. In the years 1426-1434, he co-ruled with his brothers in Belz, Gostynin, Płock, Płońsk, Rawa and Wizna. As a result of the division, from 1434, he was the Duke of Rawa, Gostynin and Sochaczew. [O. Balzer, op. cit., pp. 491-493; J. Grabowski, op. cit., pp. 321-326, 462-464; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 106-111; See: A. Supruniuk, *Siemowit V*, PSB, vol. 37, pp. 81-84].

<sup>68</sup> Trojden II (1403/06-1427), the son of Siemowit IV, brother of Siemowit V, Kazimierz II, Ladislaus I and Alexander. He co-ruled with his brothers in Belz, Gostynin, Płock, Płońsk, Rawa and Wizna from 1426. [O. Balzer, op. cit., pp. 506-507; J. Grabowski, op. cit., pp. 331; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 130-132].

<sup>69</sup> Władysław I Płocki (1406/09-1455), syn Siemowita IV, brat Trojdena II, Siemowita V, Kazimierza II Władysław I Płocki (1406/09-1455), the son of Siemowit IV, brother of Trojden II, Siemowit V, Kazimierz II and Aleksander. He co-ruled with his brothers in Płock, Rawa, Gostynin, Sochaczew, Belz, Płońsk and Wizna in the years 1426-34, in the land of Płock, Płońsk, Wizna and Zawkrzeż in the years 1434-1442, over the whole of his patrimony (without Gostynin) from 1442. [O. Balzer, op. cit., pp. 507-508; J. Grabowski, op. cit., pp. 331-336, 467-470; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 133-136].

<sup>70</sup> There is no mention about Kazimierz II Belski among the brothers, he was probably in Lithuania at that time and was also absent from Sandomierz on 8 September 1426 when his brothers took a fief oath to King Władysław II Jagiello. [A. Supruniuk, *Mazowsze*, p. 71].



in Western Mazovia after the death of their father, Siemowit IV<sup>71</sup>. The division of the legacy after the Duke of Płock could only take place after the death of Duchess Aleksandra<sup>72</sup>, who ruled in the Gostynin and Rawa lands, constituting her ‘oprawa wdowia’ (widow’s seat or wittum). The sons of Siemowit IV had exercised Sunday governance and conducted common internal and foreign policy by the death of their mother in 1434. One paragraph is missing in the Jakub Sawicki’s version, which in the edition by Jan Wincenty Bandtky is mentioned as the seventh paragraph and bears the heading *Cives Plocensos a roboribus nil solvant*<sup>73</sup>. Due to the incomplete translation by Maciej of Rózan, preserved up to the present day, as the discussion on the Act of 22 July 1421 revealed, it is not possible to determine whether the above paragraph was included in the indicated translation.

The act promulgated on 21 June 1414 in Nowe Miasto deserves special attention with regard to the legislative activity of Janusz I of Warsaw because it is not only the first known land privilege in Mazovia, but also the only legislative act of this type announced by the Duke of Warsaw for his subjects, namely for the nobility residing in the Czersk and Warsaw lands<sup>74</sup>.

Summing up, during his reign (1381-1429), the Duke Janusz I of Warsaw issued one land privilege and 14 statutes, including the one proclaimed with the Western rulers of Mazovia. As many as seven of the aforementioned acts were promulgated in Zakroczym, five in Warsaw, two in Nowe Miasto and one in Czersk. The statutes were usually issued at the court’s meeting (pol. roki wielkie) in which the Mazovian knights-gentry and the most important officials of the state apparatus participated, whereby mentioning the latter ones both by name and the performed function was not a rule and the said practice could be observed only with regard to four acts<sup>75</sup>.

## Criminal law

In the statutory activity of Janusz I of Warsaw, the criminal law regulations prevail in number over other rules, which shows that the Duke attached great importance both to public safety and order, as well as to the rule of law and punishment of his subjects. The Duke of Warsaw first undertook to regulate crimes against women and on July 31, 1387 he issued an act on rapes committed against women. Widely understood rapes (*violentia*) on a person constituted a group of prohibited acts whose common denominator was the use of physical coercion. The rapes on a person included unlawful imprisonment, kidnapping or a rape of a woman.

Under the passed act, the abduction of a woman (*violentia receptio mulierum*) from a privileged position carried out by a nobleman was subject to the penalty of the confiscation of all the property, which belonged in half to the duke and in half to the family of the abductee,

<sup>71</sup> IMT, vol. 1, No. 73, pp. 128-132; cf. IP, pp. 434-437; *Prawa...*, pp. 27-29; cf. J. Lelewel, op. cit., pp. 150-152.

<sup>72</sup> Aleksandra Olgierdówna (1368/70-1434), the Princess of Lithuania, the sister of Władysław II Jagiełło, the Duchess of Mazovia from about 1388 and the wife of Siemowit IV, with whom she had thirteen children. [O. Balzer, op. cit., pp. 475-476; K. Jasiński, *Rodowód Piastów mazowieckich*, pp. 89-91].

<sup>73</sup> IP, p. 436.

<sup>74</sup> IMT, vol. 1, No. 63, pp. 96-98; cf. *Kodeks dyplomatyczny Księstwa Mazowieckiego, obejmujący bulle papieżów, przywileje królów polskich i książąt mazowieckich, tudzież nadania tak korporacyj jako i osób prywatnych* (hereinafter: KDKM), ed. J. Lubomirski, Warszawa 1863, No. 151, pp. 157-158.

<sup>75</sup> These are statutes of: 24 IV 1401, 23 IV 1406, 10 III 1410 and 22 VII 1421.

and could be punished by death or by exile from the country, at the duke's discretion<sup>76</sup>. It often happened that the offender was killed in pursuit of the kidnapper and the abductee, which led to a state of *wróźda* (vendetta) between the two families, i.e. bloody revenge sanctioned by law. In order to stop this undesirable practice, which must have been frequent in Mazovia, Janusz I of Warsaw introduced a justification (a circumstance excluding the unlawfulness of an act) and in a situation where the relatives of the kidnapped woman killed the kidnapper during the chase, they were not responsible for the murder, as a result of which, in the facts indicated, no vengeance could be exercised against the killer of the kidnapper<sup>77</sup>.

It should be stressed that in the context of a rape crime (*stuprum, violentia faeminarum*) both the severity and the type of punishment for committing it depended primarily on the social position of the victim and the rapist. According to the statute of July 31, 1387, a nobleman underwent only a financial punishment for the rape of a woman from a privileged state and was obliged to provide compensation for the rape to a disgraced person in the amount of 40 grzywnas (grivnas) while the duke and his officials were to be given a double penalty of 50 grzywnas (grivnas)<sup>78</sup>. When a woman from a simple folk was ensnared, the nobleman had to pay a public penalty to the ruler and his officials in the same amount as above, while the disgraced woman received a compensation of only four grzywnas (grivnas)<sup>79</sup>. In contrast, any man with no privileged status who raped a noblewoman was unconditionally subject to the death penalty<sup>80</sup>.

Further penal regulations were introduced by Janusz I of Warsaw by virtue of the statute of 20 March 1390. The said act regulated the amount of the fine to be paid to the family of the killed person by the killer, called *weregild*, whereby the amount of 48 threescore of groschens was established for a nobleman and 20 threescore of groschens for a *włodyka per capita*<sup>81</sup>. The state of nobility was not uniform in legal terms, which was most evident in the diplomas from the period in question in which we encounter people called *domini, comites* or *nobiles*, coming from among ducal dignitaries, opposed to lower officials and knights referred to as *milites*. However, it is worth noting that the aforementioned differentiation was first specified in the statute of 20 March 1390.

<sup>76</sup> Art. 3: *De vindicta pro tali violentia*, IMT, vol. 1, No. 32, pp. 47-48; *Wyna gwalthownykw sbyegow*, in: *Prawa...*, p. 5; exile (*de terra proscribi vel proclamari, diffugium extra ducatum sustinere*) consisted in the removal of the convicted person from the territory of the State with an absolute ban on return. By contrast, banishment as a punishment only appeared in the modern era, when it began to be considered that in minor cases, especially in the case of non-execution of a civil judgment, the use of infamy is not justified. [J. Rafacz, *Dawne polskie prawo karne. Część ogólna*, Warszawa-Kraków-Lublin 1932, p. 104].

<sup>77</sup> Art. 1: *Pena violatoris arrepti*, IMT, vol. 1, No. 33, p. 49; *Wyna takyego gwałtownyka gdi gy vphiczqñ*, in: *Prawa...*, pp. 5-6.

<sup>78</sup> Art. 4: *De violentia nobilis virginis*, IMT, vol. 1, No. 32, p. 48; *Wyelkosc vyni o gwalt slachczyancze przez slyachczicze*, in: *Prawa...*, p. 6; the penalty was 50 groschen. [The II Mazovian statute, art. 29: *De valore poenarum iudicialium*, IMT, vol. 3, The II Mazovian Statute, p. 151].

<sup>79</sup> Art. 1: *De violentia illata mulieri, virgini aut vidue [kmethonisse]*, IMT, vol. 1, No. 32, p. 47; *Gwalt nye slyachczyancze uczynioni*, in: *Prawa...*, pp. 6-7.

<sup>80</sup> *Gwalt slyachczyancze albo vyslstwo przez chlopa uczynioni*, in: *Prawa...*, p. 6.

<sup>81</sup> Art. 1: *Quantitas homicidii nobilium*, art. 2: *Venia pro homicidio nobilium*, art. 4: *Homicidium militis per nobilem et econverso*, art. 5: *Homicidium militis per militem perpetratum* IMT, vol. 1, No. 39, pp. 57-58; *Głowa slyachatna, Pokora za manzoboystwo slyachty, Gdi slachczicz zabye wlodikañ, Gdi wlodika zabye slyachczyzca, Gdi wlodika zabye wlodikañ*, in: *Prawa...*, pp. 8-9.

When a killer could not afford to pay the weregild, his further situation depended on both his position and that of the victim. If a nobleman, killing another nobleman, did not provide pecuniary compensation to the killed person's family, he was to be sentenced to beheading or hanging (pol. ukarany na gardle)<sup>82</sup>. On the other hand, when a nobleman killed a włodyka and did not pay the weregild, he was to be sentenced to amputation (*mutillatio membrorum*) by cutting off the hand<sup>83</sup>. A włodyka was always subject to the death penalty if he could not provide pecuniary compensation to the family of the killed person because the act did not introduce any distinction in this respect, so the penalty was the same without regard to whether the victim was a nobleman or a włodyka<sup>84</sup>.

Apart from the weregild, another form of compensation provided to the family of the killed person was homage (*homagium, venia homicidii*), constituting a surrogate of an act of bloody revenge, and therefore called a fictional act of revenge<sup>85</sup>. According to the statutes of March 20, 1390, in order to pay homage, the killer was obliged to stand naked to the waist with his sword removed from the scabbard, in front of the family of the killed person together with his 10 companions<sup>86</sup>, being his relatives, and he had to beg for forgiveness in the name of God<sup>87</sup>.

At the same time, the act in question regulated the institution of the beginning for the first time, used in case of injury or murder and consisted in assuming that when an offence had been committed as a result of a verbal or active harassment directed against a person and involved someone close to the person or subjects thereof, then a given act directed against the harasser did not constitute an offence<sup>88</sup>. The provoked person had the right to resist the attacker at his own discretion, i.e. he could beat, hurt or even kill him with impunity. However, in order to be absolved from guilt, it had to be proved that the victim started the attack and the resolute counteraction took place immediately after the attack. The statute of March 20, 1390 directly forbade the introduction of a state of wróźda (vendetta) between the families of the killer and the victim, if the murder took place at the so-called 'beginning', and the former exonerated himself with an oath of witnesses, whereby, in the indicated situation he could not take an oath in his own name<sup>89</sup>.

<sup>82</sup> Art. 2: *Venia pro homicidio nobilium*, IMT, vol. 1, No. 39, p. 58; *Pokora za manzoboystwo slyachty*, in: *Prawa...*, p. 8.

<sup>83</sup> Art. 4: *Homicidium militis per nobilem et econverso*, IMT, vol. 1, No. 39, p. 58; *Gdi slaycheczicz zabye wlodikqn*, in: *Prawa...*, p. 9.

<sup>84</sup> Art. 4: *Homicidium militis per nobilem et econverso*, art. 5: *Homicidium militis per militem perpetratum* IMT, vol. 1, No. 39, p. 58; *Gdi wlodika zabye slyachczyca*, *Gdi wlodika zabye wlodikqn*, in: *Prawa...*, p. 9.

<sup>85</sup> To read more on the topic see for example: R. Hube, *Pokora podług praw polskich i czeskich*, in: *Romualda Hubego pisma*, vol. 1, Warszawa 1905, pp. 297-311; idem, *Wróźda, wroźba i pokora*, in: *Romualda Hubego pisma*, vol. 1, Warszawa 1905, pp. 312-335.

<sup>86</sup> In Maciej of Róźan's translation, it is noted that „samotrzc”, i.e. with two companions. [*Pokora za manzoboystwo slyachthy*, *Gdi wlodika zabye slyachczyca*, in: *Prawa...*, pp. 8-9].

<sup>87</sup> Art. 2: *Venia pro homicidio nobilium*, art. 4: *Homicidium militis per nobilem et econverso*, IMT, vol. 1, No. 39, p. 58; *Pokora za manzoboystwo slyachthy*, *Gdi wlodika zabye slyachczyca*, in: *Prawa...*, pp. 8-9. In the Płock district this issue was regulated by the statute of 10 July 1421, which essentially repeated the statute of 20 III 1390 [art. 26, IMT, vol. 1, No. 65, p 105]. In the Crown Law, on the other hand, humility was not regulated by the law, so it occurred only as a result of a settlement in case of reconciliation between the parties.

<sup>88</sup> J. Bardach, *Historia państwa i prawa Polski*, vol. 1: *Do połowy XV wieku*, Warszawa 1973, p. 518.

<sup>89</sup> Art. 3: *De inicio*, IMT, vol. 1, No. 39, p. 58; *Manzoboystwo za poczantkiem uczynione swyatyky ma bicz oczy-szczyono*, in: *Prawa...*, p. 9. In the Crown Law, the issue of murder was not initially standardised and is only known

The rich criminal issues tackled by the act in question were crowned by a provision under which the family of the killed person could take over the entire estate of the killer if the latter did not appear before the court, and did not meet the obligations imposed on him by law in relation to the victims within a year and six weeks<sup>90</sup>. However, if the family of the killed person decided to take revenge, they were to lose the goods taken over in favour of the relatives of the killer.

Janusz I of Warsaw returned to the criminal law regulations in the statute of 26 November 1397, which normalised, among other things, the penalties for damage and theft on meadows. Those who stole rye or grass from a meadow or grazed cattle on someone else's meadow, were subject to the penalty of 50 grivnas, but if they did not use violence, they were only obliged to pay the injured party the penalty of six grivnas<sup>91</sup> as a compensation<sup>92</sup>.

On the other hand, the Act of March 10, 1410 regulated the amount of the punitive damages for hitting a person from a privileged state in the face (slapping). If a nobleman was slapped, the insulted person was entitled to punitive damages in the amount of five threescore of groschens for each stroke, and as a public punishment, a penalty of 50 threescore of groschens was imposed, to be paid to the duke and his officials<sup>93</sup>. The public penalty for slapping a włodyka was the same as in the case of a nobleman, and the amount of punitive damages was set at two and a half threescore of groschens for each stroke<sup>94</sup>. The above penalties were imposed only if the insulting man did not clear of charges with an oath of witnesses.

Janusz I of Warsaw regulated the punishment for unjust admonishment (reprimanding) of the nobility and the amount of punitive damages for wounds inflicted on a nobleman in the statute of 1412. The admonishment of the nobility was a very serious accusation, undermining affiliation to a privileged state, and required the slandered person to clear of charges. The said act stipulated that if a reprimanded nobleman was to be absolved from guilt by the oath of four noble witnesses, two relatives of each of the two jewels, i.e. the families, then the reprimand was to be considered wrong and the one who had committed the insult was to be punished with five threescore of groschens, payable to the insulted person, as well as with 50 threescore of groschens, payable to the duke<sup>95</sup>.

On the other hand, in the context of wounds inflicted on people from the privileged state, the Duke of Warsaw preordained that the compensation for the wounds inflicted on włodyka should amount to 30 groschens for each of them, whereas when it came to the nobility, some differentiation was introduced. Punitive damages were payable in the amount of three grivnas

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from sources relating to practice.

<sup>90</sup> Art. 6: *Homicide contumacis bona recipiantur*, IMT, vol. 1, No. 39, p. 59; *Gdi manzoboycza varuye syqn moczi gospodarskye*, in: *Prawa...*, pp. 9-10.

<sup>91</sup> This penalty, contrary to the name, was 7.5 groschens. [The II Mazovian Statute, art. 29: *De valore poenarum iudicialium*, IMT, vol. 3, The II Mazovian Statute, p. 151].

<sup>92</sup> Art. 1: *Depascens prata violenter penam L luet*, IMT, vol. 1, No. 48, p. 71; *Spassyenyje lanky albo zytha gwalithem, O kradzyezu brzemienya trawi*, in: *Prawa...*, pp. 10-11.

<sup>93</sup> Art. 1: *Quantitas pene racione percussiois maxille*, IMT, vol. 1, No. 61, p. 94; *Polyczek slyachathni*, in: *Prawa...*, pp. 17-18.

<sup>94</sup> Art. 2: *Pro maxilla militum*, IMT, vol. 1, No. 61, p. 95; *Policzek włodcizi*, in: *Prawa...*, p. 18.

<sup>95</sup> Art. 2: *Purgacio vituperii nobilium*, IMT, vol. 1, No. 62, p. 96; *Viwod o przyganqn slyachathnqn*, in: *Prawa...*, p. 19.

for each wound found in visible (uncovered) areas, whereas in case of wounds that could be covered with clothes the compensation was set to be one and a half grivna for each of them<sup>96</sup>.

The issue of punitive damages for beating a peasant was regulated by the statute of 22 July 1421 and concerned only the situation where the body of one peasant was injured by another peasant. If peasants belonged to different lords, each lord was entitled to punitive damages in the amount of a half of threescore of groschens, and if both peasants had the same lord, then the lord was entitled to one threescore of groschens<sup>97</sup>. If the two peasants had different lords and they beat each other, each lord was entitled by law to one threescore of groschens.

Additionally, the aforementioned act normalised the amount of the weregild for the murder of a peasant, setting it at eight threescore of groschens, whereby the sum in question was divided among the family members of the murdered person who received four threescore of groschens, his master, who was given threescore of groschens and the lord of the murderer who received one threescore of groschens<sup>98</sup>. However, if a peasant's killer was a nobleman or a *włodyka*, then one threescore of groschens was paid to the castellan, in whose district the peasant was killed, instead of the lord of the murderer, and the killer was also subject to a public penalty, paid to the duke and his officials, also amounting to eight threescore of groschens.

At the same time, the statute of 22 July 1421 introduced a 20-year limitation period of punishability for murder, which could be interrupted only by filing a lawsuit against the murderer within 20 years of committing the said crime by him<sup>99</sup>. After the expiry of the said period, both the retaliation and the imposition of other penalties became unlawful.

The act of 4 August 1426, in which Janusz I of Warsaw cooperated with his nephews, included a number of penal regulations as well. The indicated statute relaxed the penal regulations in terms of the so-called '*przejście cła*' (circumventing the duty). Until its announcement, in case the smuggler was stopped, not only the car and horses, but also the transported goods were confiscated. However, under the said act, only the property of a carman, who 'circumvented the duty' was confiscated, whereas the goods he was transporting, whether owned by a Mazovian or a foreign merchant, were exempt from confiscation<sup>100</sup>.

Moreover, the above-mentioned statute imposed an obligation on the officials (*starost*, governor and their deputies) to hand over the injured party's property to the disadvantaged person as a collateral (surety) until the trial in court took place, regardless of the fact from which Mazovian Principality the offender came from. In case the indicated officials failed to perform their duty, they were subject to a financial penalty in the amount of one threescore of groschens, half of which was to be paid on behalf of their duke and half of it to the

<sup>96</sup> Art. 3: *Pena pro vulneribus nobilium et militum*, IMT, vol. 1, No. 62, p. 96; *Wýelkosczy vyni za rani slyachathne i włodicze*, in: *Prawa...*, pp. 19-20.

<sup>97</sup> Art. 6: *Quantitas pene pro kmethonum verberacione*, IMT, vol. 1, No. 66, p. 111; *Bytha vyna kmyeczca*, in: *Prawa...*, pp. 24-25.

<sup>98</sup> Art. 7: *Quantitas pene pro homicidio incolarum*, IMT, vol. 1, No. 66, p. 111; *Placyzesz głowi kmyeczczey*, in: *Prawa...*, p. 25.

<sup>99</sup> Art. 8: *Accio pro homicidio terrigene infra XX annos inchoetur*, IMT, vol. 1, No. 66, pp. 111-112; *Dawnoscy z głowi slyachatney*, in: *Prawa...*, pp. 25-26.

<sup>100</sup> Art. 1: *Vector, si theoloneum pertransierit aut aliquod scelus perpetraverit, bona propria amittet et non mercancias*, IMT, vol. 1, No. 73, p. 128. In the Crown, as early as in the 16th century, the relevant regulations provided for the penalty of confiscation of all goods for „*przejście cła*” (circumventing the duty). [J. Senkowski, *Skarbowość Mazowska od końca XIV wieku do 1526 roku*, Warszawa 1965, p. 63].

disadvantaged party<sup>101</sup>. If a person entitled to deliver the property of the offender did not receive it and thus suffered damage, then he or she could swear in the amount of the damage in the court, and afterwards the officials were obliged to settle the proven damage resulting from their illegal activities.

What's more, the statute of 4 August 1426 stated that if any subject of the Masovian dukes, regardless of his state affiliation, took a stolen horse, ox or cow away from the thief, their owner was obliged to pay him 15 groschens for the horse and six groschens for the ox or cow<sup>102</sup>. On the other hand, if the stolen animals were found by somebody, not at the thief's premises, but wandering around on their own, no matter in which Duchy of Mazovia, then their owner had to pay the finder six groschens for the horse, and three groschens for the ox or cow<sup>103</sup>.

The penal regulations were closed by a provision under which financial penalties imposed on any subject of the Piast dynasty of Mazovia in one Duchy were to be respected also in another Duchy, where he could be forced to pay all the dues awarded, which greatly facilitated debt collection<sup>104</sup>.

## Private law

### a) Marriage and family

The statute of 31 July, 1387, proclaimed by Janusz I of Warsaw, devoted to rapes inflicted on women, additionally regulated certain issues related to the dowry (*dos*) that a woman brought to her husband when she got married. In order to further discourage the kidnapping of women by the passionate nobles – knights, the Duke of Warsaw promulgated a provision under which the kidnapper lost all rights to the kidnapped person's dowry except for the clothes she was wearing during the kidnapping<sup>105</sup>. Consequently, the kidnapped woman also lost her dowry but only until the death of the kidnapper, who ensnared her and forced her to join him in a holy matrimony<sup>106</sup>. Interestingly, the said regulations also applied to foreigners, i.e. men originating from a privileged state but remaining beyond the authority of Janusz I of Warsaw<sup>107</sup>. To add to this, the act in question imposed an obligation to give a dowry to a person who gave up a woman against the will of her family, according to the amount of the dowry, which by law belonged to her<sup>108</sup>.

<sup>101</sup> Art. 10: *Dum capitaneus aut procurator incolam alterius ducatus detinuerit*, IMT, vol. 1, No. 73, p. 131; *Gdi starostha gymye kogo gymyenyego ma dacz na rankoyemstwo*, in: *Prawa...*, pp. 27-28.

<sup>102</sup> Art. 12: *Dum equus, vacca, bos a fure in alio ducatu defenditur*, IMT, vol. 1, No. 73, pp. 132; *O odbyczyu bidla kradzyonego v zlodzyeya*, in: *Prawa...*, p. 28.

<sup>103</sup> Art. 14: *De equis et pecoribus vagabundis*, IMT, vol. 1, No. 73, p. 132; *O bidle blandnem*, in: *Prawa...*, pp. 28-29.

<sup>104</sup> Art. 15: *De illo, qui cum penis fugit in alium ducatum*, IMT, vol. 1, No. 73, p. 132; *Gdi ktho s vynamy vezicze w druge xanschtwo*, in: *Prawa...*, p. 29.

<sup>105</sup> Art. 2: *De violencia per nobilem facta virgini seu mulieri*, IMT, vol. 1, No. 32, p. 47; *Possag gdi ktoran panna gwaltem vesmon*, in: *Prawa...*, p. 5.

<sup>106</sup> Art. 1: *Pena violatoris arrepti*, IMT, vol. 1, No. 33, p. 49; *Vyna takyego gwałtownyka gdi gy vphiczqn*, in: *Prawa...*, pp. 5-6.

<sup>107</sup> Art. 2: *Violencia nobilium per extraneos terrigenas*, IMT, vol. 1, No. 33, p. 49; *Gwałt slachczyankam przez zemyany gynschego panyastwa*, in: *Prawa...*, p. 6.

<sup>108</sup> Art. 3: *Quantitas dotis nobilium violenter receptorum*, IMT, vol. 1, No. 33, p. 49; *Malzenstwo przez voley star-schich*, in: *Prawa...*, p. 6.

The issues concerning the family law were tackled by the Duke of Warsaw in his statute of 22 July 1421. According to the aforementioned act, when the father of the family died, the care of the children was the responsibility of the mother until she remarried or her efforts proved harmful to them<sup>109</sup>. If the widow's care turned out to be harmful, and even if it was only unfavourable, the relatives could demand a court order prohibiting the mother from exercising her care, and then the indicated rights were transferred to those of them who guaranteed their best execution. The situation was similar when the mother died since at that time full parental power was vested in the father, who was in the possession of all the property of the deceased wife, including the parts to which the children were entitled, regardless of their sex<sup>110</sup>. However, no one had the right to deprive him of the care of his progeny.

#### b) Law of succession

It happened that sometimes a woman did not have a dowry or a bride token, which was not so rare because of the poverty of the Mazovian nobility, and then she was entitled to a compensation for her lost virginity, called a wreath (*crinile*), in the Mazovian sources, the amount of which was set by Janusz I of Warsaw in the statute of 1404 at 15 threescore of groschens, paid from the legacy of her deceased husband<sup>111</sup>.

The Act of 2 July 1414 was entirely devoted to the law of succession and concerned primarily situations in which the decedent had no descendants. If it was the husband who died first, the widow was entitled to one third of her dowry, which was secured on her husband's immovable property as a bride token (*dotalitium*), while the remaining part of the deceased husband's property belonged to his relatives<sup>112</sup>. However, if the husband did not establish a bride token for his wife on part of his estates, the widow had the right to stay in the deceased husband's house for life in case of his death and received half of the money remaining after him and valuables, as well as all the grain and cattle, both horned and polled<sup>113</sup>. The remainder of the decedent's estate was due to persons related collaterally (*consanguinei, propinquiores*) with the decedent, i.e. relatives in the collateral line.

When the woman took the dowry from her father, she obligatorily renounced her inheritance rights from him, and this was only valid if at least one of her brothers was alive<sup>114</sup>. However, if a woman was married off by her brothers, she inherited concurrently with the others after the death of one of them, but only if she did not voluntarily relinquish that right before the Duke's majesty or his officials.

The subsequent rules on the law of succession were laid down in the Statute of 22 July 1421. If a husband secured his wife's property brought in a dowry in the form of real estate on some other immovable property, which absolutely required the Duke's approval, then in

<sup>109</sup> Art. 1: *Articulus dotalicii*, IMT, vol. 1, No. 66, p. 109; *Członek o vyano*, in: *Prawa...*, pp. 22-23.

<sup>110</sup> Art. 11: *Quando pueri porcionem apud patrem recipiant*, IMT, vol. 1, No. 66, p. 112; *Gdi oczyecz ziw i s maczyerzqn dzyatky czqnszczy nyemayqn*, in: *Prawa...*, pp. 26-27.

<sup>111</sup> *De crinali mulierum*, IMT, vol. 1, No. 58, p. 90.

<sup>112</sup> Art. 1: *Domina sterilis terciam partem dotis ab amicis, si vult, alienabit*, IMT, vol. 1, No. 64, p. 98; *Pany pusta trzeczqn czanszcz possagu acz chce ot przyaczol oddalycz moze*, in: *Prawa...*, p. 20.

<sup>113</sup> Art. 3: *Divisi mulieris cum amicis mariti defuncti*, IMT, vol. 1, No. 64, p. 99; *Dzyl wdowi po smyrczi manza*, in: *Prawa...*, p. 21.

<sup>114</sup> Art. 2: *Quando porcionatur mulier legitima racione derelictorum inter fratres*, IMT, vol. 1, No. 64, p. 99; *Dziewka gdi ma czanszcz myedzi braczyqn a gdi nyema*, in: *Prawa...*, pp. 20-21.

the event of his death, the entire dowry became her property and then she did not inherit the remaining property of the decedent<sup>115</sup>. In turn, if a widow did not have a dowry, and her deceased husband owned several villages or other properties, then she could live where her spouse died until her death or entering another marriage, while the rest of the real estate was transferred by law to the relatives of the deceased man. If the heir left only one village or property behind, the widow inherited the legacy in equal parts with her children, whereby the house was to be leased by the mother. If the heir had no descendants, the widow inherited the whole of that village or property.

At the same time, the brothers had the right to buy from their sister the family goods up that she inherited by law<sup>116</sup>. The purchase was made on the basis of a respect set by friends of both parties and had to be paid in money.

### c) Property law

Property law governs the creation, content, change and cessation of ownership and other forms of use of things (*res*). During the period in question, the right of ownership was characterised by numerous restrictions on the use and disposal of an item for the benefit of third parties. The so-called 'propinquity law' (*ius propinquitatis*) belonged to the most important of these, the most popular form of which in Mazovia was the right of retraction, consisting in the possibility for relatives to buy out previously sold family goods<sup>117</sup>. The period of limitation for the purchase of the goods in question by virtue of the propinquity law was regulated by Janusz I of Warsaw in the statute of 20 March 1390 and spanned over the period of three years<sup>118</sup>. Interestingly, according to the Act of 10 March 1410, the propinquity law did not apply to contracts of exchange and donation<sup>119</sup>.

One of the most important property restrictions was constituted by the regalia and among them the regale bartne (forest beekeeping), to which the Duke of Warsaw devoted almost entirely the Act of 24 April 1401. The most important right resulting from the regale bartne was the right to collect honey tax payments from the beekeepers employing regale bartne on behalf of the ruler in private property<sup>120</sup>. At the same time, the beekeeper was obliged to appoint a guarantor in case he was not able to fulfil his obligations<sup>121</sup>. If he did not appoint a guarantor and did not deliver honey, he was liable to a penalty of 50, and if he persistently failed to meet his obligations, he was ordered to pay a double penalty of 50, paid to the Duke

<sup>115</sup> Art. 1: *Articulio dotalicii*, IMT, vol. 1, No.66, p. 109; *Członek o vyano*, in: *Prawa...*, pp. 22-23.

<sup>116</sup> Art. 2: *Exemcio bonorum hereditariorum a sororibus*, IMT, vol. 1, No. 66, p. 110; *O skupyenyu gymyeny ot syostr*, in: *Prawa...*, p. 23.

<sup>117</sup> Z. Rymaszewski, *Prawo bliższości krewnych w polskim prawie ziemskim do końca XV wieku*, Wrocław-Warszawa-Kraków 1970, p. 134.

<sup>118</sup> Art. 7: *Agens pro hereditate infra triennium agat*, art. 8: *Hereditatis vendicio redimatur pre propinquos*, IMT, vol. 1, No. 40, p. 59; *Kiho o dziedzyną czynycz ma we trzi lyata ma zalowaacz, Przedanye dziedzyni ma bicz okupyono przez blyshe ve trzi lata*, in: *Prawa...*, p. 10.

<sup>119</sup> *De commutatione perpetua bonorum immobilium*, IP, p. 429.

<sup>120</sup> Art. 1: *Modus resignacionis mellificiorum*, IMT, vol. 1, No. 55, p. 84; *Obyczay wsdawanya barczy*, in: *Prawa...*, p. 11.

<sup>121</sup> Art. 2: *Resignas mellificia cautionem imponat*, IMT, vol. 1, No. 55, p. 84; *Wsdawaynczi barcz ma postawicz rankoyemstwo*, in: *Prawa...*, p. 12.



and his officials and the plaintiff<sup>122</sup>. Persons from the simple folk, who decided to defend the beekeeper failing to fulfil his obligations for which he was sentenced to punishment of 50, were also subject to the said punishment<sup>123</sup>.

Additionally, the Statute of 24 April 1401 provided for the right of a pledge (*pignus*), vested in the creditor on someone else's property, established in order to obtain security for a given claim, most often a loan, whereby the indicated Act provided that the pledge could also expire by subrogation (*subrogatio*), i.e. when a third party repaid the pledgor's debt to the pledgee<sup>124</sup>.

The owner was entitled to the protection of the ownership right, which was claimed by means of both debt collection and negatory claims, whereby both said forms of ownership protection belong to the petitory type, understood as ownership right protection. The above mentioned claims consisted in the owner's claim for compensation from persons who had done specific damage to his goods. Pursuant to the statute of 4 August 1426, in the said situations, the law was only protecting the goods in respect of which the so-called announcement (*bannus*) was made, which, in general, was expressed by issuing a public ban on access to the areas covered by the indicated announcement<sup>125</sup>. If the land owner to which the announcement applied discovered that someone's cattle had been illegally grazed on it, then he could take the cattle, whereas the owner of the animals, in order to recover them, had to somehow buy them out, paying half a grosz for one horse, and one grosz for four sheep, goats, pigs or geese each.

#### d) Obligations

The warranty (surety) was widely applied in the Mazovian law, as a security when entering into all kinds of contracts. Until the beginning of the fifteenth century, the guarantor was released from further warranty if the debtor repaid part of the debt without notifying him of the indicated circumstance. A change in this respect was brought about by the statute announced by Janusz I of Warsaw on 23 April 1406, in which it was decided that only full payment of the debt by the debtor releases the guarantor from his obligations towards the creditor of the person to whom the warrant was given<sup>126</sup>.

The oldest form of a private contract was an exchange (*cambium, commutatio, permutatio*), which implied a commitment made by each party to transfer ownership of a movable or immovable item to the other party in exchange for an undertaking to transfer ownership of another item. The Act of 10 March 1410 provided that if the value of the mutual benefits was not equal, one party was required to provide additional benefits by paying an appropriate surplus, that could be paid in the form of both money and other things<sup>127</sup>.

<sup>122</sup> Art. 3: *Diffugium rectoris mellificiorum non resignantis*, IMT, vol. 1, No. 55, p. 85; *Gdi barthnyk vczycze barczy nye wsadw etc.*, in: *Prawa...*, pp. 12-13.

<sup>123</sup> Art. 4: *De repulsa insecutorum per kmethones*, IMT, vol. 1, No. 55, p. 85; *Gdi kmyeczye albo myesczanye bronyqn barthnyka*, in: *Prawa...*, p. 13.

<sup>124</sup> Art. 5: *Mutuam adquritur super altero obligacionem tenenti eiusdem debitoris*, IMT, vol. 1, No. 55, p. 86; *Poziczoni dlug ziskan moze bicz na onem czso trzima gymyenyne w zastawy dlusznykowo*, in: *Prawa...*, pp. 13-14.

<sup>125</sup> Art. 9: *De pecoribus in frumentis aut pratis in alio ducatu recipiendis*, IMT, vol. 1, vol. 73, p. 130; *O zagymanyu bidla na myesczczach zapowyyedzanych*, in: *Prawa...*, p. 27.

<sup>126</sup> Art. 4: *De caucione fideiussoria*, IMT, vol. 1, vol. 59, p. 92; *O rankoyemstwye*, in: *Prawa...*, p. 16.

<sup>127</sup> *De commutatione perpetua bonorum immobilium*, IP, p. 429.

On the other hand, the statute of 1412 abolished the draconian custom, under which the courts sentenced debtors who did not meet their obligations on time to pay a sum that was three or four times higher than the principal sum, which was a hidden usury<sup>128</sup>.

At the same time, on 22 July 1421, Janusz I of Warsaw introduced a ten-year statute of limitations in respect of the recovery of all claims as regards a private loan which was not entered in the locally competent land register or confirmed by a ducal act<sup>129</sup>.

#### e) The right to leave the village and the covenant of warranty of peasants

The freedom to leave the village was the right to move from the estate of one landlord to that of another but it could be applied under certain conditions. For social and economic relations, the entitlement of peasants to a warranty was of great importance because the right to leave was subject to many restrictions, and a landlord who wanted to bring a peasant into his property acted as a warrant to the previous master, guaranteeing the fulfilment of all obligations within a certain period of time<sup>130</sup>.

The legislative activity of the Duke of Warsaw involved the issue of leaving the village by peasants which he regulated by means of five statutes, namely in the promulgated acts of: 25 July 1389, 9 April 1391, 4 July 1407, 22 July 1421 and 4 August 1426.

A peasant farmer leaving the village at a time not prescribed by law was obliged to leave the house and the enclosure in good condition as well as to pay a specific amount of money to the landlord, whereby crofters (pol. *wardężynowie*) paid 15 groschens and cottagers (pol. *Ratajowie*) paid 3 grivnas<sup>131</sup>. Then, the duty to treat and sow the used field of corn in advance was imposed on a semifree peasant (Lat. *cmetos*)<sup>132</sup>. At the same time, the departing peasant had to return the aid and possible debts to the landlord but only up to the amount prescribed by law<sup>133</sup>. If the peasant was leaving at the right time, i.e. at the generally accepted time, he was only obliged to pay an annual rent, called 'siedziane', and if he was exercising his right to leave at some other time, he additionally had to provide an equally good substitute for his place or pay the so called 'wstane' in the amount of one threescore of groschens<sup>134</sup>. In the principality of Janusz I of Warsaw, the date of his leave was set for St. Martin's Day (11 November), with a notice period of two weeks<sup>135</sup>. Every peasant who made up for the

<sup>128</sup> Art. 1: *Creditor exigat pro damno tantum quantum de pena capitali*, IMT, vol. 1, No. 62, p. 96; *Poziczacz albo isczyecz ma wzyqncz za schkodq̄n tako wyele ilko gyszczisni a nyevyanczey*, in: *Prawa...*, pp. 18-19.

<sup>129</sup> Art. 9: *Agens pro mutuo infra X annos inchoet*, IMT, vol. 1, No. 66, p. 112; *Dług nye zapysani dawnoszczyn dzysyanczy lyath bandzye prozen*, in: *Prawa...*, p. 26.

<sup>130</sup> J. Bardach, op. cit., p. 510.

<sup>131</sup> The Statute of 9 IV 1391, *De ortulanis*, IMT, vol. 1, No. 40, p. 60; *Vyna za vardansnya, Rathay*, in: *Prawa...*, p. 10.

<sup>132</sup> The Statute of 22 VII 1421, art. 5: *De mutacione loci kmethonis*, IMT, vol. 1, No. 66, p. 110; *Gdi ogrodneyk cawal carczmarzs albo gynschi rzemyeslnyk ot pana chce vyycz*, in: *Prawa...*, p. 24.

<sup>133</sup> The Statute of 4 VII 1407, art. 1: *Kmethones iuvamen et alia iura solvent*, IMT, vol. 1, No. 60, p. 93; *O pomoczki kmyeczey*, in: *Prawa...*, p. 16.

<sup>134</sup> The Statute of 25 VII 1389, art. 1: *De kmethonibus, mansis non locatis recedentibus*, IMT, vol. 1, No. 37, pp. 54-55; *O kmyeczeych czso nye zassadzywschi wlok idq̄n precz*, in: *Prawa...*, p. 7; the Statute of 22 VII 1421, art. 5: *De mutacione loci kmethonis*, IMT, vol. 1, No. 66, p. 110; *Gdi ogrodneyk cawal carczmarzs albo gynschi rzemyeslnyk ot pana chce vyycz*, in: *Prawa...*, p. 24.

<sup>135</sup> The Statute of 22 VII 1421, art. 5: *De mutacione loci kmethonis*, IMT, vol. 1, No. 66, p. 110; *Gdi ogrodneyk cawal carczmarzs albo gynschi rzemyeslnyk ot pana chce vyycz*, in: *Prawa...*, p. 24.

above requirements could go with all his possessions wherever he wished, even to another principality<sup>136</sup>. Otherwise, he lost all the property left behind for the benefit of his master and had to reckon with the fact that he might be sought after and forced to return.

It was a common custom in Mazovia from the fifteenth century onwards for the nobility to vouch for semi free peasants (Lat. *cmetos*), which consisted in the fact that a peasant who wanted to leave his former landlord and was not able to fulfil all the duties imposed on him by the land law had to present a guarantor to his master, providing a guarantee that he would fulfil all the outstanding duties within one year<sup>137</sup>. If a peasant failed to fulfil his obligations within a year, the lord was entitled to a regress to a guarantor that was overdue after a year.

### Court procedure

The court procedure (*processus iudiciarius*), observed during the discussed period of time, was defined as the judicial proceedings. In the course of his legislative activity, Janusz I of Warsaw repeatedly reverted to the regulation of procedural law, which was supposed to facilitate the subjects in asserting their rights before the courts, as well as to improve the court proceedings. However, the overwhelming number of procedural regulations governed only the proceedings of evidence under oath of a party or witnesses.

The party's oath (*iuramentum*) was very often used during the Mazovian court proceedings, whereby the plaintiff (the aggrieved party) took an oath and the defendant (the accused party) an abjuration. Under the statute of 26 November 1397, a person accused of a petty theft of hay from the meadow for the first time or for the second time, had the right to abjure the alleged act, but already in the case of the third accusation the defendant had to take the oath together with two witnesses under the threat of a sentence of 50, paid to the duke, and a sentence of 15<sup>138</sup>, which was to compensate the injured party<sup>139</sup>. Also a private loan that was not entered in the locally applicable land register could be abjured by the debtor at any time<sup>140</sup>. On the other hand, the Act of 10 March 1410 instituted the principle that the claimant was entitled to swear an oath as to the amount of the sum claimed, if it was shown by other evidence that he was entitled to the payment provided by the defendant, although it was not possible to establish clearly its amount<sup>141</sup>.

Witnesses (*testes*) provided common evidence in cases where the use of other cumulative remedies, in particular the written ones, was impossible<sup>142</sup>. Most often witnesses were

<sup>136</sup> The Statute of 4 VIII 1426, art. 13: *Quando kmetho In alterius partis ducatus tempore debito, iuribus omnibus exolutis, recesserit, mittatur libere cum omnibus bonis suis*, IMT, vol. 1, No. 73, p. 132; *O them gdi kmyecz vinydzye w czas ot pana*, in: *Prawa...*, p. 28.

<sup>137</sup> The Statute of 25 VII 1389, art. 2: *De kmethone propter iniuriam recedente*, IMT, vol. 1, No. 37, p. 55; *O kmyeczyu prze czywdqn precz gydanczem*, in: *Prawa...*, p. 7.

<sup>138</sup> This punishment, contrary to its name, was 30 groschen. [The II Mazovian statute, art. 29: *De valore poenarum iudicialium*, IMT, vol. 3, the Mazovian statute II, p. 151]

<sup>139</sup> Art. 1: *Depascens prata violenter penam L luet*, art. 2: *De furto ponderis graminum*, IMT, vol. 1, No. 48, p. 71; *O kradzyezu brzemyeny trawi, O themze*, in: *Prawa...*, p. 11.

<sup>140</sup> The Statute of 22 VII 1421, art. 3: *Respondens pro debito iuramento se iustificabit*, IMT, vol. 1, No. 66, p. 110; *Na kogo zaluyqn o dlug nyezapyssani ma syqn oczyszczic przissyqngqn podlug obiczayu zyemye*, in: *Prawa...*, p. 23.

<sup>141</sup> Art. 3: *Actor iurabit super summa rerum, quas acquirit*, IMT, vol. 1, No. 61, p. 95; *Isczyecz ma przissyancz na summa ktorey w prawye ziszczee*, in: *Prawa...*, p. 18.

<sup>142</sup> The Statute of 22 VII 1421, art. 3: *Respondens pro debito iuramento se iustificabit*, IMT, vol. 1, No. 66, p. 110; *Na kogo zaluyqn o dlug nyezapyssani ma syqn oczyszczic przissyqngqn podlug obiczayu zyemye*, in: *Prawa...*, p. 23.

allowed to take the oath in criminal cases. The number of witnesses was strictly defined by the law (the so-called full witnesses), and a failure to keep it invalidated the entire evidence, whereby the party itself was also considered one of the witnesses. Basically, the Mazovian law considered the evidence taken from witnesses as valid if it was provided by six people. The statute of 23 April 1406 instituted the principle that confirming the transfer of ownership to immovable property before the court required the oath to be taken by six witnesses, while in the case of movables, the defendant's oath was sufficient<sup>143</sup>.

The person taking the oath had to make the customary gestures and was obliged to pronounce a *rota* prescribed by the court for the case in question in accordance with the contents of the petition, which contained a brief statement on the case pending before the courts. Under the statute of March 10, 1410, the oath-taker had to put his fingers on the cross in the place indicated by the usher to avoid 'faltering while taking the oath'<sup>144</sup>. By contrast, the Act of 25 July 1389 abolished the custom of taking the cloak of a faltering man<sup>145</sup>.

Initially, each wording of the oath (*rota*) had to be taken by the janitor three times, and the oath was to be repeated flawlessly each time. The Act of 23 April 1406 in cases exceeding the amount of 20 threescore of groschens still honoured purely and simply the oath taken three times, while in cases not exceeding the amount indicated, it respected a single repetition of the *rota*<sup>146</sup>.

The Mazovian judicial proceeding was initiated by the plaintiff's complaint, called mourning, filed before a competent judge. After hearing the complaint, the judge ordered the aggrieved party to file a statement of claim (*citacio*), which was a formal summoning of the party to the court. During the 14th century, an oral statement of claim was completely replaced by a written one, which according to the statute of 25 July 1389 was drawn up at the request of a party by a land writer. For doing so, he was entitled to a fee of no more than eight groschens, and the writer could charge no more than two groschens for its reading in court<sup>147</sup>. By virtue of the Act of August 4, 1426, the lawsuit was delivered by a janitor, doing so in the defendant's permanent place of residence, and when the dispute regarded real estate, it was to take place in the property that was to be involved<sup>148</sup>.

### Land privilege of 21 June 1414

Land privileges stretched over part of the country, covering one or more lands. As they constituted a general source of law, they were similar to the statutes, but the difference between them lied in the fact that the Duke relinquished certain of his prerogatives to his

<sup>143</sup> Art. 3: *Forme iuramenti exposite pro debitis*, IMT, vol. 1, No. 59, p. 92; *O summą vyanczschą nyzli dwadziesc-zya kop ma biez roczono trzikroczy*, in: *Prawa...*, pp. 15-16.

<sup>144</sup> Art. 3: *Actor iurabit super summa rerum, quas acquirit*, IMT, vol. 1, No. 61, p. 95; *Isczyecz ma przysyancz na summa ktorey w prawye ziszczee*, in: *Prawa...*, p. 18.

<sup>145</sup> Art. 5: *Indultum deposicionis palliorum*, IMT, vol. 1, No. 37, pp. 55-56; *Otpuszczenie seymowanya placzow v przysyany*, in: *Prawa...*, p. 8.

<sup>146</sup> Art. 3: *Forme iuramenti exposite pro debitis*, IMT, vol. 1, No. 59, p. 92; *O summą vyanczschą nyzli dwadziesc-zya kop ma biez roczono trzikroczy*, in: *Prawa...*, pp. 15-16.

<sup>147</sup> Art. 7: *Merces notariorum a litteris iudicialibus*, IMT, vol. 1, No. 37, p. 56; *Czso pyssarze bracz mayqan od sandowego lystha*, in: *Prawa...*, p. 8.

<sup>148</sup> Art. 2: *Indigene utriusque ducatus non debent citari aut arestarti in via, nisi ubi resident domestica mansione, excepta recenti violencia*, IMT, vol. 1, No. 73, p. 129.

subjects in the land privileges, which he never did in the statutes. The land privileges in Mazovia were a rarity and only 11 of them have been preserved to this day. The oldest known land privilege from the Mazovian lands is the Act of 21 June 1414 issued in Nowe Miasto by Janusz I of Warsaw for the Czersk and Warsaw nobility<sup>149</sup>.

In the first Mazovian land privilege, the Duke of Warsaw allowed the nobility of the Czersk and Warsaw lands to enter into a settlement after the lawsuit was filed, but even before the court proceedings started, which was made conditional on the payment of an appropriate court penalty in the amount of a double penalty of six grivnas, constituting a total sum of 15 groschens<sup>150</sup>. The aforementioned penalty was not given any name at that time and it was only Duke Bolesław IV, who described it as 'jednane' in his land privilege of 14 June 1448, extending the possibility of conciliation before the trial to the whole of his principality<sup>151</sup>.

Over the period in question, there was a distinction between ordinary taxes in Mazovia, which consisted of permanent and occasional benefits, and extraordinary taxes, including the obligation to pay the tax in certain specific circumstances, namely: the marriage of the Duke and his children, the redemption of the monarch and his sons from captivity, the buyback of the pledged land and the purchase of the new one. By the Act of 21 June 1414, Janusz I of Warsaw regulated the amount of 'swadziebne', i.e. the tax collected in case of the Duke's and his children's marriage, setting the amount of the tax at 12 Prague groschens from the volok. The stabilisation of the tax collected in case of the Duke's and his children's marriage was very important for the subjects because it was the most frequently imposed extraordinary tax. It should also be emphasised that the above mentioned tax was payable in the indicated amount throughout the whole of the Duke's Mazovia until 1526.

### Summing up

All the acts promulgated by Janusz I of Warsaw were issued in the years 1387-1426. The Elder of the Siemowit brothers announced 14 statutes, including one statute with nephews and one land privilege. None of the Dukes of Mazovia had such a rich legislative output, which also translated into a qualitative aspect. The statutes of Janusz I of Warsaw are predominantly composed of many articles and are characterised by diligence of editing and a variety of legal issues discussed, which implies the conclusion that the Duke of Warsaw was eminently concerned about the order and unification of the legal system in his principality.

More than one third of all regulations were devoted to criminal law, followed by *ex aequo* inheritance law and, interestingly, the right to leave together with the warranty of peasants. This means that the above branches of law were of greatest interest to the subjects of Janusz I of Warsaw who was meeting both the needs of his subjects and the changing social relations. The smallest number of regulations included norms on marriage and family, permanently headed by a husband while the wife and children were obliged to obey and respect him.

<sup>149</sup> IMT, vol. 1, No. 63, pp. 96-98; Cf. KDKM, No. 151, pp. 157-158; The first known land privilege from the Polish territory is the act issued by Duke Władysław Laskonogi in 1228 in Cienia for the Cracow district.

<sup>150</sup> „[...] *pro quolibet actu citacionis in se magnas sive parvas penas panczdesand predictas continente duas penas sex marcarum szeszcz grziwen dictas quindecim grossos in se continents dent et persolvant [...]*”. [IMT, vol. 1, No. 63, p. 97].

<sup>151</sup> „[...] *penas integras yednane dicta in duabus seprimanis immediate sequendis iudicio sub penis in terra currentibus et consuets solvent et pagabunt [...]*”. [IMT, vol. 1, No. 95, p. 169].

The Duke of Warsaw did not forget about the duties and the property law, as well as court proceedings, attaching the greatest importance to taking evidence under oath by both parties and witnesses. To conclude, in the acts presented above, substantive law was in a dominant position, distancing the procedural regulations.

In the legislative activity of Janusz I of Warsaw, special attention should be directed to unifying the limitation periods in both civil and criminal cases, simplifying the taking of evidence from the oath of a party and witnesses, regulating criminal law institutions such as the so-called 'beginning' or the act of homage, which in the Crown Law is known only from the sources concerning practice, as well as introducing a ban on hidden usury and sanctioning the pledge as a warrant for a creditor. However, it is the gradually introduced restrictions on taking revenge by the Duke of Warsaw that are the most surprising, as they demonstrate a great sense of responsibility towards the subjects, whose safety should be taken care of by the ruler as a guard of public order.

The provisions introduced by Duke Janusz I Warsaw turned out to be very durable and in line with social conditions because the subsequent statute, issued in Mazovia only on 16 November 1444 in Warsaw by Boleslaw IV, consisted of only one article and involved court fees in border cases<sup>152</sup>.

### **The legislative activity of the Duke of Mazovia Janusz I of Warsaw 1381-1429 Summary**

The article presents the legislative activity of Janusz I of Warsaw who from 1381 was an independent ruler of the Eastern Mazovia. It also offers an analysis of 15 legal instruments including 14 statutes and one landed privilege, which is the oldest known act of this type from the region of Mazovia delivered 21<sup>st</sup> June 1414 in Nowe Miasto for both the Czersk and Warsaw nobility. The article further deals with the division of specific regulations into criminal and private law, which includes marriage and family law, the law of succession, property law, obligations, the right of peasants to leave a village belonging to a feudal master as well as court proceedings. The article finishes with the presentation of the research results.

**Keywords:** Mazovian law, Mazovian statutes, landed privileges, Janusz I of Warsaw

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<sup>152</sup> IMT, vol. 1, No. 91.