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The Third Statute of Lithuania in the Russian Empire until 1840

Abstract

The partitions of the Polish-Lithuanian Commonwealth was not equal with the abolition of the previous legal order in its former territories. The Third Lithuanian Statute maintained its binding force for the longest time. It was not until 1831 that its provisions were repealed in the Belarusian governorates (Mogilev and Vitebsk). In the rest of western provinces it remained in force until 1840. It superseded the Second Lithuanian Statute on the territory of the left-bank Ukraine (Little Russia). However, even the introduction of Russian law in these areas in 1843 did not mean the end of the impact of the 1588 codification regulations. They were influencing the practice even in the first half of the 20th century. Such a long period of validity of the Third Lithuanian Statute was the result of the strong attachment of the Lithuanian nobility to their native law and the lack of Russian codification which would be capable to replace it.

Keywords: Third Lithuanian Statute, Grand Duchy of Lithuania, Russian Empire, ukases, governorates.

The partitions of the Polish-Lithuanian Commonwealth (1772–1795) initiated the process of abolishing the legal system existing in its former areas. The countries which had annexed Polish territories were taking actions aimed at removing Polish and Lithuanian laws and replacing them with their own regulations at different speed. The native law has been preserved for the longest time in the territories occupied by Russia, which means mainly in the former Grand Duchy of Lithuania¹.

Until the end of the 14th century, Lithuanian law was based primarily on custom. As time went by, the privileges of the princes began to gain importance, although they often only confirmed the prevailing custom². In 1468 Grand Duke Kazimierz Jagiellończyk (1427–1492) issued a statute called “Sudiebnik”, which was the first collection of regulations on criminal law and criminal proceedings in the Grand Duchy of Lithuania³. Significant social changes (increase of the importance of boyars) and

¹S. Grodziski, *Powszechna historia państwa i prawa. Problemy badawcze*, [in:] “Czasopismo Prawno-Historyczne”, vol. LII, 1–2, Poznań 2000, p. 10.

²Z. Kaczmarczyk, *Prawo litewskie*, [w:] *Historia państwa i prawa Polski*, t. 2: *od połowy XV wieku do r. 1795*, ed. J. Bardach, Warszawa 1966, p. 24; see also: A.B. Zakrzewski, *Wielkie Księstwo Litewskie (XVI–XVIII w.)*. *Prawo — ustroj — społeczeństwo*, Warszawa 2013, p. 215.

³L. Ćwikła, *Sudiebnik wielkiego księcia Kazimierza Jagiellończyka z 1468 r.* [ok] — *pierwszy zbiór przepisów z zakresu prawa karnego i postępowania sądowego w Wielkim Księstwie Litewskim*, [in:] “Studia Prawnicze KUL”, vol. 3–4 (47–48), Lublin 2011, p. 265.

the geopolitical situation (threat from Moscow and connections with Crown of the Kingdom of Poland) intensified the efforts to codify the law⁴. They were expressed in 1522 by the First Lithuanian Statute, which, after being corrected and supplemented, was approved in 1529 by King Zygmunt I Stary (1467–1548). However, there were some gaps in the statute, which in the following years were attempted to be filled in. In 1564 King Zygmunt II August (1520–1572) confirmed the new and more extensive codification. The Second Lithuanian Statute came into force in 1566. After all, it was only the Third Lithuanian Statute of 1588, which was supplemented during the reign of Stefan Batory and approved by his successor, that survived the partitions of the Polish-Lithuanian Commonwealth. It entered into force on 6th January 1589⁵, what is more, in significant areas of the former Grand Duchy of Lithuania (in western governorates) it remained in force until 1840⁶. At that time it was replaced by the Digest of Laws of the Russian Empire, which had been in force in Russia since 1835 (*Swod Zakonow Rossijskoj Imperii*). It was a collection of civil, administrative and criminal law norms⁷.

The Third Lithuanian Statute was published for the first time in 1588 in Momicz's printing house in Vilnius⁸. In the sixteenth-century Europe, codification work has not been limited only to recording the customs, but has, moreover, aimed to increase the importance of the law in such a way that it also applied to persons entrusted with public offices. This was reflected in the introduction of the principle of the territoriality of law. It meant the elimination of exclusive subordination to the law applicable to a specific social, ethnic or religious group in order to make it subject to the law applicable in a given territory⁹. This principle was also observed in the Third Lithuanian Statute¹⁰.

The introduction of the abovementioned document was initially accepted critically by the Polish nation¹¹. Mitrofan Downar-Zapolski even wrote about numerous regulations which were undermining Polish ambitions¹². Restrictions were imposed on Polish citizens living in the territory of the Grand Duchy of Lithuania, inter alia, in the field of the appointment of officials¹³. It was formally questioned that the Statute of

⁴ A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, p. 215.

⁵ H. Wisner, *III Statut w życiu państwowym Wielkiego Księstwa Litewskiego czasy Zygmunta i Władysława Wazów*, [w:] *Z dziejów kultury prawnej: studia ofiarowane Profesorowi Juliuszowi Bardachowi w dziewięćdziesięciolecie urodzin*, ed. A. Rosner, R. Sobotka, M. Wąsowicz, A. Zakrzewski, Warszawa 2004, p. 379.

⁶ O. W. Ščerduckij, *Sudy w bywshem' Welikom' Knjazhestwie Litowskom'*, Wil'na 1912, p. XV.

⁷ Z. Stankiewicz, *Źródła prawa*, [in:] *Historia państwa i prawa Polski*, vol. III: *od rozbiorów do uwłaszczenia*, ed. J. Bardach, M. Senkowska-Gluck, Warszawa 1981, p. 838.

⁸ O. W. Ščerduckij, *op. cit.*, p. XV.

⁹ J. Bardach, *Statuty Wielkiego Księstwa Litewskiego — pomniki prawa doby Odrodzenia*, [in:] "Kwartalnik Historyczny", year LXXXI, Warszawa 1974, p. 751; see also: *Idem*, *Statuty litewskie w ich kręgu prawnokulturowym*, [in:] *Idem*, *O dawnej i niedawnej Litwie*, Poznań 1988, p. 13.

¹⁰ A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, p. 221.

¹¹ H. Lulewicz, *Gniewów o unię ciąg dalszy. Stosunki polsko-litewskie w latach 1569–1588*, Warszawa 2002, p. 418.

¹² M.W. Downar-Zapoł'skij, *Istorija Belarussii*, Minsk 2005, p. 170.

¹³ A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, p. 221.

1588 was not included in the parliamentary acts (called constitutions)¹⁴. Although Lithuania's position had been strengthened, this situation has not affected the relationships between the countries. In turn, translated into Polish in 1614, the Third Lithuanian Statute had even grown to the rank of a law which was applied on auxiliary basis (only in the absence of a Polish legal norm in a specific case) in the practice of Polish courts in the second half of the 17th and 18th centuries¹⁵.

The Lithuanian nobility was characterized by a longstanding strong attachment to the Statute of 1588, which, in their opinion, embodied the autonomy of the Grand Duchy of Lithuania. Therefore, in the 18th century, attempts were made to codify the common judicial law between Poland and Lithuania, but these efforts did yield any results. Considering the sentiment of Lithuanians towards the III Statute, King Stanisław August Poniatowski (1732–1798) even considered the provisions contained in that document as a model, although he had to be aware that in the second half of the 18th century it was already a rather outdated codification¹⁶. In 1768, also the parliament of that time obliged the appointed committee, which was given the task of developing a new code, to treat the Third Lithuanian Status as a specific starting point in its work¹⁷. Even drafting the May 3 Constitution of 1791 did not help in adopting the code. The eighth article of the Constitution provided for the creation of a draft of such act by designated persons¹⁸. The seventeenth-century nobility was hostile towards new legal solutions, which was reflected in the parliamentary constitutions indicating the threat of a revolution. This attitude was only partially changed in the following century¹⁹. The failure of the codification work was partly due to a difficult geopolitical situation²⁰. It was also connected with the desire of the Lithuanian nobility to preserve the particular law and the lack of consent to a code common with the Crown of the Kingdom of Poland²¹. These circumstances contributed to the fact that the Statute of 1588, before the collapse of the Polish-Lithuanian Commonwealth, was not replaced by a more modern codification.

The first partition of Poland in 1772 did not result in the loss of validity of the civil law regulations and civil proceedings contained in the Third Lithuanian Statute²². They were related to everyday life and therefore difficult to replace²³. The parliamentary constitutions were also preserved. In the area of the Belostok Oblast,

¹⁴ J. Bardach, *Zatwierdzenie III Statutu litewskiego przez Zygmunta III Wazę*, [in:] "Czasopismo Prawno-Historyczne", vol. XXX (1), Poznań 1978, p. 47.

¹⁵ *Idem*, *Statuty Wielkiego Księstwa Litewskiego...*, p. 774; see also: *Idem*, *Statuty litewskie w Koronie Królestwa Polskiego*, [in:] "Studia z Dziejów Państwa i Prawa Polskiego", vol. 4, Łódź 1999, pp. 20, 24.

¹⁶ A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, pp. 227–228.

¹⁷ W. Szafrński, *Kodeks Stanisława Augusta*, Poznań 2007, p. 33.

¹⁸ *Konstytucja 3 Maja 1791 r.*, [in:] *Konstytucja 3 Maja 1791. Statut Zgromadzenia Przyjaciół Konstytucji*, ed. J. Kowecki, Warszawa 1981, p. 98.

¹⁹ B. Leśnodorski, *Ojczyznę moją wszelkimi... sposobami ratować...*, [in:] *Konstytucja 3 Maja 1791. Statut...*, p. 15; see also: W. Szafrński, *op. cit.*, p. 37.

²⁰ W. Szafrński, *op. cit.*, p. 34.

²¹ J. Bardach, *Statuty litewskie w Koronie...*, p. 26.

²² A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, p. 229.

²³ *Idem*, *Zmierzch staropolskiego prawa*, [in:] *Zmierzch kultury staropolskiej. Ciągłość i kryzysy (wieki XVII–XIX)*, ed. U. Augustyniak, A. Karpiński, Warszawa 1997, p. 54.

which was established in 1807 as a result of merging the Polish part of Podlasie with the areas formerly belonging to the Grand Duchy of Lithuania, two legal orders were maintained — the Polish-Prussian order and the Lithuanian order which was based on the norms of the Third Lithuanian Statute. Catherine II (1729–1796) and her successor Paul I (1754–1801) did not interfere with the law in force in the annexed lands. This was mainly due to the diversity of the conquered territories²⁴, the desire to obtain favourable reactions of the nobility, as well as the lack of Russian codification, which could replace the existing codified Lithuanian law. However, the legislation of the Four-Year Sejm (1788–1792), treated as the aftermath of the French Revolution²⁵, as well as the significant part of the penal regulations of the Statute of 1588²⁶ were repealed. Despite the desire to preserve local rights expressed by Emperor Paul I, at the beginning of the third decade of the 19th century Lithuanian criminal law was applied only in the case of absence of Russian regulations in a specific case. The existing system and administrative regulations were also incompatible with the new method of governing the state, which is why they were quickly replaced by Russian law. The introduced changes involved the field of police, taxation and administration²⁷. It is interesting that the Russian authorities were not familiar with the laws in force before the partitions of the Polish-Lithuanian Commonwealth and referred to them vaguely²⁸.

Despite this, the Third Lithuanian Statute was published in 1811 in the St. Petersburg edition, which included, apart from the Polish text, also the Russian translation, which was published by the printing house of the Governing Senate²⁹. Although the publication had a great practical value for the activity of courts and offices, it did not gain the status of an official text³⁰. At the same time, it was not free from defects, and in September 1828 Ignacy Daniłowicz recalled in his letter from Kharkiv to Joachim Lelewel that work was underway in St. Petersburg to improve the Russian translation of 1811³¹.

Maintaining the provisions of the Third Lithuanian Statute and the parliamentary constitutions did not mean that the Russian authorities would refrain from interfering in their provisions. Lithuanian law in the western governorates was gradually changed by the tsarist edicts and regulations. The lower authorities were also given orders³². The

²⁴ A. Korobowicz, W. Witkowski, *Uwagi o sądownictwie i prawie sądowym w „guberniach zachodnich” Cesarstwa Rosyjskiego w XIX wieku*, [in:] *Wielokulturowość polskiego pogranicza. Ludzie — idee — prawo*, ed. A. Lityński, P. Fiedorczyk, Białystok 2003, p. 67.

²⁵ Z. Stankiewicz, *op. cit.*, p. 837; see also: W. Kulisiewicz, *Trzeci Statut Litewski w dobie porozbiorowej*, [in:] *“Czasopismo Prawno-Historyczne”*, vol. XLIV (1–2), Poznań 1993, pp. 75, 77.

²⁶ A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, p. 229.

²⁷ A. Korobowicz, W. Witkowski, *op. cit.*, pp. 67–68.

²⁸ W. Kulisiewicz, *op. cit.*, p. 77.

²⁹ S. Ehrenkreutz, *Stan badań nad Statutem litewskim*, [w:] *“Ateneum Wileńskie. Czasopismo naukowe poświęcone badaniom przeszłości ziem W. X. Litewskiego”*, year II (7–8), Wilno 1924, pp. 301–302.

³⁰ S. Godek, *III Statut litewski po upadku Rzeczypospolitej w rosyjskiej literaturze naukowej XIX i początku XX wieku*, [in:] *“Zeszyty Prawnicze UKSW”*, vol. 9 (2), Warszawa 2009, p. 64.

³¹ L. Sadowska, *Z listów do Joachima Lelewela o Statucie litewskim (1815–130)*, [in:] *“Ateneum Wileńskie. Czasopismo naukowe poświęcone badaniom przeszłości ziem Wielkiego X. Litewskiego”*, year VI (1–4), Wilno 1929, p. 623.

³² A. Korowicki, *Proces cywilny litewski*, Wilno 1826, pp. 2–3.

relatively largest number of changes concerned the organisation of courts. As early as 1772, they gave orders on behalf of Catherine II³³. At the same time, work was carried out to compare the Polish-Lithuanian law with Russian regulations in order, as Ignacy Daniłowicz claimed, to consider the superiority of certain solutions over another ones, and even to introduce the domestic law into Russian codifications. Only after the results of the work had been sent to the courts would it turn out whether it was appropriate to carry out such activities. However, the alleged changes could not include Russian administrative law but only civil and criminal law³⁴.

In January 1797 the Lithuanian Courier (“Kurier Litewski”) announced the publication of interesting information from St. Petersburg as well as official ukases and regulations³⁵. In this way, the Vilnius newspaper became a real source of information about the law in force, because almost every issue contained the fragments of legal acts³⁶. As Piotr Żbikowski noted, most of the ukases and regulations published at that time were in fact the tsar’s orders, which were addressed directly to the public or were handed over to people by senior civil servants, mainly governors³⁷. Some of them were not published and they remained secret³⁸.

In spite of this, the preservation of the provisions of the Third Lithuanian Statute required constant learning of this code, and as the witness Ignacy Domeyko (1802–1889) recalled, the adepts of the lawyer’s profession carried the text of this code with themselves³⁹. Edward Tomasz Massalski (1799–1879) claimed that in the curriculum at the Faculty of Law of the Polotsk Academy, only some subjects were taught in Polish, including the court proceedings and the Lithuanian Statute⁴⁰. This codification was also the basis of the lecture on domestic law (including civil law and civil proceedings) held in the first half of the 19th century at Vilnius University⁴¹. Therefore, the situation forced both lawyers and students to explore the provisions of two legal systems⁴².

In practice, already at the beginning of the 19th century, the parties to the disputes often referred to the tsarist ukases in courts, comparing their content with the provisions of the Statute and the parliamentary constitutions. This sometimes caused irritation among the participants in the proceedings still attached to the law of the Polish-Lithuanian Commonwealth. The case of Franciszek Puciłowski, an experienced Vilnius lawyer, who surprised the opposite party with legal arguments, is well known. The opponent tried to defend himself by quoting the tsarist ukase. The angry

³³ A. Korobowicz, W. Witkowski, *op. cit.*, p. 69.

³⁴ L. Sadowska, *op. cit.*, p. 625.

³⁵ P. Żbikowski, *W imperium carów: „Kurier Litewski” 1796–1806*, Lublin 2014, p. 187.

³⁶ A. Śniezko, *Materiały do historii prasy na Litwie w XVIII i XIX w.*, [in:] “Rocznik Historii Czasopiśmiennictwa Polskiego”, vol. 11, no. 4, Wrocław 1972, p. 538.

³⁷ P. Żbikowski, *op. cit.*, p. 189.

³⁸ S. Godek, *III Statut litewski w dobie porozbiorowej — stan badań nad dziedzictwem prawa litewskiego*, [in:] *Stan badań nad wielokulturowym dziedzictwem dawnej Rzeczypospolitej*, vol. II, ed. W. Walczak, K. Łopatecki, Białystok 2010, p. 496.

³⁹ I. Domeyko, *Filareci i Filomaci*, [in:] *Z filareckiego świata. Zbiór wspomnień z lat 1816–1824*, ed. H. Mościcki, Warszawa 1924, p. 78.

⁴⁰ E.T. Massalski, *Z pamiętników (1799–1824)*, [in:] *Z filareckiego świata. Zbiór wspomnień...*, p. 247.

⁴¹ S. Godek, *III Statut litewski w dobie porozbiorowej*, Warszawa 2012, pp. 138–143.

⁴² A.B. Zakrzewski, *Zmierzch staropolskiego prawa...*, p. 50.

lawyer, disregarding the consequences, was supposed to say during the public session of the court: “and such law was probably written in Algiers!” Shortly afterwards, he suffered the severe consequences of his act, as he was disqualified from the advocate’s profession⁴³. Interestingly, the contradictions between the regulations of the Lithuanian Statute and the Russian law were sometimes solved by issuing decisions combining both legal systems. There had even been cases of giving priority to the local law⁴⁴. The situation was not made any easier by the fact that many contradictions could be found in the content of the ukases⁴⁵.

The impact of the provisions of the Third Lithuanian Statute after the partitions went beyond the territory of the Russian partition. Based on the 1775 patent issued by Empress Maria Theresa, it retained the legal role applied as an auxiliary law to the Polish inheritance law on the lands seized by Austria in 1772. The provisions of the Third Lithuanian Statute were also applied in criminal cases⁴⁶. However, such situations were rare, as outside the former Grand Duchy of Lithuania, the annexationist states replaced Polish law relatively quickly with their own regulations⁴⁷.

The social changes which took place in the second half of the 18th century in the left-bank Ukraine (on the left side of the Dnieper River) led to granting the noble rights to a distinguished class of the local population (Cossack elders). For this reason, it was also necessary to introduce a new judicial structure. The solutions applied were those known from the Lithuanian Statute⁴⁸. The ukase of 1797 mentioned that the nobility in Little Russia (covering the lands of the left-bank Ukraine⁴⁹ i.e. the Poltava and Chernihiv governorates) was judged according to the Lithuanian Statute⁵⁰. Furthermore, in September 1825 Józef Jaroszewicz (1793–1860)⁵¹ wrote from Krzemieniec to Joachim Lelewel (1786–1861)⁵², that Russian civil law and Lithuanian Statute was in force in Little Russia⁵³. It remains uncertain whether it was still the so-called Volhynian Statute (i.e. the Second Lithuanian Statute of 1566 as amended, which was in force in Ukraine after its incorporation into the Crown of the Kingdom of Poland by the Union of Lublin in 1569), or via facti the Third Lithuanian Statute⁵⁴. It seems, however, that despite the formal validity of the Second Lithuanian Statute in Little Russia, it was superseded by the 1588 codification⁵⁵. This is likely to have happened

⁴³ S. Morawski, *Kilka lat młodości mojej w Wilnie (1818–1825)*, Warszawa 1924, p. 430.

⁴⁴ S. Godek, *III Statut litewski w dobie porozbiorowej — stan badań...*, p. 496.

⁴⁵ A.B. Zakrzewski, *Zmierzch staropolskiego prawa...*, p. 50.

⁴⁶ J. Bardach, *Statuty litewskie w Koronie...*, p. 24; see also: S. Godek, *III Statut litewski w dobie porozbiorowej — stan badań...*, p. 474.

⁴⁷ A. Korobowicz, W. Witkowski, *op. cit.*, p. 66.

⁴⁸ J. Bardach, *Sądy i postępek sądowy na Ukrainie*, [in:] “Czasopismo Prawno-Historyczne”, vol. XX (2), Poznań 1968, pp. 130–131.

⁴⁹ A. Korobowicz, W. Witkowski, *op. cit.*, p. 63.

⁵⁰ S. Godek, *III Statut litewski w dobie porozbiorowej...*, p. 444.

⁵¹ Józef Jaroszewicz — lawyer, professor of the University in Vilnius.

⁵² Joachim Lelewel — historian, lawyer, professor of the University in Vilnius and the University in Warsaw, political activist.

⁵³ L. Sadowska, *op. cit.*, p. 620.

⁵⁴ J. Bardach, *Sądy i postępek sądowy...*, p. 131.

⁵⁵ S. Godek, *III Statut litewski po upadku Rzeczypospolitej...*, p. 55.

already in the second half of the 17th century and covered all of Ukraine, including the south-western governorates⁵⁶. The Third Lithuanian Statute was more modern and complete and it enjoyed greater recognition⁵⁷.

In accordance with the provisions of the 1588 Statute, courts should issue judgments only on the basis of the provisions contained therein. In the absence of appropriate regulations, the decision was to be made on the basis of conscience and other laws used by Christians (IV, 54)⁵⁸. Presumably, this could have meant referring to Roman, Canon and Magdeburg law⁵⁹. In 1756, the Governing Senate referred to this regulation. This institution recommended the gaps in the Statute to be filled in with the law applicable to the townspeople⁶⁰. In the left-bank Ukraine, in addition to the Third Lithuanian Statute (including the criminal law provisions contained therein⁶¹) the law of Magdeburg was in force, which, however, was also superseded by the Statute in judicial practice. Eventually, it lost its validity in these areas on the basis of a ukase issued in 1843⁶².

Earlier, as in 1831, the Statute in the Belarusian governorates (Mogilev and Vitebsk) was repealed by means of a ukase⁶³. Smolensk, Vitebsk and Mogilev Governor-General⁶⁴ Duke Mikołaj Chowański (1777–1837) and Mogilev Civil Governor⁶⁵ Michał Murawjow (1796–1866)⁶⁶ particularly strived to abolish the legal differences. Some researchers combine the circumstances of the abolition of the Third Lithuanian Statute in the remaining governorates of the Western Krai with the russification process carried out during the reign of Emperor Nicholas I (1796–1855)⁶⁷. It is interesting to note that even in St. Petersburg there were many supporters of preservation of the local law. In spite of this fact, the ukase of 1840 repealed the existing regulations of the Third Lithuanian Statute in the following governorates: Kiev, Podolia, Volhynia, Minsk, Vilnius, Grodno, as well as in the Belostok Oblast⁶⁸. It remains symbolic that at the same time Emperor Nicholas I forbade the use of the term “Lithuanian governorates”

⁵⁶ J. Bardach, *Statuty litewskie w Koronie...*, p. 21; see also: A. Korobowicz, W. Witkowski, *op. cit.*, p. 67.

⁵⁷ J. Bardach, *Statuty litewskie a prawo rzymskie*, Warszawa 1999, p. 87.

⁵⁸ *Statut Wielkiego Xięstwa Litewskiego, Naprzód, za Naiśniejszego Hospodara Krola Jego Mosci Zygmunta III w Krakowie w Roku 1588. Drugi raz w Wilnie, w Roku 1619. z pokazaniem zgody y różnice Statutow Koronnych y W.[ielkiego] X.[ięstwa] L.[itewskiego]. Trzeci raz, za Naiśniejszego K.[róla] J.[ego] M.[ośc]i Władysława IV. w Warszawie, w Roku 1648, z przydaniem Konstytucyi od Roku 1550. do 1647. Cztery raz, za Naiśniejszego Krola Jego Mosci Jana Trzeciego w Wilnie w Roku 1698. Z przyłożeniem pod Artykuły Konstytucyi Seymowych od Seymu Roku 1550. aż do Seymu Roku 1690. Obojgu Narodom służących, (Textu samego niwczym nie naruszając) Teraz zaś piąty raz, za szczęśliwie panującego Naiśniejszego Krola Jego Mosci Augusta Trzeciego przedrukowany*, Wilno 1744, p. 179.

⁵⁹ A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, p. 222.

⁶⁰ S. Godek, *III Statut litewski w dobie porozbiorowej...*, p. 444.

⁶¹ A. Korobowicz, W. Witkowski, *op. cit.*, p. 69.

⁶² J. Bardach, *Sądy i postępek sądowy...*, p. 132; see also: S. Godek, *III Statut litewski po upadku Rzeczypospolitej...*, pp. 55, 78.

⁶³ S. Godek, *III Statut litewski w dobie porozbiorowej...*, p. 13.

⁶⁴ *Nikolaj Nikolaewič Chowanskiĭ*, [in:] W.I. Fedorčenko, *Senatory Rossijskoj Imperii. Encyklopediā biografij*, vol. II, Moskva 2018, p. 510.

⁶⁵ *Michail Nikolaewič Muraw'ew*, [in:] W.I. Fedorčenko, *op. cit.*, p. 75.

⁶⁶ W. Kulisiewicz, *op. cit.*, p. 83.

⁶⁷ S. Godek, *III Statut litewski w dobie porozbiorowej — stan badań...*, p. 481.

⁶⁸ *Idem*, *III Statut litewski po upadku Rzeczypospolitej...*, pp. 73–74.

as an indication of their non-Russian character. Until 1840, most of the regulations which were unrelated to the politics survived. These included Lithuanian civil law, with the exception of the rules governing the institution of marriage. Before the final introduction of Russian law, the Constitution of 1775 on bills of exchange (in 1832) and the law on the sale of the property of minors (in 1836) were also abolished⁶⁹. The final introduction of the Russian legal order in the areas of the former Grand Duchy of Lithuania, connected with small independence of the judiciary, caused quite considerable confusion. It was not uncommon for judgements to be based on the will of the governor, and the application of law replaced waiting for the ukase⁷⁰.

The Lithuanian nobility's attachment to the Statute of 1588 was fully manifested after it was finally replaced by a set of Russian laws in 1840. Władysław Syrokomla [actually Ludwik Kondratowicz] stated several decades later that this was the cause of numerous complaints and widespread regret. Some of the nobility even appealed to Emperor Nicholas I to keep the Statute in force. This mission was a partial success because the ruler agreed to preserve the Statute in the Chernihivian and Poltava governorates in the field of family law⁷¹. In the remaining part, however, Russian regulations were in force. Despite this, the local law was used in judicial practice in Ukraine (especially on the left-bank) until the revolution of 1917⁷². There is even a known account which proves the application of the Third Lithuanian Statute to landed estates in the eastern part of the Republic of Poland in 1924⁷³. During one of his lectures at Vilnius University in 1919, Alfons Parczewski mentioned the fact that some of its provisions were still in force in the Poltava and Chernihiv governorates⁷⁴. A part of the regulations of the Third Lithuanian Statute was transformed at the beginning of the 20th century into customs, which were used in practice even after 1918⁷⁵. It also seems significant that after the introduction of the Russian judicial model and the replacement of the Statute by the Digest of Laws of the Russian Empire (*Swod Zakonow Rossijskoj Imperii*) the popularity of arbitration courts has increased appreciably⁷⁶. The recognition for the 1588 codification was also expressed in the proposal submitted to Alexander I by Prince Adam Jerzy Czartoryski. In the years 1813–1814 the Prince sought to merge the Duchy of Warsaw with Western governorates (Lithuania, Belarus, Ukraine) and proposed to the Emperor that the Napoleonic Code should be replaced by the regulations of the Third Lithuanian Statute⁷⁷.

⁶⁹ A. Korobowicz, W. Witkowski, *op. cit.*, pp. 65, 68.

⁷⁰ [L. Kondratowicz] W. Syrokomla, *Sądownictwo na Żmudzi*, [in:] "Przegląd Powszechny", year 14, vol. LIII, Kraków 1897, p. 383.

⁷¹ *Ibidem*, p. 380.

⁷² A. Korobowicz, W. Witkowski, *op. cit.*, p. 75; see also: A.B. Zakrzewski, *Wielkie Księstwo Litewskie...*, p. 230; W. Sobociński, *Sąd i prawo w Polsce pod zaborami*, [in:] "Państwo i Prawo", year XXII (2), Warszawa 1967, p. 222.

⁷³ W. Sobociński, *op. cit.*, p. 225.

⁷⁴ A. Parczewski, *Wilno a nauka historii ustroju państwowego i dawnego prawa w Polsce*, Wilno 1922, p. 11.

⁷⁵ A.B. Zakrzewski, *Zmierzch staropolskiego prawa...*, p. 53.

⁷⁶ W. Sobociński, *op. cit.*, p. 224.

⁷⁷ J. Bardach, *Statuty litewskie w Koronie...*, p. 27.

References

Printed sources

- Domeyko I., *Filareci i Filomaci*, [in:] *Z filareckiego świata. Zbiór wspomnień z lat 1816–1824*, ed. H. Mościcki, Warszawa 1924.
- [Kondratowicz L.] Syrokomla W., *Sądownictwo na Żmudzi*, [in:] “Przegląd Powszechny”, year 14, vol. LIII, Kraków 1897.
- Konstytucja 3 Maja 1791 r.* [in:] *Konstytucja 3 Maja 1791. Statut Zgromadzenia Przyjaciół Konstytucji*, opracował J. Kowecki, Warszawa 1981.
- Korowicki A., *Proces cywilny litewski*, Wilno 1826.
- Massalski E. T., *Z pamiętników (1799–1824)*, [in:] *Z filareckiego świata. Zbiór wspomnień z lat 1816–1824*, ed. H. Mościcki, Warszawa 1924.
- Morawski S., *Kilka lat młodości mojej w Wilnie (1818–1825)*, Warszawa 1924.
- Sadowska L., *Z listów do Joachima Lelewela o Statucie litewskim (1815–130)*, [in:] “Ateneum Wileńskie. Czasopismo naukowe poświęcone badaniom przeszłości ziem Wielkiego X. Litewskiego”, year VI (1–4), Wilno 1929.
- Statut Wielkiego Xięstwa Litewskiego, Naprzód, za Naiśniejszego Hospodara Krola Jego Mosci Zygmunta III w Krakowie w Roku 1588. Drugi raz w Wilnie, w Roku 1619. z pokazaniem zgody y różnice Statutów Koronnych y W.[ielkiego] X.[ięstwa] L.[itewskiego]. Trzeci raz, za Naiśniejszego K.[róla] J.[ego] M.[ości] Władysława IV. w Warszawie, w Roku 1648, z przydaniem Konstytucyi od Roku 1550. do 1647. Czwarty raz, za Naiśniejszego Krola Jego Mosci Jana Trzeciego w Wilnie w Roku 1698. Z przyłożeniem pod Artykuły Konstytucyi Seymowych od Seymu Roku 1550. aż do Seymu Roku 1690. Obojgu Narodom służących, (Textu samego niwczym nie naruszaiąc) Teraz zaś piąty raz, za szczęśliwie panującego Naiśniejszego Krola Jego Mosci Augusta Trzeciego przedrukowany*, Wilno 1744.

Literature

- Bardach J., *Sądy i postępek sądowy na Ukrainie*, [in:] “Czasopismo Prawno-Historyczne”, vol. XX (2), Poznań 1968.
- Bardach J., *Statuty litewskie a prawo rzymskie*, Warszawa 1999.
- Bardach J., *Statuty litewskie w Koronie Królestwa Polskiego*, [in:] “Studia z Dziejów Państwa i Prawa Polskiego”, vol. 4, Łódź 1999.
- Bardach J., *Statuty litewskie w ich kręgu prawno-kulturowym*, [in:] *Idem, O dawnej i niedawnej Litwie*, Poznań 1988.
- Bardach J., *Statuty Wielkiego Xięstwa Litewskiego — pomniki prawa doby Odrodzenia*, [in:] “Kwartalnik Historyczny”, year LXXXI, Warszawa 1974.
- Bardach J., *Zatwierdzenie III Statutu litewskiego przez Zygmunta III Wazę*, [in:] “Czasopismo Prawno-Historyczne”, vol. XXX (1), Poznań 1978.
- Ćwikła L., *Sudiebnik wielkiego księcia Kazimierza Jagiellończyka z 1468 r.[oku] — pierwszy zbiór przepisów z zakresu prawa karnego i postępowania sądowego w Wielkim Xięstwie Litewskim*, [in:] “Studia Prawnicze KUL”, vol. 3–4 (47–48), Lublin 2011.
- Dovnar-Zapol’skij M. W., *Istorija Belarussii*, Minsk 2005.
- Ehrenkretz S., *Stan badań nad Statutem litewskim*, [w:] “Ateneum Wileńskie. Czasopismo naukowe poświęcone badaniom przeszłości ziem W. X. Litewskiego”, year II (7–8), Wilno 1924.
- Fedorčenko W.I., *Senatory Rossijskoj Imperii. Encyklopediâ biografij*, vol. II, Moskwa 2018.
- Godek S., *III Statut litewski po upadku Rzeczpospolitej w rosyjskiej literaturze naukowej XIX i początku XX wieku*, [in:] “Zeszyty Prawnicze UKSW”, vol. 9 (2), Warszawa 2009.
- Godek S., *III Statut litewski w dobie porzbirowej*, Warszawa 2012.

- Godek S., *III Statut litewski w dobie porozbiorowej — stan badań nad dziedzictwem prawa litewskiego*, [in:] *Stan badań nad wielokulturowym dziedzictwem dawnej Rzeczypospolitej*, vol. II, ed. W. Walczak, K. Łopatecki, Białystok 2010.
- Grodziski S., *Powszechna historia państwa i prawa. Problemy badawcze*, [in:] “Czasopismo Prawno-Historyczne”, vol. LII, 1–2, Poznań 2000.
- Kaczmarczyk Z., *Prawo litewskie*, [w:] *Historia państwa i prawa Polski*, t. 2: *od połowy XV wieku do r. 1795*, ed. J. Bardach, Warszawa 1966.
- Korobowicz A., Witkowski W., *Uwagi o sądownictwie i prawie sądowym w „guberniach zachodnich” Cesarstwa Rosyjskiego w XIX wieku*, [in:] *Wielokulturowość polskiego pogranicza. Ludzie — idee — prawo*, ed. A. Lityński, P. Fiedorczyk, Białystok 2003.
- Kulisiewicz W., *Trzeci Statut Litewski w dobie porozbiorowej*, [in:] “Czasopismo Prawno-Historyczne”, vol. XLIV (1–2), Poznań 1993.
- Leśnodorski B., *Ojczyznę moją wszelkimi... sposobami ratować...*, [in:] *Konstytucja 3 Maja 1791. Statut Zgromadzenia Przyjaciół Konstytucji*, opracował J. Kowecki, Warszawa 1981.
- Lulewicz H., *Gniewów o unię ciąg dalszy. Stosunki polsko-litewskie w latach 1569–1588*, Warszawa 2002.
- Parczewski A., *Wilno a nauka historii ustroju państwowego i dawnego prawa w Polsce*, Wilno 1922.
- Ščerduckij O.W., *Sudy w byvshem’ Velikom’ Knjazhestwie Litovskom’*, Wil’na 1912.
- Sobociński W., *Sąd i prawo w Polsce pod zaborami*, [in:] “Państwo i Prawo”, year XXII (2), Warszawa 1967.
- Stankiewicz Z., *Źródła prawa*, [in:] *Historia państwa i prawa Polski*, t. III: *od rozbiorów do uwłaszczenia*, ed. J. Bardach, M. Senkowska-Gluck, Warszawa 1981.
- Szafrąński W., *Kodeks Stanisława Augusta*, Poznań 2007.
- Śnieżko A., *Materiały do historii prasy na Litwie w XVIII i XIX w.*, [in:] “Rocznik Historii Czasopiśmiennictwa Polskiego”, vol. 11, no. 4, Wrocław 1972.
- Wisner H., *III Statut w życiu państwowym Wielkiego Księstwa Litewskiego czasy Zygmunta i Władysława Wazów*, [w:] *Z dziejów kultury prawnej: studia ofiarowane Profesorowi Juliuszowi Bardachowi w dziewięćdziesięciolecie urodzin*, ed. A. Rosner, R. Sobotka, M. Wąsowicz, A. Zakrzewski, Warszawa 2004.
- Zakrzewski A.B., *Wielkie Księstwo Litewskie (XVI–XVIII w.). Prawo — ustrój — społeczeństwo*, Warszawa 2013.
- Zakrzewski A.B., *Zmierzch staropolskiego prawa*, [in:] *Zmierzch kultury staropolskiej. Ciągłość i kryzysy (wieki XVII–XIX)*, ed. U. Augustyniak, A. Karpiński, Warszawa 1997.
- Żbikowski P., *W imperium carów: „Kurier Litewski” 1796–1806*, Lublin 2014.