

WITCHCRAFT COURT CASES IN THE GRAND DUCHY OF LITHUANIA IN THE SIXTEENTH TO EIGHTEENTH CENTURIES

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ABSTRACT The article presents an analysis of court procedures against witches in Lithuania. The author explains which courts handled such cases and which legal acts regulated the course of these procedures. The witchcraft court procedure in Lithuania is compared to a procedure discussed in a book by Jakob Sprenger and Heinrich Institor (Kramer) from 1487 called 'Malleus Maleficarum' (Hammer of the Witches). The similarities and differences between these court procedures are revealed.

A belief in supernatural powers exists in all religions and cultures, extending to the creatures and people who possess such powers and are able to communicate with them or adopt their skills. Some were trusted and their prophecies were heeded, their power to heal was highly appreciated. Others were avoided at all costs, and even feared. The difference always lay in the source of those powers, whether they arose from good or evil, gods or demons, and what purpose those powers served, to help, or to cause harm. Punishment awaited those who used spells for doing evil deeds since time immemorial. However, only in the second half of the 14th century did that punishment develop into an uncontrollable, blind persecution of people merely suspected of such activities, ending with their merciless elimination. The opinion was formed that spells and curses arose from the Devil's will. Apostasy and acceptance of the Devil's help, or making the proverbial deal with the Devil, was declared the greatest heresy.¹ At the Fifth Council of the Lateran

¹ The bull of Pope John XXII of 1326 *Super illius specula*, published by T. Gałuszka, 'Magia jako *factum haereticale*. Wokół bulli Jana XXII *Super illius specula*', *Przegląd Historyczny*, z. 2 (2006), p. 234. The papal bull of Innocent VIII of 1484 *Summis desiderantes*. Translation into English: <http://web.archive.org/web/20080523174317/http://www.malleusmaleficarum.org/mm00e.html> (accessed on 06 12 2011).

in 1514, witchcraft was recognised not just as heresy, but as a secular crime as well.² The fiercest court procedures against witches took place in Germany, Switzerland and France. Other European countries and America were not far behind. The Grand Duchy of Lithuania (GDL) remained on the periphery of these events. The scale of witch-hunts here was much more modest, as was the number of victims. According to the research data, of almost 400 people accused of this crime, only every fifth suspect actually received the death sentence,³ and almost 14% were completely acquitted. We should also note that in Western Europe, the majority of the accused in such court procedures were women. Between the 14th and the mid-17th centuries, the percentage of accused who were women was 85% in Germany, around 90% in France, and almost 100% in Switzerland.⁴ Even in neighbouring Poland, this figure was around 90%. Lithuania comes across somewhat differently in these statistics. Here, women made up only around 60% of the total number of people accused of witchcraft. A similar situation existed in Estonia (60%) and Finland (around 50%). In Russia, men were more frequently accused than women.⁵ In Iceland, meanwhile, as many as 90% of those prosecuted in court were men.⁶ This was because in certain regions, the image of a witch was created not just by the stereotypes formed by Christianity that spread from the West, but by local traditions, where from the earliest times, spells and magic were a male domain. Thus the question arises, was the concept of a witch in Lithuania different to that in Western Europe? Did it have anything in common with the procedure discussed in *Malleus Maleficarum*, the book written by Jakob Sprenger and Henrik Institor in 1487, which aspired to become a guideline text

² С.Г. Лозинский, *Роковая книга*, Я. Шпенгер, Г. Инститорис, *Молот ведьм* (Санкт Петербург, 2005), p. 40.

³ G. Beresnevičius, T. Čaplinskas, 'Ragana', *Lietuvos Didžiosios Kunigaikštijos kultūra. Tyrinėjimai ir vaizdai*, eds. V. Ališauskas, L. Jovaiša, M. Paknys, R. Petrauskas, E. Raila (Vilnius, 2001), p. 562.

⁴ B.Y. Nachman, 'The European Witch Craze of the 14th to 17th Centuries: A Sociologist's Perspective', *American Journal of Sociology*, 86/1 (1980), p. 6.

⁵ W.F. Ryan, 'The Witchcraft Hysteria in Early Modern Europe: Was Russia an Exception?', *The Slavonic and East European Review*, 76/1 (1998), p. 73. In Russia, the accusation of witchcraft was often used as a way of tackling one's political opponents.

⁶ M. Pilaszek, 'Fiasco europejskiego polowania na czarownice XVI–XVIII w.?', *Przegląd Historyczny*, t. XCII (2001), z. 4, p. 472.

for handling such cases in Western states?⁷ We will try to ascertain how that procedure was implemented, what kinds of punishment were handed down, and what the legal regulation was for such cases.

I. The concept of a witch in the Grand Duchy of Lithuania

As Gintaras Beresnevičius and Tadas Čaplinskas have noted, the Lithuanian image of a witch is a combination of the images of an archaic goddess and a real woman sorceress.⁸ In the opinion of Marija Gimbutienė, in Baltic mythology, Ragana (the Lithuanian word for ‘witch’) was the goddess of the night, winter, death and rebirth, while her name was associated with the potential to make prophecies, to see visions and to know.⁹ She controlled the life of humans, and of nature as well. According to Algirdas Julius Greimas, Ragana was a mythical being, in opposition to Aušrinė (Dawn), who could see into the future and divert it in one or another direction.¹⁰

However, in sources from the Grand Duchy of Lithuania, Ragana (Ragaina) was mentioned only in the late 16th century by Jonas Lasickis (pol.: Jan Łasicki, lat.: Johannis Lasitii, Lasicius), as one of the forest goddesses alongside Medeina.¹¹ Vytautas Ališauskas drew a parallel in his study between the Greek goddess Artemis and Gorgon, and the Lithuanian Medeina and Ragaina. In his view, if Medeina, like Artemis, protected the forest, hunting and hunters themselves, then Ragaina was her opposite, like Gorgon to Artemis. She represented nature’s wrath, chaos, and unforeseeable and uncontrollable danger, which each person could feel when finding themselves in a dense forest. She inspired terror, and led the gullible to their demise.¹² The author also highlighted her bond

⁷ Traditionally, both authors of *Malleus Maleficarum* used to be identified, but recently the prevailing opinion in historiography is that the author of the book was only H. Institor (H. Kramer) – P. Segl, ‘Heinrich Institoris. Persönlichkeit und literarisches Werk’, *Der Hexenhammer. Entstehung und Umfeld des Malleus maleficarum von 1487*, ed. P. Segl (Köln-Wien, 1988), pp. 103–126.

⁸ G. Beresnevičius, T. Čaplinskas, Ragana, p. 566.

⁹ M. Gimbutienė, *Senovės lietuvių dievai ir deivės* (Vilnius, 2002), pp. 55–62.

¹⁰ A.J. Greimas, *Lietuvių mitologijos studijos* (Vilnius, 2005), pp. 152–153.

¹¹ J. Lasickis, ‘Apie žemaičių, kitų sarmatų bei netikrų krikščionių dievus’, *Baltų mitologijos ir ritualo tyrimai*, t. 6 (Vilnius, 2012), p. 111. (latin – *De diis Samagitanim caeterorumque Sarmatarum et falsorum Christianorum*, written ca. 1582 and published in 1615)

¹² V. Ališauskas, ‘Jono Lasickio pasakojimas apie žemaičių dievus: tekstas ir kontekstai’, *ibid.*, p. 72.

with the world of the dead. Whereas the cult of Medeina gradually disappeared, the image of the witch, in his view, remained in folk belief, and was further developed. According to the author, a witch lived beyond the boundaries of cultural space, and her behaviour demolished the established world order.

Norbertas Vėlius made the distinction between two phenomena: sorcery/witchcraft, which was done in order to cause someone harm, and sharing prophecies, in order to help people. He believes that both orientations emerged in early human society. As agriculture and the domestication of animals developed, these images of the sorcerer/witch and the prophet/priest were supplemented with the respective traits of wanting to harm or help animals and plants.¹³ Christianity adapted and enhanced the image of the witch with new aspects.

The position of Vytautas Kavolis does not fit well into this context. In his view, the she-witch of archaic Lithuanian culture did not have any negative connotations. She was depicted as an elderly woman, not necessarily belonging to the community, but helping it with her spells and good advice.¹⁴ Other authors have also acknowledged the existence of witches and sorcerers doing good deeds alongside evil-doers.¹⁵ Yet Kavolis reached this conclusion solely on the basis of one folk story, *Eglė, žalčių karalienė* (Eglė, Queen of the Grass Snakes).

After the conversion of Lithuania to Christianity (1387), elements of the pagan way of seeing the world remained present in people's consciousness for a long time. Even Martynas Mažvydas' *Catechism* (1547) mentioned village sorceresses that people would go to for help and ancient (pagan?) rituals.¹⁶ Sources highlight the fact that people appealed to and worshipped pagan gods, demons in the eyes of Christians, and instead frequented sorcerers and prophets rather than the Church as late as the 17th and 18th centuries. The Church did not view this as heresy, but superstition, the result of people's lack of education. Their response was not to exact punishment, but to spread the word of God and Christian truths, and to establish local (folk) missions.¹⁷ For example, in Jonas Bretkūnas' *Postille*, published

¹³ N. Vėlius, *Mitinės lietuvių sakmių būtybės: laimės, laumės, aitvarai, kaukai, raganos, burtininkai, vilktakiai* (Vilnius, 1977), pp. 246–247.

¹⁴ V. Kavolis, *Moterys ir vyrai lietuvių kultūroje* (Vilnius, 1992), pp. 33–34.

¹⁵ N. Vėlius, *Mitinės lietuvių sakmių būtybės*, pp. 233, 242.

¹⁶ V. Kavolis, *Moterys ir vyrai*, p. 37.

¹⁷ Vilniaus kolegijos jėzuitų metinės ataskaitos, 1585–1618, *Baltų religijos ir mitologijos šaltiniai*, sud. N. Vėlius, t. 2 (Vilnius, 2001), (hereafter – *BRMŠ2*)

in 1591, he discourages people from celebrating St John's night like witches, although witches were not used to scare or threaten.¹⁸

Members of the secular world were stricter where witchcraft was concerned. From the mid-16th century, *powiat* inventories reveal instructions to local officials 'to ensure that there are no sorcerers or witches, and that all believe in the one God, our Lord'.¹⁹ The provisions of Eustachijus Valavičius of 1583 to his Naujamiestis subjects mention punishment, while sorcerers and witches are lumped together with thieves, drunks, robbers and adulterers: 'sorcerers, witches, thieves, drunks, robbers, adulterers and those who live together in sin but have not fulfilled the sacrament of matrimony, I order that they and none like them shall be found among my subjects: such people must be strictly punished, and driven from my city and *powiat*'.²⁰ This information suggests that in those times, witchcraft was considered a sin and a crime, but not heresy.

However, Western Europe's influence as far as witches were concerned started to be felt in Lithuania as well. In 1570, in Brest-Litovsk, the former Radvila printing house, which was then owned by Cyprianus Basilicus (Cyprian Bazylik), published a book by an anonymous author called *Postępek prawa czartowskiego przeciw narodowi ludzkiemu*, which elucidated on Lucifer's plan to bring humanity under his control. Several chapters at the end of the book are dedicated to a discussion of witches specifically. Based on the teachings of St. Augustine, the author wrote how witches prayed and made offerings to the Devil, and how they did harm to people with the Devil's help.²¹ He explained how the Holy Bible banned witchcraft, which would lead to losing one's soul, while according to secular law, perpetrators would be punished by death and be driven from this world. Some examples of the torture of witches in Western Europe were also given.²² However, unlike West European

pp. 626–633; 'Nesvyžiaus kolegijos jėzuitų metinės ataskaitos 1606, 1607, 1608', *Baltų religijos ir mitologijos relikvai Lietuvos Didžiojoje Kunigaikštystėje (XIV–XVIII a.)*, ed. V. Ališauskas (Vilnius, 2015), pp. 135–136, 339, 341.

¹⁸ J. Bretkūnas, 'Postilla tatai esti trumpas ir paprastas ischguldimas Euangeliu 1591', *BRMŠ2*, p. 319.

¹⁹ Karšuvos valsčiaus inventorius, 1562, *ibid.*, p. 424.

²⁰ 'Eustachijaus Valavičiaus nuostatai Naujamiėsčio valdiniam, kaip išlaikyti tikėjimą ir dorovę, 1583 rugpjūčio 4', *ibid.*, p. 615.

²¹ A later edition of this book was used, *Postępek prawa czartowskiego przeciw narodowi ludzkiemu*, wyd. A. Benis (Kraków, 1892), s. 114.

²² *Ibid.*, pp. 116, 118.

publications, there was no urging to persecute or kill witches here. The moral of the book was for all good Christians not to believe in spells and curses, not to take part in melting wax to foresee the future, to avoid incantations, and not to draw conclusions from one's dreams, as that went against one's conscience and left one open to the Devil's influence.²³

Piotr Skarga's *Żywoty Świętych* (Lives of the Saints) appeared in Vilnius in 1579, where a great deal of attention was given to holy people's struggles against the Devil, against the possessed, witches and spells.²⁴ The idea of believing in some people's ability to communicate with the Devil and seek his help in order to harm others found its way into Lithuania. The clergy, especially the preaching orders, facilitated the spread of images of the Devil, and witches, his collaborators, among the broader masses. We cannot deny that the collaboration between witches and the Devil, as two mythical beings, was already known of in pagan Lithuania. However, it now took on a completely different meaning. The image in people's consciousness of a witch-sorceress was gradually replaced by the image of her as the Devil's helper.

A similar evolution of spells, from being protective to being dangerous in society, can be noticed in Lithuanian legal acts from the 15th and 16th centuries as well. The use of spells was mentioned for the first time in Casimir's Code of 1468. It warned of the possibility of using spells (herbs/potions) during torture in order to avoid pain.²⁵ The First Statute of Lithuania of 1529 specifically mentioned spells rather than herbs.²⁶ The Second Statute of Lithuania of 1566 identified where such spells could be found, in the mouth, hair and armpits of the accused,²⁷ in the same places where spells were searched for during witches' trials in Western Europe. There was no direct punishment for the use of spells as such. However,

²³ Ibid., p. 120.

²⁴ P. Skarga, *Żywoty Świętych* (Wilno, 1579).

²⁵ *Kazimiero teisynas*, compiled by J. Jurginis (Vilnius, 1967), p. 18, Article XVIII.

²⁶ С. Лазутка, И. Валиконите, Э. Гудавичюс, *Первый Литовский Статут (1529 г.)* (Вильнюс, 2004), XIII. 14. English translation of the First Statute of Lithuania: *The Statute of Lithuania, 1529 – Lietuvos Statutas, 1529 – Statuta Lituaniae, 1529*, translated by K. von Loewe, E. Gudavičius (Vilnius, 2002).

²⁷ Т.І. Доўнар, *Статут Вялікага княства Літоўскага 1566 года*, (Мінск, 2003), XIV. 15.

a person suspected of using spells during torture was immediately considered guilty.²⁸ The Third Statute of Lithuania of 1588 repeated the same provisions regarding spells, and compared witchcraft to a criminal act.²⁹

I.2. Historiography

The history of witches became a topic of interest in Lithuania in the 19th century. Dionizas Poška, in his work on ancient Lithuanian religious rituals, wrote about male and female witches and their traditional meeting place on Šatrija Hill.³⁰ Liudvikas Adomas Jucevičius, in his book *Žemaičių žemės prisiminimai* (Memories from the Land of the Samogitians) of 1842, publicised several cases of witchcraft.³¹ He recounted tales about Šatrija Hill and witch gatherings, as if they were folk stories. Mitrofan Dovnar-Zapolsky used excerpts from the latter source when writing about witchcraft in the northwest of the Russian Empire in the 17th and 18th centuries.³² Motiejus Valančius was the first, in his *Žemaičių vyskupystėje* (In the Samogitian Diocese) in 1848, to give a brief history of the persecution of witches in Lithuania, highlighting the main moments. He also publicised several court cases on witchcraft.³³ Later, numerous authors repeated the information presented by Valančius when writing about witchcraft trial procedures.³⁴ In 1896, Ivan Sprogis published one court case on witchcraft from 1615 as a separate publication.³⁵ In the second half of the 19th century, several more witchcraft cases were published in the journal

²⁸ In the article, it is said that during torture, an accused who used spells to avoid feeling pain, appearing to fall asleep (probably having lost consciousness), had to pay the plaintiff as much as they requested.

²⁹ *Статут Вялікага Княства Літоўскага 1588*, ред. І. П. Шамякін (Мінск, 1989), XIV. 18; IV. 30.

³⁰ D. Poška, *Raštai* (Vilnius, 1959), p. 375.

³¹ L. Jucevičius, *Raštai* (Vilnius, 1959), pp. 177–178, 406–413, 476–498.

³² М.В. Довнар Запольский, *Чародейство в Северо-Западном крае в XVII–XVIII вв., Исследование и статьи*, т. 1 (Киев, 1909), pp. 214–231.

³³ M. Valančius, *Raštai*, t. 2 (Vilnius, 1972), pp. 342–352.

³⁴ *Памятная книжка Ковенской губернии на 1900 год* (Ковна, 1899), с. 3146–3156; P. Šinkūnas, 'Lietuviški žavėtojai ir raganos', *Mokykla ir gyvenimas*, no. 6 (1930), pp. 293–301; K. Kiela, 'Raganų deginimas Lietuvoje', *Diena* (1935 liepos 7.); *Lietuvos žinios* (1935 rugpjūčio 25 d.).

³⁵ И. Спрогис, *Народный суд литвинов над колдунами* (Витебск, 1896).

of the Vilnius Archaeographic Commission.³⁶ In 1922, Kazimierz Sochaniewicz published his article *Przyczynek czarów na Żmudzi w XVII wieku* (On Spells in Samogitia in the 17th Century), in which he featured a witchcraft case from 1672.³⁷ In 1931, Józef Jodkowski discussed the trial of a male witch based on a court case from 1691 in Hrodna.³⁸ In 1936, P. Tučas published another witchcraft trial in his article *Ragana ant laužo Ukmergėje* (A Witch on the Bonfire in Ukmergė).³⁹ In 1937, Akvilis Augstkalnis featured several protocols of the interrogation of people accused of witchcraft from the late 16th century in his article *Tilžės lietuvių burtai XVI a. teismo aktuose* (On the Spells of Lithuanians from Tilžė in 16th-Century Legal Acts).⁴⁰ Pranė Dundulienė wrote about the torture and punishment of witches in popular science articles from the 1950s,⁴¹ where she identified witchcraft trial procedures as an expression of the class struggle.⁴²

Konstantinas Jablonskis started collecting sources about witchcraft trials in 1931; however, his collection was only published in 1987. It was compiled by Rimantas Jasas, who also added several new cases.⁴³ This source laid the foundations for more thorough studies of the phenomenon. Juozas Jurginis wrote an introduction to the work,⁴⁴ and in 1984 he published his study entitled *Raganų gaudymo šimtmetis* (A Century of Witch-Hunting),⁴⁵ where he used as yet unpublished trial collections. His work featured a brief discussion

³⁶ *Акты, издаваемые Виленскою археографическою комиссиею*, t. VI, X, XVIII, XX (Вильна, 1865–1895). *Археографический сборник документов, относящихся к истории Северо-западной Руси*, т. 1 (Вильна, 1867), т. 3 (1867), т. 6 (1869).

³⁷ K. Sochaniewicz, *Przyczynek czarów na Żmudzi w XVII wieku*, *Lud*, Serja 2, t. 1 (Lwów, 1922), pp. 125–135.

³⁸ J. Jodkowski, *O czarowniku Znaku na inkwizycji w Grodnie w 1691 r.* (Lwów, 1932).

³⁹ P. Tučas, 'Ragana ant laužo Ukmergėje', *Lietuvos aidas*, nr. 130 (1939 kovo 20 d.).

⁴⁰ A. Augstkalnis, 'Tilžės lietuvių burtai XVI a. teismo aktuose', *Tautosakos darbai*, t. 3 (Kaunas, 1937), pp. 239–243.

⁴¹ P. Dundulienė, 'Siaubinga praėtis', *Mokslas ir gyvenimas*, no. 6 (1958), pp. 31–36; idem., 'Kelias į laužą', *Mokslas ir gyvenimas*, no. 4 (1959), pp. 28–31.

⁴² P. Dundulienė, 'Siaubinga praėtis', p. 33.

⁴³ *Raganų teismai Lietuvoje*, eds. K. Jablonskis, R. Jasas (Vilnius, 1987).

⁴⁴ J. Jurginis, 'Raganų teismai', *ibid.*, pp. 11–23.

⁴⁵ J. Jurginis, *Raganų gaudymo šimtmetis* (Vilnius, 1984).

on the nature of cases, and the course of the trial procedure was illustrated with excerpts from the files. Reasons for the persecution of witches were also given.

V. Kavolis associated the beginning of court procedures against witches with the greater emancipation of women in Lithuania in the 16th century, which in the view of authors from those times threatened the male-dominated world.⁴⁶

N. Vėlius and R. Jasas have also discussed the content of witchcraft court cases from the 16th and 17th centuries.⁴⁷ The article *Ragana* (The Witch) by G. Beresnevičius and T. Čaplinskas gives a brief but very concentrated and clear presentation of the problem of witchcraft.⁴⁸ They begin with the emergence of the phenomenon and its spread throughout Europe. Witchcraft is viewed as a universal, not an imported, phenomenon, more characteristic of agrarian societies than cities. However, in their opinion, the measures used to recognise witches were adopted from Western Europe, but were expressed in a gentler way in Lithuania. Giedrė Sabaitytė attempted to look at witches as outcasts of society.⁴⁹ She published several entries about spells from the first half of the 16th century from the books of the Kaunas city *voigt*.⁵⁰ In 2013, Gitana Zujienė's article *Theatrum poenarum Lietuvos raganų teismuose XVI–XVIII a.* (*Theatrum poenarum* in Lithuania's Witchcraft Trials in the 16th to 18th Centuries) appeared, where she gave an analysis of civil court procedures, such as testing if someone was a witch, torture and punishment.⁵¹ She revealed the purpose behind such images as being to spread information and form public opinion. Meanwhile,

⁴⁶ V. Kavolis, *Moterys ir vyrai lietuvių kultūroje*, pp. 36–40.

⁴⁷ N. Vėlius, 'Raganų bylos Lietuvoje XVI a.', *BRMŠ2*, pp. 428–437; R. Jasas, 'Raganų bylos Lietuvoje XVI a.', *ibid.*, pp. 425–428; R. Jasas, 'Raganų teismai Lietuvoje XVII a.', *ibid.*, t. 3, (Vilnius, 2003), pp. 379–382.

⁴⁸ G. Beresnevičius, T. Čaplinskas, 'Ragana', pp. 557–573.

⁴⁹ G. Sabaitytė, 'Raganų "medžioklės" atgarsiai XVI–XVII a. pirmos pusės Kaune', *Kauno istorijos metraštis*, t. 8 (Kaunas, 2007), pp. 279–296; *idem*, 'Raganų tapimas "užribio žmonėmis" Lietuvos Didžiojoje Kunigaikštystėje', *Lietuvos istorijos metraštis 2009/1* (Vilnius, 2010), pp. 69–88; *eadem*, *Užribio žmonės Lietuvos Didžiosios Kunigaikštystės visuomenėje. Daktaro disertacija* (Kaunas, 2010).

⁵⁰ G. Sabaitytė, 'Raganų "medžioklės" atgarsiai', pp. 293–296.

⁵¹ G. Zujienė, *Theatrum poenarum Lietuvos raganų teismuose XVI–XVIII a.*, *Ministri historiae. Pagalbiniai istorijos mokslai Lietuvos Didžiosios Kunigaikštystės tyrimuose*, ed. Z. Kiaupa, J. Sarcevičienė (Vilnius, 2013), pp. 343–362.

Aivas Ragauskas highlights in his research the necessity of rehabilitating the victims of witchcraft trials.⁵²

Historians from neighbouring countries have also taken an interest in Lithuanian witchcraft trial procedures. Many of them stressed the major influence of relics of paganism on the concept of witchcraft in the Grand Duchy of Lithuania.⁵³ In the opinion of the Belarusian historian Vitali Byl, Lithuanian secular judges did not believe in the existence of a harmful witch-based sect.⁵⁴ Uladimir Lobach drew attention to the fact that the property of the accused and prosecuted was not confiscated during the trial, as was the case in Western Europe.⁵⁵ In addition, it was the plaintiff who had to cover the court costs.⁵⁶ In Byl's opinion, more similarities between court procedures started to appear only in the second half of the 17th century, when courts sought to expose other members of the witch community.⁵⁷ Lobach, however, claims that from the second half of the 17th century, a typical Inquisition-style court

⁵² The conversation with Prof. A. Ragauskas was published by M. Kniežaitė, 'Raganas prisimenant ne iš pasakų', *Lietuvos žinios* (2015 liepos 22), <http://lzinios.lt/lzinios/Mokslas-ir-svietimas/raganas-prisimenant-ne-is-pasaku/205985> (accessed on 2016 03 18).

⁵³ У. Лобач, 'Чараўніцтва на Беларусі на тле сярэднявечных судовых працэсаў', *Крыўя. Crivica. Baltica. Indogermanica*, no. 1 (1998), pp. 87–99; idem, 'Burtininkavimas krivičių žemėse', *Liaudies kultūra*, no. 3 (1999), pp. 53–55; idem, 'Да механізму чарадзейскіх працэсаў у сярэднявечнай Беларусі: на прыкладзе справы палачаніна В. Брыкуна (1643 г.)', *Беларускі горад у часе і прасторы: 500 гадоў Полацкай магдэбургіі* (Наваполацк, 2001), pp. 52–59; idem, 'Вядзьмарскі працэс 1691 г. у Гародні: да тыпалогіі чарадзейскіх спраў у сярэднявечнай Беларусі', *Культура Гродзенскага рэгіёну: праблемы развіцця ва ўмовах поліэтнічнага сумежжа* (Гродна, 2003), pp. 20–25; idem, 'Чараўнік', *Беларуская міфалогія* (Мінск, 2006), с. 549; В. Быль, 'Асаблівасці ведаўскіх працэсаў на землях Вялікага Княства Літоўскага ў XVI–XVIII стст.', *Европа – 2010: глобальное и локальное* (2011), pp. 84–92; M. Pilaszek, 'Litewskie procesy czarownic', *Odrodzenie i Reformacja*, t. 4 (2002), pp. 7–35. A more widely known work by this author that has been the focus of some contradictory assessments is her monograph: M. Pilaszek, *Procesy o czary w Polsce w wiekach XV–XVIII* (Kraków, 2008). Reviews of this monograph: J. Wijaczka, 'Procesy o czary w Polsce w epoce wczesnonowożytnej', *Kwartalnik Historyczny*, R. XCVI, z. 3 (2009), pp. 113–127; J. Adamczyk, *Procesy o czary w Polsce w wiekach XV–XVIII*, Małgorzata Pilaszek (Kraków, 2008), *Przegląd Historyczny*, 100/4 (2009), pp. 839–843.

⁵⁴ В. Быль, 'Асаблівасці ведаўскіх працэсаў', р. 87.

⁵⁵ У. Лобач, 'Чараўніцтва на Беларусі', р. 6; В. Быль, 'Асаблівасці ведаўскіх працэсаў', р. 91.

⁵⁶ Ibid., р. 91.

⁵⁷ Ibid., р. 88.

procedure already operated in the GDL that was no different to its precedent in Western Europe.⁵⁸ The Polish historian Malgorzata Pilaszek highlighted the economic reasons for the persecution of witches. She gives a brief discussion of the court procedures and punishments.⁵⁹ A monograph by the Ukrainian historian Katerina Dysa about witchcraft in the Ukrainian lands in the 17th and 18th centuries looks at certain aspects of the witchcraft trial process, in order to reveal its particularities. She questions the scale and meaning of torture, and compares the law with its realisation in practice. However, she limits herself to Magdeburg Law and the lands that belonged to the Kingdom of Poland.⁶⁰ Michael Ostling's monograph raises the question of how images and ideas from the centre reach the periphery, and how they are adapted and modified.⁶¹ For his research, he selected the image of the witch and witchcraft trials in the Kingdom of Poland in the 16th to the 18th centuries. The author did not refer to the situation in the Grand Duchy of Lithuania, only illustrating the state of affairs here with a reference to the already-mentioned article by Pilaszek.⁶² But his observations about general Slavic and Baltic-Slavic elements in the image of the witch are very interesting.

I.3. Sources

The sources referred to in this paper can be divided into three groups. The first are secular legal acts that set the regulations for witchcraft case deliberations in court. Byl has pointed out that a specifically Lithuanian legal basis for these procedures was not created, noting it as one of the particularities of the Lithuanian witchcraft trial process.⁶³ However, the courts of the Grand Duchy of Lithuania

⁵⁸ У. Лобач, 'Чараўніцтва на Беларусі', р. 8.

⁵⁹ M. Pilaszek, 'Litewskie procesy czarownic', pp. 7–35.

⁶⁰ К. Диса, *Історія з відьмами. Суди про чари в українських возводствах Речі Посполитої XVII–XVIII століття* (Київ, 2008). A supplemented monograph by the same author in English: K. Dysa, *Witchcraft Trials and Beyond: Trials for Witchcraft in the Volhynian, Podolian and Ruthenian Palatinates of the Polish-Lithuanian Commonwealth in the Seventeenth and Eighteenth Centuries* (Budapest, 2011).

⁶¹ M. Ostling, *Between the Devil and the Host: Imagining Witchcraft in the Early Modern Poland* (Oxford, 2011), pp. 5–6.

⁶² *Ibid.*, р. 8.

⁶³ В. Быль, 'Асаблівасці ведаўскіх працэсаў', р. 89.

made do quite well with their existing laws. The Statute of Lithuania indicated which courts had to deliberate over witchcraft cases, and regulated criminal procedures in the country in general.⁶⁴ In addition, the Statute allowed for the use of other laws, if the need arose. It was referred to in the castle, land and sub-chamber courts. Saxon legal acts regulated laws in Magdeburgian cities, namely, the law of the Saxon land, the ‘Saxon mirror’ (*Speculum Saxonum*), and law of the Saxon city (*Weichbildrecht*).⁶⁵ The editions by Bartłomiej Groicki were most popular.⁶⁶ The law code published in Germany in 1532 by Emperor Charles V *Constitutio Criminalis Carolina* was also used, which regulated punishment for convictions for witchcraft.⁶⁷ The constitutions of the *sejms* of Poland and the Polish-Lithuanian Commonwealth of 1543, 1563–1565 and 1776 outlined the competencies of secular and ecclesiastical courts in witchcraft trials.⁶⁸

The second group of sources are the witchcraft case files themselves. The research was conducted based on the files mentioned in the historiography section. They span both the territory of present-day Lithuania (the cities of Kaunas, Merkinė and Alytus, the Duchy of Samogitia, the *powiats* of Vilnius, Kaunas, Ukmergė and Uplytė, the

⁶⁴ *Статут Вялікага Княства Літоўскага 1588*, IV.30; IV.32–35, 39, 47–58, 76–81, 86 and other articles from this chapter. Also Chapter XIV where the articles discuss the criminal’s persecution, arrest, imprisonment and torture.

⁶⁵ In Poland, these legal acts were published for the first time in 1506 in Łaski’s code: J. Łaski, *Commune incliti Polonie Regni priuilegium constitutionum et indultuum publicitus decretorum* (27 I 1506, Cracovia). The Polish lawyer Mikołaj Jaskier released a separate work in Latin in 1535: M. Jaskier, *Juris Municipalis Maideburgensis* (Cracovia, 1535). The Polish translation by Paweł Szczerbic was released in 1581: P. Szczerbic, *Speculum Saxonum albo prawo saskie i magdeburskie porządkiem abecadla z łacińskiego i niemieckich exemplarzów zebrane* (Lwów, 1581); idem, *Jus municipale, to jest prawo miejskie magdeburskie nowo z łacińskiego i niemieckiego języka z pilnością i wiernie przełożone* (Lwów, 1581). A new edition of this book: P. Szczerbic, *Jus municipale, to jest prawo miejskie magdeburskie nowo z łacińskiego i niemieckiego języka z pilnością i wiernie przełożone*, wyd. G.M. Kowalski (Kraków, 2011).

⁶⁶ P. Groicki, *Artykuły prawa majdeburskiego, które zowią Speculum Saxonum* (1558); idem, *Porządek sądów i spraw miejskich prawa majdeburskiego w Koronie Polskiej* (1559); idem, *Postępek sądów około karania na gardle*, (1559).

⁶⁷ *Каролина – уголовное-судебное уложение Карла V*, перевод С.Я. Булатов (Алма-Ата, 1967).

⁶⁸ *Volumina legum*, I (Petersburg, 1859), s. 578–579. Alongside the state legal acts, in Poland in 1769 a book *Praktyka Kryminalna* (Criminal Practice) was realised by Culm Lawyer Jakub Czechowicz. It also contains a separate section on witchcraft trials. However, as this work was not mentioned in Lithuanian court files, it has not been used in this study.

Šiauliai Economy,⁶⁹ and the estate courts of Žagarė and Joniškis), and the territory of present-day Belarus, which was then part of the GDL (the cities of Polotsk and Kobryn, and the *powiat* courts of Ašmena, Breslau, Lida, Hrodna, Novahrudok, Minsk, Slonim, Pinsk and Vitebsk).

The third group of sources are documents from the Holy See, synods of Lithuanian bishops, bishops and monks. The most important one directly related to Lithuania was the papal bull of Gregory XV of 1623 *Omnipotentis Dei*, whose provisions were announced in Samogitia in 1643 by Bishop Jurgis Tiškevičius.⁷⁰ This was the final papal bull directed against witches. Later documents from the Roman curia tried to ease the situation in witchcraft trials, in order to curb the meaningless torment caused by fear, fanaticism, and sometimes simply mere deduction. The *Instructio circa iudicia sagarum* (henceforth, *Instructio*) was issued in Rome in 1657, and re-issued in Krakow in 1670, and in Vilnius in 1721, at the initiative of Bishop Konstantinas Kazimieras Bžostovskis (Konstanty Kazimierz Brzostowski).⁷¹ It gave a detailed explanation of the procedure for such trials, including interviews, the collection of evidence and sentencing, rejecting the established methods for ascertaining who might be a witch. The Lithuanian Catholic Church's relationship with spells and witches becomes evident when we examine the resolutions of bishops' synod and bishops' pastoral letters.⁷² The position of monks is revealed in mission reports and annual letters.⁷³ This group of sources also features the mentioned book by Sprenger and Institor, *Malleus Maleficarum*. It was translated into Polish in 1614.⁷⁴

⁶⁹ In this sense, an Economy was an alliance of royal estates.

⁷⁰ *Baltų religijos ir mitologijos reliktai*, p. 203.

⁷¹ *Instructio circa iudicia sagarum, iudicibus, eorumq; consiliariis accomodata* (Romae primum, 1657); *Iterum pro bono publico* (Cracoviae, 1670). *Nunc vero* (Vilnae, 1721).

⁷² Extracts from resolutions made at the Diocese of Samogitia synod of 1752 have been published in J. Lebedys, *Lietuvių kalba XVII–XVIII a. viešajame gyvenime* (Vilnius, 1976), pp. 201–202. Extracts from resolutions made at synods in Samogitia and Vilnius in the 17th–18th centuries, and extracts from bishops' letters regarding witchcraft have been published in *Baltų religijos ir mitologijos reliktai*, pp. 112–113, 187–191, 195–196, 202–203, 289–290, 358–362, 370–372.

⁷³ *Baltų religijos ir mitologijos šaltiniai*, t. I–IV, sud. N. Vėlius (Vilnius, 1996–2005); *Baltų religijos ir mitologijos reliktai Lietuvos Didžiojoje Kunigaikštystėje (XIV–XVIII a.)*, ed. V. Ališauskas (Vilnius, 2015).

⁷⁴ *Młot na czarownice [...], przez Stanisława Żbkwowica* (Kraków, 1614).

I.4. Competency of the courts

In the first half of the 13th century, alongside canonical courts, Pope Gregory IX founded the Holy Office in the struggle against heretics. In 1318, an inquisitor from the Holy Office was appointed in Poland. In 1424 in the Edict of Wieluń, Jogaila, the King of Poland and Supreme Duke of Lithuania, declared heresy an offence against the dignity of the king (*crimen laesae maiestatis*). He indicated that secular officials and courts had to assist inquisitors in the struggle against heresy.⁷⁵ The secular courts had to provide the functions of imprisonment, presentation of the prisoner, and execution of the punishment. The Inquisition did not have the same meaning here as it did in Western Europe. Until the middle of the 16th century, witchcraft trials in Poland were usually presided over by a bishop, rather than an inquisitor, as witchcraft was not considered heresy here, i.e. witches were not accused of collaboration with the Devil. While canonical courts presided over witchcraft trials in the 15th and the first half of the 16th century, they did not resort to torture, and the verdicts were relatively humane.⁷⁶ There were instances of death sentences, but only when the case reached the secular, usually Magdeburgian, court.⁷⁷ It could be that as Lithuania belonged to the Polish archdioceses of Gniezno and Lviv, witchcraft cases were deliberated in the Vilnius, Samogitian, Lutsk and Kyiv episcopal courts.⁷⁸ In the cities, these cases could have been deliberated in accordance with Magdeburg Law.

The constitution from the Polish *sejm* of 1543 foresaw that matters of faith, heresy, schisms, apostasy, vile language (swearing), sacrilege and spells came within the competence of the canonical courts.⁷⁹

⁷⁵ *Volumina legum*, I, p. 86. The edict was primarily aimed against the Hussites and their supporters. In 1199, Pope Innocent III compared heresy to the secular crimes of injury and treason against the ruler (*crimen laesae maiestatis*), which were punishable by death (E. Graham-Leigh, *The Southern French Nobility and the Albigensian Crusade* (Woodbridge, 2005), p. 61), *Volumina legum*, II, p. 622.

⁷⁶ K. Koranyi, 'Czary i gusla przed sądami kościelnymi w Polsce w XV i pierwszej połowie XVI wieku', *Lud*, r. 26 (1927); J. Adamczyk, 'Czary i magia w praktyce sądów kościelnych na ziemiach polskich w późnym średniowieczu (XV–połowa XVI wieku)', *Karolińscy pokutnicy i polskie średniowieczne czarownice*, wyd. M. Koczarska (Warszawa, 2007), pp. 91–260.

⁷⁷ Sz. Wrzesiński, *Inkwizycja na ziemiach polskich* (Zakrzewo, 2009), p. 175.

⁷⁸ Kyiv and most of the Diocese of Lutsk which belonged to the Lviv Archdiocese were joined to the Kingdom of Poland in 1569.

⁷⁹ *Volumina legum*, I, pp. 578–579.

However, it did allow the secular court to handle witchcraft cases if the plaintiff had incurred material losses as a result of spells. Some researchers are of the opinion that this constitution applied in Lithuania as well.⁸⁰ In the opinion of M. Pilaszek, the resolutions from the *sejms* of 1563–1565 had a deciding role in witchcraft trial procedures in Poland.⁸¹ It was then that the Church lost all influence in witchcraft trials.⁸² It was prohibited from resorting to secular courts for the interrogation, imprisonment and punishment of the accused.

The Third Statute of Lithuania also attributed witchcraft cases to the secular courts. In Chapter 4 Article 30, witchcraft is mentioned along with violent crimes, such as robbery of nobles' homes, violent acts against the Catholic Church, rape, roadside robbery, thievery, forgery, arson and poisoning. These crimes were under the jurisdiction of the palatine, *starosta* and estate manager courts.⁸³

As the Inquisition as we know it did not take place in Lithuania, there were no professional witch-hunters here who would travel from place to place and organise processes for the exposure of witches. Each estate or class had its own laws, so those accused of witchcraft would be tried in different courts. Nobles suspected of witchcraft, or nobles who refused to judge their own people suspected of witchcraft, would be called to the castle court, which operated in accordance with the Statute of Lithuania. The peasants' cooperative court operated in villages, where custom law held great significance. Yet the competency of this court to preside over witchcraft cases was questioned on occasions.⁸⁴ Serfs would be judged in estate courts.⁸⁵ The owner of the estate, its manager or an appointed regent would preside over the estate court. Often, nobles chosen from the surrounding area would participate in such hearings. Estate law consisted of a combination of custom law and the will of the estate's owner. In Magdeburgian cities, which followed Saxon city law, these cases were heard by the courts of the *voigt* (*vaitas*) and

⁸⁰ G. Beresnevičius, T. Čaplinskas, 'Ragana', p. 567.

⁸¹ M. Pilaszek, *Procesy o czary w Polsce*, p. 213.

⁸² *Volumina legum*, II, p. 622.

⁸³ *Статут Вялікага Княства Літоўскага 1588*, IV.30.

⁸⁴ *Raganų teismai Lietuvoje*, p. 29.

⁸⁵ Serfs were completely under the jurisdiction of their masters as early as in 1447, in accordance with the privilege of Casimir Jagiellon.

benchers (*suolininkai*), and sometimes by joint magistrate courts (with the participation of the burgomaster, councillors, the *voigt* and benchers).

If until the middle of the 17th century the highest Lithuanian Church dignitaries urged secular government (secular courts) to be the deciding voice in witchcraft cases, then from the second half of the 17th century, the Church went to great efforts to restore the influence it had lost in such cases. For example, in the resolutions of the Second Synod of the Diocese of Samogitia of 1639, priests were encouraged not just to rest on the advice of the canonical court, but also to pay heed to the secular government's support.⁸⁶ At the Third Synod in 1643, the Samogitian bishop J. Tiškevičius announced the papal bull of Gregory XV *Omnipotentis Dei*, which urged the persecution of sorcerers and witches, and to present those accused of doing harm to property, health or life to the secular court. However, the court was also warned not to overstep the boundaries set down by law during torture.⁸⁷ That same year, the Vilnius Synod also urged the clergy to punish and eliminate sorcerers and witches from the community of the faithful. Yet secular courts were not allowed to torture those suspected of witchcraft.⁸⁸ Nevertheless, the secular courts functioned at their own discretion in such procedures, which is why in 1672, the bishops demanded that the ruler restrict the competency of secular courts in witchcraft trials.⁸⁹ In 1700, the Vilnius bishop instructed the clergy not to assume jurisdiction, as witchcraft cases had to be handled by the canonical court, especially when witches condemned God, worshipped the Devil and renounced their faith.⁹⁰ In 1710, Bishop Brzostowski, resting on *Instructio* from Rome of 1657, also demanded that such cases be left to the canonical court.⁹¹ In 1717, the Vilnius Synod announced that secular verdicts in witchcraft trials were criminal.⁹² The Samogitian bishop Juozapas Mykolas Karpis, in his pastoral letter of 1737, referring to the Constitution of 1543, forbade secular members of the community

⁸⁶ *Baltų religijos ir mitologijos reliktai*, p. 195.

⁸⁷ *Ibid.*, p. 203.

⁸⁸ J. Putek, *Mroki średniowiecza*, p. 209.

⁸⁹ *Ibid.*, p. 210.

⁹⁰ G. Beresnevičius, T. Čaplinskas, 'Ragana', p. 569.

⁹¹ *Baltų religijos ir mitologijos reliktai*, pp. 283–284.

⁹² *Ibid.*, pp. 289–290.

from torturing, drowning or burning those accused of witchcraft. The bishop was most alarmed that the uneducated masses usually held someone to be a witch who was not actually one. Torturing and burning suspected individuals willingly and independently (without the Church's knowledge) was identified as a serious and deadly sin. In such events, it was forbidden to extend forgiveness, except in the face of death.⁹³ The Vilnius Synod of 1744 even threatened secular organisers of witchcraft trials with excommunication.⁹⁴ In 1752, the Samogitian bishop Antanas Tiškevičius declared that on receiving an announcement about suspected witchcraft, he would appoint a priest to examine the situation. If the accusations proved to be well founded, only then would the suspect be handed over to the secular court.⁹⁵ Taking into consideration the demands of the clergy, in 1703 Augustus II, and in 1745 Augustus III, banned secular members of society from examining cases of witchcraft and spell-casting.⁹⁶ However, all these demands and restrictions had little impact in practice. From our existing sources, we cannot say with any certainty to what extent the clergy directly contributed to the organisation of witchcraft trials. Alongside the entries from monastic reports written up after missions about people diverted from engaging in spells and witchcraft through teaching and warnings, sometimes there is mention of the souls of the damned, saved for God after their death, having heard their confessions and been witness to their remorse.⁹⁷ So, having been informed of the accusations, the monks would agree with the secular court verdicts and offer the damned the last rites. However, there were cases where monks actually saved 'witches' that had been convicted as such in secular courts.⁹⁸ This continued until the Constitution of the 1776 Sejm banned torture throughout the entire Polish-Lithuanian Commonwealth as a means of eliciting an admission, as well as the death sentence in witchcraft trials.⁹⁹ However, illegal procedures still occurred for some time.

⁹³ *Baltų religijos ir mitologijos reliktai*, p. 361.

⁹⁴ *Ibid.*, p. 371.

⁹⁵ J. Jurginis, *Raganų gaudymo šimtmetis*, p. 21.

⁹⁶ G. Beresnevičius, T. Čaplinskas, 'Ragana', p. 569.

⁹⁷ *Baltų religijos ir mitologijos reliktai*, pp. 339, 341.

⁹⁸ *Ibid.*, pp. 217, 246, 265, 282, 291.

⁹⁹ *Volumina legum*, t. VIII, pp. 546–547.

I.5. The development of accusations of witchcraft

The earliest information we have about witchcraft trials in the GDL comes to us from the first half of the 16th century. A poem by Mikołaj Hussowczyk (*Nicolaus Hussovianus*) written in around 1523 called 'Hymn about the Bison' mentions elements of paganism that were widespread in Lithuania, as well as sorcery, the floating of a witch and her burning.¹⁰⁰ A notice of the palatine Ivanas Bogdanovičius Sapiega dated 5 August 1532 concerns the rehabilitation of Marija Nesterovna, who had been accused of witchcraft and driven from the city and lands of Vitebsk.¹⁰¹ Sabaitytė has compiled all the accusations of witchcraft in made in Kaunas in 1543 in a register.¹⁰² However, the earliest entries usually only record the suspected use of spells or the fact of punishment. Finer details on the course of events are not available.

The first accusations of witchcraft in Lithuania were heaped upon herbalists and midwives, regardless of the fact that the religious literature of the day acknowledged the possibility of having God's gift of knowing about plants and herbs and their powerful properties.¹⁰³ If they failed to heal someone or help during a birth, these people would be accused of making their patients fall even more ill or causing their death with their spells. For example, in 1552 a resident of Kaunas called Jadvyga was accused of telling a spell to Elena of Kėdainiai, so that she might have a normal birth without any complications.¹⁰⁴ In 1563, a herbalist from Kaunas called Kotryna was interrogated.¹⁰⁵ In 1566, also in Kaunas, the witch Ulijona was burned, allegedly for using herbs to poison people.¹⁰⁶ The herbalist Motiejus Juknevičius was interrogated in 1580.¹⁰⁷ The extent of accusations of witchcraft spread further in the late 16th century. It encompassed people who had actually attempted to cast spells, those who carried out pagan rituals, and those whose behaviour appeared strange or could not be understood by others.

¹⁰⁰ M. Husovianas, *Giesmė apie stumbro išvaizdą, žiaurumą ir medžioklę* (Vilnius, 1977).

¹⁰¹ *Беларускі аpxiў (XV–XVI cm.)*, т. 2, (Менск, 1928), p. 96.

¹⁰² G. Sabaitytė, 'Raganų 'medžioklės' atgarsiai', p. 293.

¹⁰³ *Postępek prawa czartowskiego*, p. 120.

¹⁰⁴ *Raganų teismai Lietuvoje*, p. 73.

¹⁰⁵ *Ibid.*, p. 74.

¹⁰⁶ *Ibid.*, p. 76.

¹⁰⁷ *Ibid.*, p. 77.

From the case files, we learn that for a long time witches worked alone in Lithuania, trusting only their powers, and not relying on any collaborators, least of all the Devil. They used various herbs, saliva, hair, earth from their shoes, parts or items of clothing, and dead animals or parts of them, for their spells. Two cases mention specially constructed ‘dolls’. Only in one case was a woman accused of intending to use the exhumed and dried body of a child for her spells.¹⁰⁸ Collaborators in witchcraft barely rate a mention in case files from the 16th century. In 1566, Julijona, who was interrogated in the Kaunas *powiat*, named another five women.¹⁰⁹ Gertrūda Jakutaitė, who was tortured in Samogitia in 1602, divulged her ‘teacher’.¹¹⁰ The number of such cases increased from the second half of the 17th century. Of the total of 128 case files, entries and complaints published in the book *Raganų teismai Lietuvoje* (Witchcraft Trials in Lithuania), only 12 (less than 10%) mention the witch’s collaboration with the Devil. The earliest mentions of such collaboration are especially interesting. For example, in 1563 in Kaunas, the herbalist Kotryna, who was mentioned earlier, admitted that the Devil had helped her learn about herbs and how to use them to heal. But she added that the herbs did not harm but helped people.¹¹¹ A similar admission came from Raina Gromykienė in 1631 at the Novahrudak castle court.¹¹² Nevertheless, the court decided that in learning these things she had bad intentions. We know of three cases from the second half of the 17th century where the purpose of collaborating with the Devil, to cause harm, is clearly highlighted.¹¹³ The majority of cases (seven in total) are from 1720–1780,¹¹⁴ though they make up only around 16% of all witchcraft cases from the 18th century.

So from the second half of the 18th century, we see the greater influence on courts in the GDL of a concept of witchcraft that predominated in Western Europe, by which suspects are more often accused of collaborating with the Devil, and where the goal is to find out about a potential network of witches operating within the region. There are more images of witches’ gatherings, the denial of God, and obedience to the Devil.

¹⁰⁸ *Ibid.*, p. 76.

¹⁰⁹ *Ibid.*, p. 75.

¹¹⁰ *Ibid.*, p. 86.

¹¹¹ *Ibid.*, p. 74.

¹¹² *Ibid.*, p. 41.

¹¹³ *Ibid.*, pp. 49–51, 237–241, 299–303.

¹¹⁴ *Ibid.*, pp. 65, 335, 337, 349, 359, 365, 380.

II. The court procedure

In Western Europe, crimes were regarded as either ordinary (*crimina ordinaria*) or extraordinary (*crimina exepta*). Witchcraft, along with high treason and offending the dignity of the king, were among the latter. In the event of such crimes, the court had exceptional powers. The duration of trials was quicker, and stricter forms of imprisonment and torture could be used. In Lithuania meanwhile, as we have seen, witchcraft was considered to be among the *crimina ordinaria* (a raid on a noble's home, robbery, theft, etc). There are also entries in these cases which read that 'witches must be punished for witchcraft as thieves are punished for theft.'¹¹⁵

In Western Europe, witchcraft cases were resolved by both inquisitors and secular courts. In the courts of the Inquisition, the entire court procedure was the judge's fight with the Devil, who was said to control the accused. The judge's goal was to force the Devil to leave the accused, so that she could admit her guilt and accept her punishment. Although it was said that the witch could not harm the person carrying out social justice by persecuting her,¹¹⁶ and that God himself protected the executors of heavenly justice,¹¹⁷ the judge still had to take certain safety measures.¹¹⁸ We also come across some self-preservation elements from witchcraft trials in Lithuania. For example, sometimes the accused would be sprinkled with Holy Water, so that she might not cast any more spells or curses,¹¹⁹ although such cases were very rare. In Lithuania, the struggle against the Devil was also not really stressed.

The witchcraft trial procedure in Lithuania consisted of several main parts: the accusation, serving a summons, interrogation, ordeal, imprisonment, torture, passing the verdict, and punishment. An appeal was also possible. Incidentally, all these stages only existed in Magdeburgian and castle courts. The procedure in cooperative and estate courts was usually much shorter, and often more violent.

¹¹⁵ Ibid., pp. 176, 177.

¹¹⁶ *Молот ведьм*, pp. 182, 185.

¹¹⁷ Ibid., p. 187.

¹¹⁸ Ibid., pp. 75–76, 279, 371.

¹¹⁹ *Raganų teismai Lietuvoje*, p. 34.

II.1 The accusation

The actual accusation of engaging in witchcraft was very different in Lithuania and Western Europe. *Malleus Maleficarum* distinguished three ways of making an accusation. The first was a personal presentation of the accusation. The accuser had to give incontrovertible evidence of wrongdoing, otherwise they could be brought to trial for defamation.¹²⁰ The second was denunciation, where the declarer simply shared their suspicions or hearsay to the judge.¹²¹ Such rumours were often serious enough grounds to open a case file. The third was an investigation started at the initiative of the inquisitors themselves, who had heard of witchcraft in a certain location. *Malleus Maleficarum* recommended the last two means, as the first one, in the authors' opinion, risked the revenge of the witch or her collaborators, as much as for the plaintiff, if they failed to prove her guilt.¹²² In the case of a denunciation, the accusers and witnesses usually remained anonymous.¹²³ In Lithuania meanwhile, the first method was used. A court case would begin as soon as a plaint from an injured person was received. Usually, the plaint would be formulated on the basis of loss of life, worse health as a result of the experience, or material losses due to spells. The plaint had to be entered into the court books. In order to open a court case, the plaintiff had to procure a summons that would be presented to the accused by a *vozny* (*woźny*).¹²⁴ The summons procedure in noble law in the GDL was regulated in the Statute.¹²⁵ A summons had to be presented no later than four weeks before the court session. It outlined who, and on what grounds, was summoning the accused to court. A summons was valid for one specific court session. If a person was arrested at the scene of the crime, 'caught red-handed', then a summons was not necessary. If a noble being summoned did not come to the court hearing, or failed to present his accused peasant, he could be punished with banishment. A similar practice

¹²⁰ *Молот ведьм*, p. 341.

¹²¹ *Ibid.*

¹²² *Ibid.*, p. 348.

¹²³ *Ibid.*, pp. 342–343.

¹²⁴ A *vozny* was a court official who presented court summons papers, inspected the scene of the crime, made an assessment of the damage, and reported this information to the court. Sometimes he would carry out court verdicts as well.

¹²⁵ *Статут Вялікага Княства Літоўскага 1588*, IV. 18–24.

applied in Magdeburgian courts. There were often cases in castle and Magdeburgian courts where the aggrieved party would only enter their plaint into the court books, without necessarily proceeding with opening a case file. A summons was not required in estate or cooperative courts. After the declaration of a plaint, the accused would be brought to court by their master, or on the instruction of an estate official.

II.2. The court inquiry

Malleus Maleficarum recommended organising the inquiry of witches on religious feast days, during Mass, or amid the ringing of church bells, so that it would be more difficult for the Devil to influence the accused. This has not been noticed in Lithuanian witchcraft trials. Court hearings followed a regular order. For example, the castle court sat in the first two weeks of every month. A cooperative court was assembled when needed, while a noble would organise a court hearing at his own discretion, not taking religious feasts into consideration.

Malleus Maleficarum outlined the right of the accused to have someone act in her defence, a lawyer. Yet he would be appointed by the judge, and not someone the accused selected herself. The lawyer had to help carry out the court procedure, and most importantly, to be sure not to defend the accused too vigorously, so that he might not be seen as a suspect himself, or as a protector of heretics.¹²⁶ Usually, the accused did not have anyone to act in their defence. In the Lithuanian castle court, however, if the accused could not defend themselves, they could select their own procurator. If the accused was not very wealthy and could not afford to hire a procurator, the court had to appoint one.¹²⁷ In fact, this point was sometimes ignored. Sometimes a noble would hire a defender for his peasant. Unlike in Western Europe, in Lithuania the procurator carried out the functions of a defence lawyer, arguing the basis of the plaintiff's evidence, and trying to give rational explanations for their client's actions, which the plaintiff thought was a spell. Such procurators could also make the court case drag on, arguing various procedural aspects. For example, in October 1631, Jurijus Moras, the defender of Raina Gromykienė, who received a death sentence

¹²⁶ *Молот ведьм*, pp. 354–356.

¹²⁷ *Статут Вялікага Княства Літоўскага 1588*, IV, pp. 56, 57.

at the Novahrudak castle court, made an appeal to the Supreme Tribunal, and proved that the verdict was invalid, as it was not passed in accordance with the set procedures, i.e. the court trial was held without an official summons. The Tribunal repealed the castle court's verdict, but ordered to bring the same case to trial again.¹²⁸ In cooperative and estate courts, suspected peasants and serfs rarely had a defence lawyer.

The main forms of evidence, according to *Malleus Maleficarum*, depended on how obviously the crime was manifested. Public threats, for example, were considered a form of evidence, as was the same kind of evidence from several witnesses, and the witch's own confession.¹²⁹ Evidence would be collected by the inquisitor. In Lithuania, it was the plaintiff who had to procure court evidence to support his claim. To illustrate this, here are some examples where public threats were taken as evidence.¹³⁰ Usually two or three witnesses in court were enough. However, the more witnesses there were who could swear they were telling the truth, the more believable the accusation became. For example, in 1646 in the Kupiškis *starosty*, two women were accused of witchcraft, but did not confess at the court inquiry, nor during torture. Then, 40 men from the village declared that they were ready to testify that the women were indeed witches. The estate court decided to accept the oaths of seven peasants, and, taking into consideration that neither relatives nor close family members were prepared to defend the accused, it ruled that the women were guilty and they were convicted.¹³¹ In order to ensure that false testimonies could not be made, *Malleus Maleficarum* foresaw that witnesses could not be mortal enemies of the accused.¹³² Meanwhile, in 1657 *Instructio* recommended that courts take a very close and critical view of witnesses' testimonies. For example, in the event of the victim's illness or death, *Instruction* recommended that a competent doctor be called in to confirm or deny the use of spells.¹³³ The most frequently occurring 'spells'

¹²⁸ *Археографический сборник документов*, t. 3, pp. 129–140. Unfortunately, when the court file was heard for the second time, the woman could not be saved. She was convicted and burnt. *Ibid.*, p. 164.

¹²⁹ *Молот ведьм*, p. 351.

¹³⁰ *Raganų teismai Lietuvoje*, pp. 42, 45, 47, 53, 84, 212, 297.

¹³¹ *Ibid.*, p. 226.

¹³² *Молот ведьм*, p. 326.

¹³³ *Instructio circa iudicia sagarum*, pages unnumbered.

would be discussed, denying their magical power.¹³⁴ Yet in reality, witnesses were rarely taken to be unreliable. After they had sworn to tell the truth, not even the procurator's speech that could give a logical explanation for the events held to be spells could influence the court's verdict. However, there were cases when a plaintiff could not find any witnesses. On 28 April 1692, at the court of the Šiauliai Economy supervisor's regent, two women accused of witchcraft were set free because no one could be found who was prepared to take a public oath and accuse them of the alleged crime.¹³⁵

The court would decide which side had to swear against the other, based on the strength of the submitted evidence. Usually this would be the plaintiff. However, if both the plaintiff's and the witnesses' evidence appeared to the court insufficiently believable, and the accused was being brought to trial for the first time, she would be allowed to take a public oath in her defence as well. For example, Agnė Andriejaitė, who was being accused of poisoning in 1631 at the Samogitia castle court, said that she had been instigated to cast spells by Sofija Stasytė, who had given her the herbs to do so. The plaintiff demanded that the girl be tortured; however, taking into consideration the fact that she had not been suspected of witchcraft anywhere before, the court allowed Sofija Stasytė and two other people to swear that she had not cast any spells, and had not taught others to do so. The court found her not guilty.¹³⁶ There are several cases where, given a lack of evidence, the accused was allowed to swear in her own defence, along with several other respected members of the community.¹³⁷ Sometimes a public oath alone was enough to acquit underage people accused of witchcraft.¹³⁸ Such oaths leading to acquittal became especially popular in the mid-18th century, when attitudes towards witchcraft trials were changing.¹³⁹ *Malleus Maleficarum* also foresaw the possibility of the accused taking a public oath of her innocence when the evidence against

¹³⁴ For example, it was said that the clumps of feathers often found among quilts, bundles of raw flax or wool felt were not sewn-up spells but had occurred naturally due to prolonged use or the manufacturer's fault.

¹³⁵ *Raganų teismai Lietuvoje*, p. 52.

¹³⁶ *Ibid.*, p. 165.

¹³⁷ *Ibid.*, pp. 165, 183, 231, 275.

¹³⁸ *Ibid.*, p. 61.

¹³⁹ *Ibid.*, pp. 70, 371.

her was weak.¹⁴⁰ The wordings of these oaths were very different. In *Malleus Maleficarum*, the accused would swear that she was not a heretic. In Lithuania, however, like the accusation, the oath made no mention of heresy. The accused simply swore that she had not caused any harm to the plaintiff's health, livestock or harvest.

II.3. Witchcraft ordeals

One of the forms of obtaining evidence in witchcraft trials were witchcraft ordeals, or tests. They were similar in nature to the 'Court of God' (*iudicia dei*), or trial by ordeal in the Middle Ages, where they were a form of punishment. Their essence lay in the idea that God would not allow anything bad to happen to a person who was truly innocent. However, in 1215 Pope Innocent III banned the clergy from participating in such ordeals, and in 1374 Pope Gregory XI announced that ordeals contravened the teachings of the Church.¹⁴¹ Checking 'God's will' experienced a resurgence in witchcraft trials, where it took on a different aspect. It was not a verdict, but one of the stages of the court inquiry meant to reveal certain characteristics attributed to witches. Most widespread were ordeals involving water, weight, needles, tears and fire.

The most popular ordeal involved *water*, or floating a witch.¹⁴² The point of this test was that water, as a source of cleanliness created by God, would be rejected by collaborators of the Devil, thus witches would not sink. In addition, it was believed that a witch who had powers given to her by the Devil would be lighter than other people and thus would not sink.¹⁴³ The floating was always a public event, at which the whole community would gather. In Lithuania, the public would be not just observers, but participants as well. For example, on 15 May 1615, Sofija Jurgelienė, her son Gasiulis Jurgelaitis, and Tumelis Darandundėnas Povilaitis, peasants

¹⁴⁰ *Молот ведьм*, p. 386. Here it is referred to as a canonical cleansing.

¹⁴¹ The papal bull of Gregory XI *Salvator humani generis* (Avignon, 8 IV 1374).

¹⁴² The first witchcraft ordeals using water were mentioned in the Code of Hammurabi from 2000 BC. When witchcraft could not be proven, the accused was handed over to God's court: they would walk into a river and submerge themselves. However, here the result was the opposite: the guilty would drown and the innocent would float. A. Tamošaitis, J. Kairys, *Hammurabio įstatymas* (Kaunas, 1938), pp. 31–32.

¹⁴³ R. Zguta, The Ordeal by Water (Swimming of Witches) in the East Slavic World, *Slavic Review*, 36/2 (1977), p. 221.

from the village of Magūnai, were suspected of witchcraft and had to undergo a water ordeal. Other peasants prepared boats in the lake near their homes. The accused were tied up and lowered into the water one by one. They were each thrown into the water twice. They did not drown, and thus they were acknowledged as witches.¹⁴⁴ Afterwards, the most morally upstanding person from among the peasants was selected, tied up and thrown into the water. He immediately sank to the bottom, and the crowd could only just revive him when they pulled him out. After such a spectacle, it was clear to everyone that the innocent drown.¹⁴⁵ In 1646, in the village of Sipainiai, two women were handed over to the executioner for floating. In front of all the witnesses, they were floated one at a time, and they ‘swam like ducks’.¹⁴⁶ In Lithuania, this floating ordeal would often be repeated twice. After the first floating, an attempt was made to elicit a confession using different methods. In 1697, the *kampininkas* (lodger) Mikalojus Karalius, who was accused of witchcraft, was tested with water before torture and after torture, and he still did not confess.¹⁴⁷ Sometimes, in order to stress the reliability of the ordeal, it was highlighted that the accused actually wanted to drown themselves, but simply could not sink.¹⁴⁸

However, trying to prove that the accused was a witch by the water ordeal alone was not enough. Sometimes people who had floated would be released on grounds of insufficient evidence.¹⁴⁹ The confirmation of witchcraft required an admission of guilt from the accused, or a public oath by the plaintiff and witnesses that was mentioned earlier.

In some European countries (the Netherlands, England and France), the water ordeal was recognised as inappropriate and banned in the late 16th or 17th century.¹⁵⁰ It was also condemned by the Church. However, an accused woman was floated in Poland in 1775 at the last witch trial,¹⁵¹ and in Lithuania in 1759.¹⁵²

¹⁴⁴ *Raganų teismai Lietuvoje*, pp. 27–28.

¹⁴⁵ *Ibid.*, p. 27.

¹⁴⁶ *Ibid.*, p. 229.

¹⁴⁷ *Ibid.*, p. 312.

¹⁴⁸ *Ibid.*, p. 335.

¹⁴⁹ *Ibid.*, pp. 51, 345.

¹⁵⁰ K. Baschwitz, *Czarownice. Dzieje procesów o czary* (Warszawa, 1999), p. 296.

¹⁵¹ M. Pilaszek, *Procesy o czary w Polsce*, p. 322.

¹⁵² *Raganų teismai Lietuvoje*, p. 375.

The simplest way of testing if someone was a witch was a full body inspection to search for marks of the Devil, red patches or moles. In Western Europe, during these inspections, the ‘witch’ would be stripped bare and all her hair would be shaven off. This stripping procedure is not mentioned in Lithuanian sources. In witchcraft cases in Lithuania, searching for marks of the Devil was taken up only in the second half of the 17th century, when accusations of collaborating with the Devil increased. It was believed that the Devil would mark each witch with a touch of his finger. Sometimes bruises resulting from torture would be considered marks of the Devil: ‘the tortured person had clear Devil’s markings on his body, on his arms from his shoulders and on his legs from his knees, all bloody and bruised.’¹⁵³ In 1731, Barbora Šimkaitytė from the village of Šerkšnėnai admitted during interrogation to having an impression on her back, which had been made with a hot iron.¹⁵⁴ Her brother Kazimieras claimed to have a Devil’s nail mark on his chest.¹⁵⁵ In 1725, when the Batakiai estate maid Kristina was inspected, two marks were found on her body, a red mark on her left side, and a black one on her stomach.¹⁵⁶ In 1746, Jonas Steižys from the village of Čiovydžiai admitted he had one mark under his tongue, and that he was meant to receive a second one before the feast of St John (Midsummer).¹⁵⁷ It was alleged that the extent of a witch’s power was relative to the number of Devil’s marks on the body. Someone with only one mark could only cast spells on animals. They could cast a spell, but they were not considered powerful enough to retract it. Having received a second mark, they would be able to cast spells on people as well, and retract spells too.¹⁵⁸ The same categorisation of witches was mentioned in *Malleus Maleficarum*.¹⁵⁹

A Devil’s mark could be visible or invisible. It was special in that the area of skin was not sensitive, and blood would not flow from it. Thus, another form of ordeal for witches was needle pricking, to search for non-sensitive, bloodless places on the body. There is no data about this test in Lithuania. Weight and fire ordeals were not used in Lithuania either.

¹⁵³ Ibid., p. 51.

¹⁵⁴ Ibid., p. 350.

¹⁵⁵ Ibid., p. 351.

¹⁵⁶ Ibid., p. 341.

¹⁵⁷ Ibid., p. 365.

¹⁵⁸ Ibid., p. 387.

¹⁵⁹ *Молот ведьм*, p. 204.

What is interesting is that *Malleus Maleficarum* was very sceptical about such ordeals. Many are not mentioned at all in the book, while the fire ordeal was condemned outright, as fire was held to be the Devil's element.¹⁶⁰ According to the authors of *Malleus Maleficarum*, the only reliable means of testing for witches was the *tear ordeal*.¹⁶¹ It was believed that a witch under the control of the Devil would not be able to cry. During an inquiry, the judge was recommended to make the accused cry in the name of Jesus, the Blessed Virgin Mary and all the saints. If the woman did not cry, that meant she was a witch. If the woman did not even cry during torture, it was considered as direct evidence that she had indeed used spells. *Instructio* of 1657 dismissed all such evidence as completely unreliable.¹⁶² There are no direct mentions of the tear ordeal in Lithuania. However, as is mentioned earlier, insensitivity to pain was considered the outcome of spells, even in the Statute of Lithuania.

II.4. Imprisonment

If the accusation appeared to have solid grounds in court, the accused would be imprisoned. A search would be made of their home to find the implements and means for casting spells, whereupon they would be confiscated. In Lithuania, the accused would be asked to show where they hid their spell making equipment, which was sometimes invisible to the eye of a normal human.¹⁶³

After making a confession, or sometimes without making a confession during the inquiry or ordeals, the person would be imprisoned. If the procedure was held in a castle or Magdeburgian court, the accused would be imprisoned in the court's prison. In rural areas and on estates, the accused would be imprisoned in the home of an estate official, or even in the plaintiff's home.¹⁶⁴ In Polish historiography, there is an interesting account of the imprisonment of witches in barrels. Accused witches were placed in barrels, with their hands and feet tied behind their back. The knot would be drawn through a hole in the bottom of the barrel. That meant the

¹⁶⁰ Ibid., p. 380.

¹⁶¹ Ibid., p. 369.

¹⁶² *Instructio circa judicia sagarum*, pages unnumbered.

¹⁶³ *Raganų teismai Lietuvoje*, p. 28.

¹⁶⁴ Ibid., pp. 79, 241, 302.

accused had to stay constantly in a kneeling position, unable to either stand up or sit down. The barrel was covered with a thick fabric, and 'Jesus, Mary, Joseph' would be written on the side, in order to protect the woman inside from the Devil's influence.¹⁶⁵ A chest or blocks could be used instead of a barrel, but the accused would be locked in such a way that her feet would not touch the ground. It was thought that witches could draw on magic power from the ground, strengthening their spells and possibly getting loose.¹⁶⁶ The Samogitian bishop A. Tiškevičius described a similar method of imprisonment in Lithuania: 'They are stuck inside the same barrel, with the eyes covered and the hands bound behind their back.'¹⁶⁷ It should be noted that *Malleus Maleficarum* mentioned a similar way of raising a witch from the ground by her hands, shoulders or in a basket during her arrest or imprisonment. This was viewed rather cautiously, but it was deemed effective: it was said to make them less persistent and less likely to break free.¹⁶⁸ However, in witchcraft trials in Lithuania, witches were usually tied up and imprisoned under a wooden tub. For example, in 1731, the family of Kazimieras Šimkus in the village of Šerkšnėnai, who had all been suspected of witchcraft, were imprisoned in the home of the bencher D. Miltinis and stuck under tubs.¹⁶⁹ In 1746, in the village of Čiovydžiai, a witch was also imprisoned under a tub.¹⁷⁰ This form of imprisonment did not offer protection from the Devil. In 1725, when the Batakiai estate maid Kristina was being held prisoner, it was stated that when she was 'stuck under the tub, the evil spirit would enter through the stove and the bottom of the tub, untie her ropes and threaten to strangle her'.¹⁷¹ In 1746, Jonas Steižys explained how the Devil would appear before him for as long as his mother was held captive under a tub. The Devil would even bring her food.¹⁷² Sometimes the accused were held captive in blocks.¹⁷³

¹⁶⁵ K. Koranyi, *Ze studiów nad wierzeniami w historii prawa karnego. Bezczka czarownic* (Lwów 1928), p. 7.

¹⁶⁶ *Ibid.*, pp. 7–8.

¹⁶⁷ J. Lebedys, *Lietuvių kalba*, p. 202

¹⁶⁸ *Молот ведьм*, p. 352.

¹⁶⁹ *Raganų teismai*, p. 349.

¹⁷⁰ *Ibid.*, p. 366.

¹⁷¹ *Ibid.*, p. 338.

¹⁷² *Ibid.*, p. 366.

¹⁷³ *Ibid.*, p. 240.

Thus, these means of imprisonment did not really serve all their functions: they did restrict freedom and movement, but they did not interfere with further communication with the Devil.

II.5. Torture

The main form of evidence during the court procedure was considered a confession. So when there was obvious evidence, or the plaintiff had sworn that the accused was a witch, but the accused denied it, torture would be allowed. There were even cases when torture was applied even after a confession, in order to find out about any collaborators.¹⁷⁴ Note that the authors of *Malleus Maleficarum* did not think that torture would always be successful. That would depend on God's will. So judges were warned against employing torture too much and rushing to include it in the procedure. At first, it was recommended that the accused be coaxed into confessing, with the help of respected people.¹⁷⁵ Attempts would be made to break the woman's spirit by making the conditions of imprisonment increasingly worse. Even trickery was allowed: those who confessed were promised a lesser punishment. Torture was only meant to be used in extreme cases.¹⁷⁶ The severity of the torture had to correspond with the severity of the crime, and to grow more brutal in increments the longer the accused did not confess. According to *Malleus Maleficarum*, torture could only be prolonged, but not repeated, unless new evidence emerged.¹⁷⁷ However, in practice, courts would revert to torture quite quickly, and it would be enacted with great diligence. Secular legal acts regulated torture in witchcraft cases in Lithuania. Chapter 13 Article 14 of the First Statute of Lithuania stated that the accused could be tortured three times a day. However, if a confession was not elicited, the person who submitted the person to torture had to compensate the accused: to pay half a rouble for each case of torture, i.e. around 50 groschen. If the accused happened to die under torture without confessing, the torturer would have to pay so-called head-money, the amount of which depended on the social status of the person. Magdeburg Law also stipulated that torture could only go ahead when there

¹⁷⁴ Ibid., p. 180.

¹⁷⁵ *Молот ведьм*, p. 366.

¹⁷⁶ Ibid., p. 388.

¹⁷⁷ Ibid., p. 368.

was a firm conviction that the accused was indeed guilty.¹⁷⁸ If the suspicions were serious, the Carolina legal code also allowed torture. However, the oath of two witnesses was required in the presence of the accused. If a judge allowed torture without firm evidence, he would have to compensate the accused for the pain they experienced.¹⁷⁹ The severity of the torture was also defined in legal acts: arms or legs could not be broken, internal organs could not be crushed. But in reality, these boundaries were often crossed. It was precisely in this part of the court procedure in Western Europe that the characteristics of *crimina exep̄ta* become very evident. In an ordinary court procedure, torture was allowed only when the guilt of the accused was already completely proven. Torture could only be applied once, and for no longer than an hour. And if the accused still failed to confess, they had to be set free. In witchcraft trials, they would be tortured until they confessed. Usually, even having survived torture, the accused would still be punished with death. *Instructio* of 1657 tried to regulate the duration of torture, limiting it to under an hour, and prohibiting its repetition.¹⁸⁰

In witchcraft trials in Lithuania, torture became more frequent from the 1630s, when judges were more persistent in trying to elicit a confession. Before then, a case would often close with oaths being made. The court would allow torture at the plaintiff's request, and taking the circumstances into consideration. In estate courts, torture was not restricted. It would be left to the master's will. The most frequently applied forms of torture were stretching, and torture by fire.¹⁸¹ Sometimes, a public lashing would be a form of torture.¹⁸² The already-mentioned bishop A. Tiškevičius wrote: 'They are given over to the executioner, who would torture them for three days, three times each day, using fire, and not letting them recover after each session of torture.'¹⁸³ The torture was usually conducted in public. On the morning of 11 May 1655, Gertrūda Zaputkaitienė was tortured in the Raseiniai marketplace in the presence of many people and four *vozny*. She was tortured with various instruments, and

¹⁷⁸ B. Groicki, *Artykuly prawa magdeburskiego*, p. 105.

¹⁷⁹ *Каролина*, p. 44, статья 20.

¹⁸⁰ *Instructio circa judisium sagarum*, pages unnumbered.

¹⁸¹ *Raganų teismai Lietuvoje*, pp. 47, 50.

¹⁸² *Ibid.*, p. 366.

¹⁸³ J. Lebedys, *Lietuvių kalba*, p. 202.

stretched three times.¹⁸⁴ In 1680, at the Raulai estate in Samogitia, Zuzana Šleikienė was led out into the square. After a second round of interrogation, the accused was tortured three times.¹⁸⁵ In 1697, Mykolas Karalius was tortured three times with fire on the Kelmė estate. A large crowd gathered to watch the torture.¹⁸⁶ In 1646, in Merkinė, Ona who was accused of witchcraft was tortured four times.¹⁸⁷ The verdict of the Pinsk *powiat* cooperative court of 25 June 1684 was very telling: ‘We have decided that according to the same [Statute] Chapter 14 Article 16, the said witch shall be given over to the executioner for torture, which shall last one hour, but on the provision that she not be injured, and if she confesses, she will have to be burnt to death; and if she does not confess, then, as foreseen in the Statute, we will see that the protesting party pay her compensation.’¹⁸⁸

Cases in the GDL where nobles would be tortured by a court order were especially rare, even though the Statute’s articles which outline the conditions for torture do not mention any restrictions on torturing a noble. Therefore, there were similar cases among the court witchcraft trials. For example, in August 1614, at the Upytė castle court, torture was demanded for the noblewoman Ščasna Rokicka, from the Borovski (Borowski) line of dukes.¹⁸⁹ In 1631, when the noblewoman (*szlachcianka uczтивaja*) Raina Gromykienė was put on trial at the Novahrudak castle court, she was found guilty and ordered to be tortured and punished.¹⁹⁰ The torture was ordered on the basis of the 1578 Polish draft law of Jakub Psziluski, ‘*krom zadnego wzgłędu na zacnosc maią byc męczeni*’ (must be tortured, regardless of origins), the Emperor Justinian’s legal code, ‘*abowiem zadna zasnoc czaradzieynika od męki wymowic nie moze*’ (no noble origins can save a witch from torture),¹⁹¹ Magdeburg Law,¹⁹² and

¹⁸⁴ *Raganų teismai Lietuvoje*, p. 243.

¹⁸⁵ *Ibid.*, p. 302.

¹⁸⁶ *Ibid.*, p. 312.

¹⁸⁷ *Ibid.*, p. 215.

¹⁸⁸ *Lietuvos Didžiosios Kunigaikštystės kasdienis gyvenimas*, eds. A. Baliulis, E. Meilus (Vilnius, 2001), p. 396.

¹⁸⁹ *Raganų teismai Lietuvoje*, p. 93.

¹⁹⁰ *Ibid.*, p. 41.

¹⁹¹ *Ibid.*, p. 116.

¹⁹² *Археографический сборник документов*, t. 3, p. 127.

the Old Testament.¹⁹³ It could be that the court would sometimes pass a decision to torture a noble defendant under pressure from plaintiffs who held considerably higher positions in society. For example, Gromykienė was accused of attempting to cast a spell on the Lithuanian grand marshal Jonas Stanislovas Sapiega, and the palatine in Novahrudak where the court trial was held was his relative, Mikalojus Sapiega.

Some survived their torture. Explanations for survival rested on the actual use of spells or the Devil's help. In the late 17th century, it became common in witchcraft trials to think that, aside from using spells, the Devil could keep the accused alive or threaten her against confessing. For example, in 1691, the Devil was said to have kept alive Liucija Vaičiulytė, who was put on trial in the Šiauliai Economy, and she 'being completely possessed by an evil spirit, confessed little during the torture'.¹⁹⁴ There are more cases where the Devil was said to have attempted to kill the accused, or encouraged her to kill herself.¹⁹⁵ In 1725, in Batakiai, Kristina, the accused, barely recovered from her interrogation, as allegedly the Devil was trying to strangle her.¹⁹⁶ In 1731, in the village of Šerkšnėnai, Kazimieras Šimkaitis admitted that the Devil had come to him twice and reproached him for disclosing who were witches.¹⁹⁷ In 1746, in the village of Čiovydžiai, Jonas Steižys explained that his mother would not admit to anything, as the Devil had appeared and threatened to twist off her head.¹⁹⁸

During torture, the aim was to reach such a point that the accused would not care what they admitted to, as long as the torture would end. Questions were asked in such a way as to give the desired response. At the courts of the Inquisition, confessions during torture were viewed as the Devil retreating. In Lithuanian witchcraft court files, similar responses were noted from the late 17th century. The already-mentioned J. Steižys explained during his interrogation that the Devil had left him when he was being whipped by an apple tree.¹⁹⁹

¹⁹³ Ibid.

¹⁹⁴ *Raganų teismai Lietuvoje*, p. 51.

¹⁹⁵ Ibid., pp. 365, 368.

¹⁹⁶ Ibid., p. 338.

¹⁹⁷ Ibid., p. 351.

¹⁹⁸ Ibid., p. 366.

¹⁹⁹ Ibid.

A confession extracted during torture had to be repeated afterwards as well, so that the confession would be held as ‘free and willing’. This is why in case files it was especially noted that the accused had confessed freely and willingly, and betrayed their collaborators.²⁰⁰ On occasion, the accused would retract the confession after torture, as they claimed to have mentioned innocent people purely due to the immense pain they were experiencing at the time.²⁰¹ When the accusation was withdrawn, that person would no longer be persecuted.

II.6. Appeals

Malleus Maleficarum only foresaw the possibility of appeal in special cases. However, it had to be submitted to the same judge who presided over the initial court file, who would decide whether the appeal should go further, i.e. to the Curia in Rome.²⁰² It was sometimes claimed in Lithuanian sources that an appeal in witchcraft trials was not allowed, unless the plaintiff or the court agreed.²⁰³ In the Statute of Lithuania, no such exception for those accused of witchcraft was mentioned. According to the Statute, anyone who risked the death sentence for a crime had the right to appeal.²⁰⁴ An appeal from the castle court would be presented to the Supreme Tribunal of Lithuania. The Statute also foresaw that the accused could be released until their case file reached its deliberation at the Tribunal, as long as that person had at least two bondsmen who could vouch for them, with their property and honour as a guarantee. If no such guarantors could be found, the accused had to wait for the Tribunal court in prison.²⁰⁵ If the master of a peasant put on trial at a cooperative court was not satisfied with the verdict, an appeal could be made to the land or castle court.²⁰⁶ Appeals from state estate regent’s courts would be made to the court of the Economy regent, and from there the appeal would proceed to the Economy administrator’s court.²⁰⁷ The highest appeal court in such cases was

²⁰⁰ Ibid., pp. 76, 338.

²⁰¹ Ibid., p. 347.

²⁰² *Молот ведьм*, pp. 422–427.

²⁰³ *Raganų teismai Lietuvoje*, pp. 31, 97, 194, 199, 220.

²⁰⁴ *Статут Вялікага Княства Літоўскага 1588*, XI.67.

²⁰⁵ Ibid., XI.67.

²⁰⁶ *Raganų teismai Lietuvoje*, pp. 43–44.

²⁰⁷ Ibid., pp. 52, 55.

the royal referendaries' court. Appeals from the Magdeburgian court went to the assessor's court. An appeal was not allowed in private estate courts. The conclusion to many of these appeals is unknown. In some cases, the file would be returned to a lower court for another hearing, and the verdict would have to be implemented.²⁰⁸ It was not just the convicted who would lodge appeals, but plaintiffs as well, who might have been unhappy with the court's verdict when the accused was acquitted.²⁰⁹

II.7. Punishment

Only a confession and punishment could reconcile a witch with the Church. Formally, according to *Malleus Maleficarum*, the punishment had to be differentiated based on the severity of the crime. As was already mentioned, it was enough for an accusation to be made for someone to receive a punishment. Suspicions would be grouped as weak, strong or strongest.²¹⁰ If the suspicion was weak or strong, but there was no evidence, the witch could avoid the death sentence by agreeing to a canon's cleansing or a public renunciation of heresy.²¹¹ In such cases, she had to receive a lesser punishment, for example, to stand in church during each Mass for a period of time, holding a piece of wax of a certain weight, or to agree to go on a pilgrimage to a holy site.²¹² If the suspicion was of the strongest level, the death sentence could be expected. However, even in these cases, by the judge's decision, if the accused renounced heresy and expressed remorse for their actions, they could avoid death and receive a life sentence instead.²¹³ A witch who had confessed and expressed remorse, and if these were the first suspicions raised against her, could also theoretically receive just a life sentence in prison.²¹⁴ The death sentence was reserved for those who had committed multiple acts of heresy, or those who had confessed but without remorse,²¹⁵ as well as people who had

²⁰⁸ Ibid., pp. 38, 41.

²⁰⁹ Ibid., p. 183.

²¹⁰ To read about the classification and features of accusations, see: *Молот ведьм*, pp. 382–383.

²¹¹ Ibid., p. 386.

²¹² Ibid., pp. 393, 397.

²¹³ Ibid., p. 394.

²¹⁴ Ibid., p. 398.

²¹⁵ Ibid., pp. 400, 401.

not confessed but whose guilt was proven in court.²¹⁶ However, in reality, after torture, many accused simply confessed ‘freely and willingly’, and would receive the strictest punishment.

The death sentence. Burning was the most common punishment in Continental Europe. Secular members of society would pass the final verdict and see to its implementation. *Malleus Maleficarum* recommended that inquisitors who were also clergymen distance themselves from the death sentence by a formal court request to avoid ‘the spilling of blood or the punishment of death’.²¹⁷ Burning was considered the salvation of the soul. The soul was expected to be cleansed in the flames. The suffering experienced during burning was like a form of remorse that was meant to shorten the suffering after death.

As a specific punishment for witchcraft was not mentioned in the Statute of Lithuania, the courts would usually rely on Christian law, the imperial code,²¹⁸ Magdeburg Law,²¹⁹ and examples of witch-hunts. All of these legal acts outlined the strictest punishment as burning. For example, the *Carolina* code of Emperor Charles V foresaw that if a witch had harmed people with her spells, she would be punished with death by burning.²²⁰ If no harm was done, another, less strict, punishment could be applied. In Europe, during the implementation of such punishments, a so-called gesture of mercy was quite popular, where the convicted would be strangled or beheaded before burning. There is no information about this in Lithuania. Even in cases where the convicted committed suicide while awaiting punishment, the body would still be burnt.²²¹ Women who were expecting would temporarily avoid punishment.²²² If during interrogation it became evident that the accused had used the Host for her spells, an even harsher punishment in Western Europe would be applied: first her hands would be burned slowly. This has not been noticed in Lithuania, although cases of profanity involving the Host did occur in some files.²²³

²¹⁶ Ibid., p. 404.

²¹⁷ Ibid., pp. 400, 401.

²¹⁸ *Raganų teismai Lietuvoje*, p. 35.

²¹⁹ Ibid., p. 37.

²²⁰ *Каролина*, p. 109.

²²¹ *Raganų teismai Lietuvoje*, p. 47.

²²² Ibid., p. 339; *Статут Вялікага Княства Літоўскага 1588*, XI.34.

²²³ *Raganų teismai Lietuvoje*, pp. 57, 347, 338.

In Western Europe, the punishment was usually carried out by a professional executioner. In Lithuania, however, there are suggestions that the victim themselves could carry out the death penalty for a witch. For example, on 1 June 1581, the Kaunas *voigt* court decided that the plaintiff could carry out its verdict on the ‘poisoner’ Darata, accused of making several people fall ill: the plaintiff would have to kill her.²²⁴ The *vozny* and five invited nobles carried out the death penalty on Raina Gromykienė on 7 December 1631.²²⁵ In 1621, in the village of Kurkovičiai (in the Minsk palatinate), the collective designated the chamberlain to carry out their verdict.²²⁶ However, usually an executioner was appointed for the task. If a court did not have its own executioner, one would be invited from elsewhere. For example, in 1726, an executioner was invited from Hrodna to the Alytus Economy.²²⁷ If the appointed person could not be summoned to carry out the verdict, it could be implemented by anyone who had met him.²²⁸ The cooperative court members themselves could also carry out the punishment if needed.²²⁹

Some entries suggest that there were permanent witch-burning places. This is indicated in expressions in the case files such as ‘in the regular spot’, or ‘where all witches are burnt’.²³⁰ These places were usually on the outskirts of a village.²³¹ In cities, a place would be set up beyond the city limits.²³² For example, in Samogitia, one was set up outside Raseiniai near the gallows.²³³ Sometimes the punishment would be carried out in the city itself, on a special platform. In 1758, the death penalty was carried out in Vilnius on a group of people suspected of witchcraft, where a so-called theatre, or platform, was built.²³⁴ Of the published witch files, it becomes clear that a majority (80%) of death sentences by

²²⁴ Ibid., p. 78.

²²⁵ Ibid., p. 42.

²²⁶ Ibid., p. 29.

²²⁷ Ibid., p. 347.

²²⁸ Ibid., p. 30.

²²⁹ Ibid., p. 345.

²³⁰ Ibid., p. 64.

²³¹ J. Putek, *Mroki średniowiecza*, s. 197; *Археологический сборник*, t. 1, no. 31, p. 101.

²³² *Raganų teismai Lietuvoje*, p. 42.

²³³ Ibid., p. 244.

²³⁴ J. Obst, *Kat miasta Wilna*, p. 173.

burning were carried out in estate courts. The punishment ceremony was a public spectacle. The accusation would be read to the public at the place of burning, and the verdict would be carried out. Before the execution, the convicted could still retract their accusations against ‘collaborators’ they had betrayed. The death penalty did not always proceed smoothly. In the spring of 1680, in Samogitia, when Saliamonas Puzas was being burnt, observers were surprised that the bonfire would not burn, and that magpies were flying in circles above the victim. (Witches would turn into magpies and fly to their gatherings.)²³⁵

Apart from burning, other forms of the death sentence were passed in Lithuanian witchcraft trials as well. In 1617, the Ukmergė castle court punished a woman from an estate family suspected of witchcraft and arson with death by hanging.²³⁶ This was the punishment foreseen in the Statute of Lithuania for arson.²³⁷ In 1641, in the Kupiškis *starosty*, several peasants were accused of witchcraft and of poisoning the children of Tyzenhauzas, the *starosta* of Kupiškis. One of the suspects, Mikalojus Vaivadonis, was beheaded.²³⁸ In 1694, on the Biržai estate, Barbora Nikielsova, who was accused of poisoning her husband (poisoning was often identified with witchcraft), was also beheaded.²³⁹

Adjudgement to the plaintiff. A lighter form of punishment was when the convicted was adjudged to the plaintiff. On 23 May 1602, the *vozny*’s statement claimed that a year previously, the serf Gertrūda Jakutaitė had cast a spell on the daughter of the Rietavas noble Valentinas Žvaginis. The noble sought justice in the Plungė estate court, which adjudged Gertrūda to Žvaginis.²⁴⁰ A similar case unfolded in 1641, when the brother of the victim vouched for a witch who was sentenced to death. In return, the convicted had to enter the service of her new master, the brother.²⁴¹ In 1680, in Žemaitija, five nobles vouched for a Lukavičienė, who had been

²³⁵ *Raganų teismai Lietuvoje*, p. 303.

²³⁶ *Ibid.*, p. 154.

²³⁷ *Статут Вялікага Княства Літоўскага 1588*, XI.18.

²³⁸ *Raganų teismai Lietuvoje*, p. 207.

²³⁹ *Biržų dvaro teismo knygos*, eds. V. Raudeliūnas, R. Firkovičius (Vilnius, 1982), pp. 60–83.

²⁴⁰ *Raganų teismai Lietuvoje*, p. 86.

²⁴¹ *Ibid.*, p. 206.

accused of witchcraft, and four nobles vouched for M. Budreckas. In the end, the two accused were adjudged to those who had spoken in their favour.²⁴² However, according to the Statute, nobles who were sentenced to death but who had bought their freedom, or had their friends plead on their behalf, still lost respect in the community, and lost their noble rights.²⁴³

Expulsion from the community. Sometimes the accusers did not demand the death sentence for the people they had convicted. For example, in 1695, residents of the village of Mitkūnai reported that the Ūba family exhibited asocial behaviour, threatened others, and engaged in witchcraft, and asked that they should be removed. The family was expelled from the village, with no permission to return, otherwise they would be punished with death.²⁴⁴ Sometimes, convicted people were banished to other estates.²⁴⁵ At the Paneriai estate in 1763, spell-casters and witches had to be flogged and expelled.²⁴⁶ In 1771, the Raseiniai Dominican monks decided to drive the Ruginis family, suspected of witchcraft, from their farm and lands, and in order to cover their expenses, the Dominicans took over half the family's property.²⁴⁷

Expulsion was sometimes combined with ***punishment of the body and one's honour***. For example, in 1646 in Merkinė, the suspect Ona was handed over to the executioner to be flogged at the stake, have a mark burnt into her skin, and to be driven from the town for all time. Anyone who dared to take her into their homes would also be severely punished.²⁴⁸ The burning of a mark on the body was typical of Magdeburg Law, but it was not mentioned in the Statute. People who had not come of age and were accused of witchcraft would often be sentenced to corporal punishment instead of death.²⁴⁹ According to the Statute of Lithuania, people under the age of 16 were not given the death sentence.²⁵⁰

²⁴² Ibid., p. 303.

²⁴³ *Статут Вялікага Княства Літоўскага 1588*, XI.57.

²⁴⁴ *Raganų teismai Lietuvoje*, pp. 52–55.

²⁴⁵ Ibid., p. 359.

²⁴⁶ Ibid., p. 377.

²⁴⁷ Ibid., p. 382.

²⁴⁸ Ibid., p. 216.

²⁴⁹ Ibid., pp. 64–65.

²⁵⁰ *Статут Вялікага Княства Літоўскага 1588*, XIV.11.

Corporal punishment would sometimes be combined with *church punishment*.²⁵¹ In 1702, the Joniškis estate court ordered Girnienė, who was accused of witchcraft, to pay the plaintiff the sum he had lost for the horses she killed, and to perform a penance. For three weeks, on Thursdays, Fridays and Sundays, she had to kneel before the church altar in public, with a candle and clothed in a blanket, and flog herself at the elevation of the Host, and to live near the church shelter for as long as her penance lasted, suffering her punishment.²⁵² In May 1709, the Kobryn magistrate court convicted the burgher Apolonija Kyšelova of using spells to attract a husband: her punishment was to lie in the Orthodox church during Mass, and then to endure 50 lashes in the town square.²⁵³

Sometimes, if there was a lack of evidence, the accused could be given a monetary punishment. For example, on 3 July 1731 in Kražiai, because of the lack of evidence, some of the accused were set free. However, they were ordered to pay 50 kapa of groschen if they did not show remorse and tried to harm the plaintiffs.²⁵⁴ Monetary punishment started to be applied for erroneous accusations of witchcraft in the 18th century. The Žagarė estate court was especially known for this in the mid-18th century. The surviving estate court books suggest that there were conscious efforts not to allow witchcraft trials to take place at all. As soon as a complaint was received, the court tried to reconcile both parties.²⁵⁵ Failing that, the accused was allowed to clear their name by taking an oath, while the plaintiff would be punished for defamation or injury.²⁵⁶ This was probably due to the personal view of witchcraft trials of the person who acted as the estate regent at that time.

In rarer cases the *punishment of imprisonment* would be given. This kind of sentence was handed down in the Žagarė estate court, where on 25 June 1742, an accused woman was sentenced to 12 weeks in prison, and had to present a guarantor who could vouch that she would never harm anyone again.²⁵⁷ Two months later,

²⁵¹ *Raganų teismai Lietuvoje*, pp. 65, 377.

²⁵² *Ibid.*, p. 63.

²⁵³ *Ibid.*, p. 65.

²⁵⁴ *Ibid.*, p. 359.

²⁵⁵ *Ibid.*, p. 373.

²⁵⁶ *Ibid.*, pp. 371–372.

²⁵⁷ *Ibid.*, p. 364.

another witchcraft case was brought before the court. The accused was again sentenced to prison and had to present guarantors.²⁵⁸

Discharge from punishment. On occasion, the plaintiff would discharge the defendant from punishment. Sometimes the accused would swear not to cast spells again, and to retract the spells already made.²⁵⁹ Several women were tried in 1639 in Samogitia who were accused of making the landowner Sofija Preikintaitė Sugintienė Janavičienė fall ill. One of the accused confessed, and promised to make the woman well again. For this deed, she received a written pardon.²⁶⁰ Pardons were also granted to those who accepted the blame on behalf of someone else. In 1655 in Samogitia, the tailor Matijošius Urbonaitis Talačkaitis and his daughter Sofija were accused of casting a spell on the wife of the Lubiai estate owner J. Šostovickas. Both admitted to engaging in witchcraft; however, only the father was burnt, as he took the blame for his daughter as well.²⁶¹

Conclusions

1. There is more thorough documentation of witchcraft court procedures from the mid-16th century, when they finally came under the jurisdiction of the secular courts. The social class of the plaintiff and defendant determined which court would preside over their case. Burghers from Magdeburgian cities were tried in the *voigt* and benchers' or magistrate courts in accordance with Saxon law. Nobles were put on trial in the castle court, as outlined in the Statute of Lithuania, while peasants were judged in the cooperative, estate owner or manager's court. The clergy's efforts to bring witchcraft trials back into the canonical courts were unsuccessful. As witchcraft trial procedure was not clearly regulated in the Statute of Lithuania, cases were deliberated in the context of Magdeburg, Christian and Polish law, and referred to examples of witch-hunts from other countries. The book *Malleus Maleficarum* was not mentioned directly in case files, but the provisions it outlined appear.

²⁵⁸ Ibid., p. 364.

²⁵⁹ Ibid., p. 330.

²⁶⁰ Ibid., p. 204. However, when the plaintiff grew even more ill, she cancelled her notice and obliged her sons to have the witches convicted after her death.

²⁶¹ Ibid., p. 240.

2. Differences between the witchcraft trial procedure in Lithuania and that described in *Malleus Maleficarum* emerge in the presentation of accusations. Whereas *Malleus Maleficarum* recommended the anonymous presentation of the accusation, where the accuser and witnesses would remain unidentifiable, in Lithuania the regulations foresaw a personal expression of the accusation, where the accused would always know who had made the accusation against them.

3. In Lithuanian witchcraft trials, witches would be accused of causing harm to life, health or property through the use of spells. They were not accused of heresy in secular courts, even if it became evident during the court procedure that there had been instances of collaboration with the Devil. This kind of collaboration was more prevalent only from the mid-17th century, and made up barely 10% of all known cases.

4. Another difference was that in Lithuania, the accused could have someone serve in their defence who was free to act as they saw fit. However, this depended on who was being put on trial, and in which court the case was being deliberated. If the trial took place in the Magdeburgian or castle courts, the presence of a defender was foreseen in legal acts, while in estate courts, all variables were left to the will of the estate's owner.

5. The further court procedure did not differ much between courts serving different social estates. Of the numerous witchcraft ordeals known in Western Europe, two were usually used in Lithuanian courts, floating and searching for marks of the Devil. One of the most popular forms of torture was stretching and burning (with a candle or straw). Both *Malleus Maleficarum* and secular legal acts determined the duration of the torture and restrictions on its severity, although in reality, these limitations were not always followed.

6. Accused who were Magdeburgian city dwellers, nobles or state peasants had the right to appeal in a Magdeburgian or castle court (private peasants did not have this right). However, in actual fact, state peasants could not always make use of this right.

7. A fifth of all the accused in Lithuania were sentenced to the most severe form of punishment, death, and mostly in estate courts. The life sentence mentioned in *Malleus Maleficarum* was never applied in Lithuania. Lighter forms of punishment were also given, especially if the convicted never caused someone's death: these could be expulsion from the community, the adjudgement of the convicted person to a guarantor, or flogging. Church punishments were also handed down.

The image of a demonised witch as the Devil's helper, a heretic who had rejected the true faith, never really formed in Lithuania. That is why witchcraft court procedures were more similar to regular criminal court cases than the witchcraft trial procedures that were widespread in Western Europe.

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RAGANAVIMO BYLOS LIETUVOS DIDŽIOJOJE
KUNIGAİKŠTYSTĖJE XVI–XVIII A.

Santrauka

GITANA ZUJIENĖ

Straipsnyje analizuojamas raganų teismo procesas Lietuvoje. Aiškinamasi, kurie teisės aktai reglamentavo jo eigą, kokie teismai sprendė tokio pobūdžio bylas. Raganų teismai Lietuvoje lyginami su teismu, aptartu 1487 m. Jakobo Šprengerio ir Henriko Institorio išleistoje knygoje „Raganų kūjis“, atskleidžiami procesų panašumai ir skirtumai.

Lietuvoje raganų teismai išsamiau dokumentuoti nuo XVI a. vidurio, kai jie galutinai atiteko pasaulietinių teismų kompetencijai. Kokiame teisme bus svarstoma byla, priklausė nuo įtariamojo ir ieškovo socialinio sluoksnio. Magdeburginio miesto miestiečiai buvo teisiami pagal vokiškąją teisę magistrato teisme, bajorai – pilies teisme, valstiečiai – kuopos, dvaro savininko arba valdytojo teisme. Kadangi Lietuvos Statute raganų teismo procesas nebuvo aiškiai reglamentuotas, svarstant bylas buvo pasiremiami ir magdeburgine, krikščioniškąja, lenkiška teise, vadovautasi raganų gaudymo pavyzdžiais. Pats „Raganų kūjis“ bylose tiesiogiai neminimas. Skirtumai tarp raganų teismo proceso Lietuvoje ir „Raganų kūjyje“ ryškėja jau kaltinimo pateikime. „Kūjyje“ rekomenduotas anoniminis įtarimo pareiškimas, kai kaltintojas ir liudininkai įtariamajam lieka nežinomi, o Lietuvoje reglamentuotas asmeninis kaltinimo pareiškimas, kai įtariamasis visada aiškiai žinodavo, kas ir kuo jį kaltina. Raganos Lietuvos Teismuose kaltinamos pasinaudojusios burtais ir taip pakenkusios gyvybei, sveikatai arba turtui. Kaltinimas erezija joms neformuluojamas net bylos eigoje paaiškėjus „bendravimo su velniu“ faktui. Pastarieji dažnesni tik nuo XVII a. vidurio ir sudaro vos apie 10 proc. visų bylų. Kitas skirtumas – galimybė įtariamajam turėti gynėją ir gynėjo veikimo laisvę. Ji priklausė nuo to, kas buvo teisiamasis ir kokiame teisme byla buvo svarstoma. Magdeburginiame ir pilies teismuose gynėjo buvimą reglamentavo teisės aktai, o dvaro teisme viskas buvo palikta dvaro savininko valiai. Tolesnis teismo procesas skirtingų luomų teismuose labai nesiskyrė. Iš daugybės raganų bandymų, žinotų Vakarų Europoje, Lietuvos teismuose naudoti du – plukdymas ir velnio žymių paieška. Populiariausi kankinimo būdai – tempimas ir deginimas ugnimi (žvake, šiaudais). Tiek „Raganų kūjis“, tiek pasaulietiniai teisės aktai numatė kankinimų trukmės, stiprumo ribojimus, tačiau realybėje to ne visada buvo laikomasi. Apeliacijos teise realiai pasinaudoti galėjo tik aukštesnių socialinių sluoksnių įtariamieji, teisiami magdeburginiame ir pilies teismuose. Aukščiausia, mirties, bausmė (sudeginimu) Lietuvoje buvo nubausta penktadalis visų įtariamųjų. Vienu atveju įtariamoji buvo pakarta, dviem atvejais – nukirsdinta. „Raganų kūjyje“ minimas galimas įkalinimas iki gyvos galvos Lietuvoje neapraktikuotas. Taikytos ir lengvesnės bausmės, ypač jeigu kaltinamojo veiksmai nesukėlė kito žmogaus mirties – išvaymas iš bendruomenės, kaltinamojo priteisimas laiduotojui, išplakimas. Taip pat taikytos bažnytinės bausmės.

Demonizuotos raganos kaip velnio pagalbininkės, tikrojo tikėjimo atsisakiusios eretikės įvaizdis Lietuvoje iki galo taip ir nesusiformavo. Dėl šios priežasties jų teismo procesas artimesnis paprastų baudžiamųjų bylų procesams, nei Vakarų Europoje paplitusiems raganų teismams.