

Historical and Legal Features of Implementation and Functioning of Magdeburg Law in Lutsk

The study of historical and legal features of implementation and functioning of Magdeburg law in Lutsk is relevant because it allows to study the processes of formation and development of the right to self-government in Volyn' main center in certain chronological and territorial frameworks. Based on the historical and legal analysis of the monuments of law, monographs and scientific works, the article describes the general characterization of the process of implementation and social nature of the Magdeburg law in the city of Lutsk, which was a part of the Grand Duchy of Lithuania. It is justified that the Magdeburg law of the Grand Duchy of Lithuania differed from similar (city) law in the German and Polish cities. It has been determined that Lutsk, as the center of a specific land, was granted a Magdeburg law charter in 1432 by the Polish King Wladyslaw (Jagiello), each subsequent charter was only detailing the legal norms established by the previous one. It has been established that the rules of the Magdeburg law regulated the socio-economic and social-legal relations, the court and the judiciary procedures, determined the measures of criminal punishment, regulated the internal statutory activities of merchant corporations, craft shops and trade. Thus, it can be argued that the Magdeburg law facilitated the formation of civil society in Lutsk, democracy and regulated social life on the basis of legal norms, and created the legal basis for the proper functioning of the city. On the other hand, the composition of the documents shows that the form of privileges dated 1432 and 1497 was standard and almost unchanged, since granting privileges to the city of Lutsk, the supreme rulers also had their own political goals, so each subsequent charter only detailed the legal rules initiated by the previous charter.

Key words: Grand Duchy of Lithuania, Volyn, Lutsk, Magdeburg law, charter, privilege.

Formulation of scientific problem and its meaning. Building a civil society, socio-democratic and constitutional state in Ukraine with a clear separation of powers and the establishment of local self-government as an integral part of a democratic society is inextricably linked to the study of the past, the definition of the historical period and the conditions under which the Ukrainian state and its separate elements were formed.

The study of this topic is relevant because it allows to study the processes of formation and development of the right to self-government in Lutsk in certain chronological and territorial frameworks. Their analysis and scientific evaluation will allow modern Ukrainian legislators not to repeat those mistakes that have occurred in history, since solving current problems related to reforming the legal system of the modern Ukrainian state depends to a large extent on the scientific analysis of historical experience and the use of its results in current law-making processes.

Analysis of research on this issue. The problem of the introduction and social nature of urban (city) law plays an important role in the research of the early medieval city. The most famous system of city law in the Grand Duchy of Lithuania was the Magdeburg law (also Magdeburg rights). The norms of this law enshrined the jurisdiction and freedoms of the city's inhabitants, their right to self-government. They regulated the socio-economic and social-legal relations, the court and judiciary procedures, determined the measures of criminal punishment, regulated the internal statutory activities of merchant corporations, craft shops and trade. Ukrainian jurists began to research the problems of Magdeburg law in the XVIIIth century during the codification of Ukrainian laws. Among the scientists who investigated the problem of Magdeburg law on the Ukrainian lands were: M. Vladymyrsky-Budanov, F. Leontovych, V. Antonovych, M. Hrushevskyy, O. Kompan, M. Kovalskyy, A. Tkach, N. Bilous, M. Kapral, A. Reznikov, I. Usenko, and P. Muzychenko

Statement of the purpose and objectives of the article. The purpose of the study is to analyze the peculiarities of implementation and functioning of Magdeburg law in Lutsk.

To achieve this purpose, the following problems must be solved:

- to investigate regulatory documents certifying the city's Magdeburg law;

- to consider the influence of Magdeburg law on the development of urban self-government in Lutsk;
- to highlight and analyze the characteristics of the historical background of the period.

The problem of implementation and functioning of the Magdeburg law in Volyn is poorly researched, first of all, because the 1432 and 1497 charters were written in Latin and received a comprehensive translation only a few years ago.

The presentation of the main material and justification of the results of the study. Magdeburg law is one of the most famous systems of medieval city law. It was formed in the German city of Magdeburg and, having spread to other cities in Europe, became a symbol of urban self-government in the era of feudalism.

The cities that were granted the Magdeburg law, in addition to self-government, were also granted tax and judicial immunities, land title, and exemption from feudal duties. This law established the procedure of election of the city government, regulated its functions, court and taxation procedures, basic rules of law, regulated the activities of craft shops, the activities of merchant guilds and the order of trade.

Modern scholars believe that although the Magdeburg law was extended in the Grand Duchy of Lithuania under the influence of Poland, it had distinctive features and underwent significant modifications: the Magdeburg law of the Grand Duchy of Lithuania differed from similar (city) law in the cities of Germany and Poland [1, p. 36].

The Magdeburg law was granted by the relevant charters, which were of a legislative nature and were called «letters» and «privileges» in the Grand Duchy of Lithuania. They were the defining form of the development of law at that time, until the adoption of the Lithuanian statutes. Privileges of the Magdeburg law were prominent among other documentary monuments of law of the Grand Duchy of Lithuania, and included various rights for the benefit of a particular city receiving it. They were given either at the request of local communities or regardless of such request by the Polish kings and grand princes in the form of special mercy. The political aspects of the implementation of the Magdeburg law should not be forgotten. Each city after receiving such a privilege over time received a new privilege to confirm the previous one. They all constitute a complex of important historical sources of the city organization of the Grand Duchy of Lithuania [4].

The history of Lutsk dates back to the times of Kievan Rus. The first mention of Lutsk dates back to the year 1085. In XIII century the city developed as part of the Galicia-Volyn principality. In general, the city was famous for its wealth of churches and monasteries. In 1288 the existence of the Lutsk Orthodox Diocese was mentioned. With the agreement of Lubart, in 1375 the first in the Grand Duchy of Lithuania Lutsk Roman Catholic diocese was created, which included the southwestern lands of Belarus. From 1340 the city belonged to Prince Lubart, who in the middle of the fourteenth century at the site of the ancient detynets (central fortified part of the city) began the construction of Lutsk castle [11, p. 12].

In the first decades of the XV century the city already had a well-developed system of taxes and duties in the field of land tenure and land use. Modern Ukrainian researchers believe that Lutsk in the XV century entered the leading position in trade with the western and northern lands of the Grand Duchy of Lithuania. Magdeburg law in Ukrainian cities was spread in the XIV century by German colonists. The Prince of Galicia-Volyn Danylo Romanovych, and his successors granted the German colonists permission to exercise their own laws and to have their own administrative institutions. After the transfer of Ukrainian lands under the rule of Lithuania and Poland, the Magdeburg privilege was granted by the Grand Lithuanian princes and kings.

Lutsk, as the center of the specific land, received a Magdeburg law charter in 1432 from the Polish King Wladyslaw (Jagiello), recognizing his rule. It was a period of struggle between the Kingdom of Poland and the Grand Duchy of Lithuania for the redistribution of spheres of influence, which was reflected in the fierce war of 1432-1439 between Svydrygailo and Wladyslaw (Jagiello). In a letter to the princes, prelates, nobles, warriors, peers and other inhabitants of Lutsk's lands, belonging to the Holy Roman and Eastern or Greek rites dated 1432, Wladyslaw (Jagiello) «bestowed and generously granted» all rights and freedoms «owned and used by the prelates, barons and nobles of the Polish Kingdom». The privilege pointed to the ethnic composition of this population: Poles, Teutons and Ruthenians. All of them were granted the «Teutonic right» and the Jews and Armenians were granted the right enjoyed by Jews and Armenians in the crown cities of Krakow and Lviv [6, p. 122].

The privilege dated 1432 raised the question of organizing the tax system. In particular, it was emphasized that among the inhabitants of Lutsk's lands, the ruler seeks to exempt peasants (kmets) from taxes, «which the elderly used to collect for us and our descendants». It was the first step to regulate socio-economic relations in Lutsk on the basis of new legal principles or the principles of the Magdeburg law [4].

The order of the Grand Duke of Lithuania, Alexander, in the privilege dated 1497, in its turn, was

larger and more meaningful.

This privilege defined the rights and responsibilities of specific officials in the local government system. Starting in the XV century, the authority of the wight (mayor) was a significant and important part of the municipal government. The Lutsk embassy obeyed him in all practical matters. At the same time, the city's current affairs and management were carried out by the council. According to the privilege, the Lutsk's wight was entitled to the annual election of half of the Rai (members of the council), and the other half was to be elected by the embassy of the city [3, p. 241].

The Lutsk's wight, under the privilege dated 1497, also belonged to the judiciary. The inhabitants of the city were freed from the dependence and jurisdiction of the local courts (Hrodna court) and their governors. The document stated that Lutsk's residents should not be summoned to the Hrodna court «in both serious and minor cases», nor should they serve any sentence imposed by the Hrodna court. The burghers, as noted in the document, «were obliged to obey only their wight, according to the form of law».

It should be noted that in the Grand Duchy of Lithuania it was widespread practice to indicate in a privilege a city, on the basis of which its inhabitants were to organize a city system. As the model for Lutsk was named the city of Vilno (Vilnius) [4].

The city had the only measure of weight that was also used by local shopkeepers, vendors, and some officials. This is understandable, because it was a matter of organizing a trade business in the city, and therefore the responsibility was primarily placed on city officials. Lutsk wight had to have two defined and established measures. One measure was provided for vegetables (1 quarter capacity) and another for honey. All those who worked and traded in Lutsk were obliged to use these weight measures, just like the wight himself [1, p. 14].

Also, in accordance with the privilege dated 1497 it was allowed to build a town hall in the honorable place in Lutsk. This section traces some of the planning features of the medieval city of Lutsk. The reference to the location of the town hall «in the place of honor» signified the typical practice of building Lutsk on the model of European medieval cities. The privilege indicated that shoemakers, bakers, butchers, butlers should be located near the town hall. The decision to allocate appropriate area for artisans indicates the proper level of development of handicraft production in the city. For the benefit of the city and its inhabitants, it was allowed to build a public bath, as stated in the document, “in a convenient place without any obstacles” [1, p. 14].

The charters dated 1503, 1560 and 1576, in their turn, did not carry any meaningful content. The reason for their creation was the change of the ruler, because each of the kings intended to do the so-called «service» to the city, with the hope of further support of the royal power, as stated in the charter dated 1503, «to keep the faithfulness of their faithful, this is their documents forever confirmed and passed on to the next generations».

Conclusions. Thus, it can be argued that the Magdeburg law facilitated the formation of civil society in Lutsk, democracy and regulated social life on the basis of legal norms, and created the legal basis for the proper functioning of the city. On the other hand, the composition of the documents shows that the form of privileges dated 1432 and 1497 was standard and almost unchanged, since granting privileges to the city of Lutsk, the supreme rulers also had their own political goals, so each subsequent charter only detailed the legal rules initiated by the previous charter.

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Гламазда П. Історико-правові особливості впровадження та функціонування магдебурзького права у Луцьку. Вивчення історико-правових особливостей імплементації та функціонування магдебурзького права в Луцьку актуальне, оскільки дозволяє досліджувати процеси формування і розвитку права на місцеве самоврядування в головному центрі Волині. На основі історико-правового аналізу пам'яток права, монографій і наукових праць в статті здійснена загальна характеристика соціальної природи і процесу реалізації магдебурзького права в місті Луцьку, який входив до складу Великого князівства Литовського. Обґрунтовано, що магдебурзьке право Великого князівства Литовського відрізнялося від аналогічного (міського) права в Німеччині та Польщі. Було встановлено, що Луцьк як окремий регіональний центр отримав в 1432 році грамоту на магдебурзьке право від польського короля Владислава (Ягайла). Кожна наступна королівська грамота містила правові норми, встановлені попередньою, у дещо зміненій редакції. Встановлено, що норми магдебурзького права регулюють соціально-економічні та соціально-правові відносини, судоустрій і судові процеси, визначають міри кримінального покарання, регулюють внутрішню статутну діяльність торговельних корпорацій, ремісничих майстерень і купецтва. Таким чином, можна стверджувати, що магдебурзьке право сприяло формуванню громадянського суспільства, демократії і регулювало громадське життя в Луцьку на основі правових норм, а також створювало правову основу для належного функціонування міста. Аналіз змісту королівських грамот показує, що форма привілеїв від 1432 і 1497 років була стандартною і практично не змінювалася, оскільки, надаючи привілеї місту Луцьку, верховні правителі також реалізовували свої політичні цілі.

Ключові слова: Велике князівство Литовське, Волинь, Луцьк, магдебурзьке право, грамота, привілей.

Гламазда П. Историко-правовые особенности внедрения и функционирования магдебургского права в Луцке. Изучение историко-правовых особенностей имплементации и функционирования Магдебургского права в Луцке актуально, поскольку позволяет исследовать процессы формирования и развития права на местное самоуправление в главном центре Волини. На основе историко-правового анализа памятников права, монографий и научных трудов в статье осуществлена общая характеристика социальной природы и процесса реализации магдебургского права в городе Луцке, входившем в состав Великого княжества Литовского. Обосновано, что магдебургское право Великого княжества Литовского отличалось от аналогичного (городского) права в городах Германии и Польши. Было установлено, что Луцк как отдельный региональный центр получил в 1432 году грамоту на магдебургское право от польского короля Владислава (Ягайла). Каждая последующая королевская грамота содержала правовые нормы, установленные предыдущей, в измененной редакции. Установлено, что нормы магдебургского права регулируют социально-экономические и социально-правовые отношения, судоустройство и судебные процессы, определяют меры уголовного наказания, регулируют внутреннюю уставную деятельность торговых корпораций, ремесленных мастерских и купечества. Таким образом, можно утверждать, что магдебургское право способствовало формированию гражданского общества в Луцке, демократии и регулировало общественную жизнь на основе правовых норм, а также создавало правовую основу для надлежащего функционирования города. Анализ содержания королевских грамот показывает, что форма привилегий от 1432 и 1497 годов была стандартной и практически не изменялась, поскольку, предоставляя привилегии городу Луцку, верховные правители также реализовывали свои политические цели.

Ключевые слова: Великое княжество Литовское, Волинь, Луцк, магдебургское право, грамота, привилей.