

Conclusions

The aim of this study of the history of the Magdeburg *Weichbild* in the medieval Kingdom of Poland was a thorough examination of the following issues:

- 1) The Introduction set the stage of the debate by focusing on the key issues of the functioning of the *Weichbild* in legal practice and the expanding range of its regulations. An examination of the sources at the point of its origin in Chapter 1 established the distinctly urban bias of the 'Polish' *Weichbild*.
- 2) Chapter 1 focuses on the extant Latin texts of the *Weichbild*. They outnumber by far the corresponding German texts, which indicates that the former were in much greater demand in the Kingdom of Poland.
- 3) Chapter 2 analyses at length the dynamics of the Latin text and its mutations. It also tries to establish the characteristic features of the Latin texts and classify them.
- 4) Chapter 2 notes the special role of Cracow in the history of municipal law in the Kingdom of Poland, too.
- 5) Chapter 3 argues that the evolution of the *Weichbild* in the Kingdom of Poland was the product of a process of adaptation of the Magdeburg Law to the needs of its users.
- 6) Chapter 4 shows that it is possible to detect lines and stages of historical development in a seemingly irregular proliferation of the *Weichbild*'s texts and variations. The process began with a few German texts, which spawned a large number of Latin offshoots; it came to an end with an authorized print version, Jan Łaski's *Commune incliti*.
- 7) The use of the *Weichbild* in legal practice is documented by a vast number of entries in municipal court records and annotations in the margins of manuscripts and printed copies of *Commune incliti*.
- 8) The evolution of the *Weichbild* is closely connected with manuscript copying during which the text could be modified at any point. This phenomenon was inseparable from medieval legal culture. After the invention of print, it became possible to equip all users with a uniform text and thus safeguard the law's integrity and reliability. However, the transition to the new system took time.

1 The Significance *Weichbild* among Other Sources of the Saxon-Magdeburg Law

Thus far, there have been several attempts to assess the importance of the *Weichbild*. After analysing the manuscripts of the Silesian-Małopolska compilation, Emil Kałużniacki came to the conclusion that *Ius municipale Magdeburgense* had acquired far greater importance than the *Speculum Saxonum*, which played only a secondary role.¹ Stanisław Kutrzeba found the *Weichbild* to be the most important legal act of Magdeburg Law. An unmistakable clue about the relative rank of the two legal codes is offered by the contemporary practice of giving the Magdeburg *Weichbild* pride of place in collections of urban law (e.g. in MSS of the Cracow version). It is no accident, either, that the Magdeburg judgments were, as a rule, attached to the *Weichbild* and not to the *Sachsenspiegel*. The *Weichbild*'s priority was preserved by Jan Łaski, who included it in Book One of his magisterial *Commune incliti*. Moreover, apart from volumes that comprise both law codes, there are a number of manuscripts which contain the *Weichbild*, but not the *Sachsenspiegel*. Clearly, in deciding to copy the *Weichbild*, and, secondly, the Magdeburg judgments, the medieval writers must have been guided by contemporary priorities.

Post-war historiography, however, became dominated by the view that in the field of judicial law, the *Weichbild* practically mirrored the provisions of the *Sachsenspiegel*, and its sole original feature was a handful of rules concerning the *Constitution of Courts*.² Such assessments were reinforced by the belief in the supreme authority of the *Sachsenspiegel*.³ This claim was no doubt based on the opinions of 16th-century legal scholars. Thus, Mikołaj Jaskier in his gloss to Article 1 of *Ius municipale* writes that the *Weichbild* is founded on Saxon Law supplemented by the Magdeburg urban by-laws (Pol. *wilkierze*,

1 Emil Kałużniacki, "Die polnische Recension der Magdeburger Urtheile und die einschlägigen deutschen, lateinischen und czechischen Sammlungen", *Sitzungsberichte der phil.-hist. Classe der Kaierischer Akademie der Wissenschaften* 111 (1886), pp. 119–120, Note 5.

2 Witold Maisel, *Poznańskie prawo karne do końca XVI w* [Poznań Criminal Law until the 16th Century] (Poznań, 1963), p. 304; Zygfryd Rymaszewski, *Łacińskie teksty Landrechtu Zwierciadła Saskiego w Polsce. Versio Vratislaviensis, versio Sandomiriensis, Łaski* [Latin Texts of the Landrecht of the Sachsenspiegel in Poland: Versio Vratislaviensis, versio Sandomiriensis, Łaski] (Łódź, 1975), pp. 152–153; Zygfryd Rymaszewski, "Forum commune a forum liberum", *Studia z Dziejów Państwa i Prawa Polskiego* 2 (1995), 87; Krystyna Kamińska, *Lokacje miast na prawie magdeburskim na ziemiach polskich do 1370 r. Studium historyczno-prawne* [Incorporation of Towns under Magdeburg Law in Poland until 1370: A Study in the History of Law] (Toruń, 1990), p. 61.

3 Rymaszewski, *Łacińskie teksty Landrechtu Zwierciadła Saskiego w Polsce*, p. 6.

Ger. *Willküren*),⁴ and Paweł Szczerbic offers the following explanation in his book (1581):

Magdeburg urban law, called *Weichbild* by the Germans and *Ius municipale* by the Poles, is in fact the *wilkierz* of the town of Magdeburg, taken over from the *Speculum Saxonum*; it does not have all the things that can be found in *Speculum Saxonum*; it is shorter and easier to read. But there is nearly everything in the books of *Speculum Saxonum* which I have presented in Polish in alphabetical order.⁵

We must not forget, however, that these statements refer to the vulgate *Weichbild*, which differs from the Silesian-Małopolska compilation. The authors of the latter did not take over the provisions of the *Sachsenspiegel* directly (as was the case with the vulgate), but drew on the *Magdeburg's Legal Instruction for Wrocław* from 1261 and 1295, the *Magdeburg Bench Law* (*Das Magdeburger Schöffengericht*), and to some extent on the *Constitution of Courts* (*Rechtsbuch von der Gerichtsverfassung*). That the case law of Magdeburg lay judges relied on the *Sachsenspiegel* was known to Konrad of Sandomierz and the author of the Wawel variant of the Cracow version of *Weichbild*, who removed or rearranged identical provisions that appeared in both the *Weichbild* and the *Sachsenspiegel*. Moreover, it is worth noting Paweł Szczerbic's admission that the legal text of the *Sachsenspiegel* had been remade before being incorporated into the *Weichbild*. In other words, the *Weichbild* is a collection of legal norms promulgated by the Magdeburg aldermen who looked to the Saxon Law for guidance, but who *adjusted* what they found there to the circumstances and realities of urban life.

For the editor of the modern edition of Paweł Szczerbic's treatise, Grzegorz M. Kowalski, the vulgate *Weichbild* and Szczerbic's *Sachsenspiegel* fit together well, as though they were parts of a whole.⁶ This conciliatory appraisal seems correct not only with regard to the 16th century, but also to the era before the arrival of print, when the two law codes were as a matter of course copied

4 Maisel, *Poznańskie prawo karne*, p. 9.

5 *SzIM*, p. 5.

6 Grzegorz M. Kowalski, "*Speculum Saxonum* w przekładzie Pawła Szczerbica (Lwów 1581)" [*Speculum Saxonum* in Paweł Szczerbic's Translation (Lwów 1581)], in: Paweł Szczerbic, *Speculum Saxonum, albo prawo saskie i majdeburskie, porządkiem obiecadła z łacińskich i niemieckich egzemplarzów zebrane. A na polski język z pilnością i wiernie przełożone* [*Speculum Saxonum* or Saxon and Magdeburg Law, in Alphabetical Order, Collected from Latin and German Copies. A New and Meticulously Accurate Translation into Polish], 1, ed. Grzegorz M. Kowalski (Kraków, 2017), p. XIV.

into the same manuscript. The fact of their co-existence may justify the use of the term 'Saxon-Magdeburg Law' for the late Middle Ages, although their joint functioning in medieval legal practice requires further study.

2 The Demand for Latin Texts

Municipal authorities, magistrates' and Magdeburg Law courts, and monasteries were all interested in having the copies of the text of the Saxon-Magdeburg Law. The demand for the Magdeburg *Weichbild* existed not only in the biggest cities (like Cracow), but also in medium-sized towns, like Przemyśl, and even in small towns (like Słupca in Wielkopolska or Pleszew). In addition to numerous copies of the *Sachsenspiegel* in German and Latin, a significant number of collections of Magdeburg *ortyle* in German, Latin, and Polish was in use. The latter category may be extended to various compilations and municipal collections, like the *Poznań Book of the Magdeburg and Meissen Law*. Finally, a catalogue of medieval legal texts would be incomplete without mentioning the collections in use in Silesia and the towns of Pomerania that adopted the Chełmno Law (Kulmer Recht).

A characteristic feature of the Saxon-Magdeburg Law used in Poland after the reunification of the country in the early 14th century and in the Kingdom of the Jagiellons was the preference for the Latin text.⁷ While the

7 Danuta Janicka, "Zur Topographie der Städte des Magdeburger Rechts in Polen: das Beispiel Kulm und Thorn", in: *Grundlagen für ein neues Europa. Das Magdeburger und Lübecker Recht in Spätmittelalter und Früher Neuzeit*, eds. Heiner Lück, Matthias Puhle, and Andreas Ranft, (Quellen und Forschungen zur Geschichte Sachsen-Anhalts) 6 (Köln – Weimar – Wien, 2009), p. 79, and Aleksander Zajda, "Deutsche Einflüsse in der altpolnischen juristischen Terminologie", in: *Rechts- und Sprachtransfer in Mittel- und Osteuropa. Sachsenspiegel und Magdeburger Recht. Internationale und interdisziplinäre Konferenz in Leipzig vom 31. Oktober bis 2. November 2003*, eds. Ernst Eichler, Heiner Lück, and Wieland Carls, (Ivs Saxonico-Maidebvr gensse in Oriente) 1 (Berlin, 2009), p. 293. See also: Agnieszka Bartoszewicz, *Piśmienność mieszczańska w późnośredniowiecznej Polsce* [Burgher Writing in Late Medieval Poland] (Warszawa, 2012), esp. p. 277; Agnieszka Bartoszewicz, "Urban Literacy in Small Polish Towns and the Process of 'Modernisation' in the Latter Middle Ages", in: *Writing and the Administration of Medieval Towns: Medieval Urban Literacy I*, eds. Marco Mostert and Anna Adamska (Turnhout, 2014), pp. 159–164. Cf. also an account of the use of German in the Cracow Chancellery in the 14th Century in Anna Adamska, "Away with the Germans and Their Language?", in: *Uses of the Written Words in Medieval Towns. Medieval Urban Literacy II*, eds. Marco Mostert and Anna Adamska (Brepols: 2014), pp. 72, 74 and 84 (Here also, a comprehensive bibliography, including the follow-up to Bożena Wyrozumska's monograph *Kancelaria miasta Krakowa w średniowieczu* [Chancellery of the City of Cracow in the Middle Ages], Kraków 1995).

basic collections, like the *Posener Buch des Magdeburger und Meissner Rechts*, the *Magdeburg-Breslauer systematische Schöffengericht* and the *Alter Kulm* (Old Chelmno Law), were in German, the texts of the Saxon-Magdenburg law employed in legal practice under the last Piasts and the Jagiellons were Latin translations. Their history starts with the translation of the *Sachsenspiegel* by Master Konrad at the end of the 13th century. It was followed by another translation by Konrad of Sandomierz in the first half of the 14th century. The latter, after a series of amendments, was soon refitted for a revised edition. Both Konrad of Sandomierz's Latin Magdeburg *Weichbild* and a second Latin translation of *Weichbild* known as the Cracow version were subsequently collated with the German text of the Wawel MS; the Cracow version was supplemented with an assortment of *ortyle*, too. *Nota bene*, the collections of *ortyle* were translated into Latin at least twice. The shorter version is based on the German text of MS BJ 170b, while the longer version contains a collection of *ortyle* similar to that in MS BJ 399 and the Pilzno collection. Translations into Polish also appeared, both more ample (*ortyle*) and shorter, with extracts from the *Weichbild* and the *Sachsenspiegel*.⁸

Rather than focusing on the systematization of the German text, the early compilers set their minds on translation. An indication of the great demand for the Latin text is the fact that the number of extant copies of the *Weichbild* in Latin vastly exceeds the number of the copies of the Silesian-Małopolska compilation in German.⁹

3 Versions and Variants of an Archetype Compilation

The first Latin translation of the *Weichbild* was made by Konrad of Sandomierz. On the basis of textual modifications concerning the number of compurgators as well as some minor omissions, it is possible to distinguish within the Sandomierz version a group of manuscripts that overlap with the Gniezno MS. The remaining manuscripts follow the original translation. While in some of them (Q II 157 (1), Q II 157 (2), and BN 12600), the influence of the Cracow version cannot be ruled out, only in the case of the St Petersburg MS (F 143) is that influence quite obvious. On the whole, the differences between the manuscripts of the *versio Sandomiriensis* are relatively small and justify

8 Józef Reczek and Waław Twardzik, *Najstarsze staropolskie tłumaczenie ortyli magdeburskich* [*The Earliest Polish Translation of the Magdeburg ortyle*], 1–3 (Warszawa 1970); it includes a survey of the earlier editions.

9 Rymaszewski, *Łacińskie teksty Landrechtu Zwierciadła Saskiego w Polsce. Versio*, p. 5.

introducing further subdivisions (variants). The virtues of the *Weichbild* are perhaps best exemplified by the Przemyśl MS. Although the manuscript itself has an ecclesiastical provenance (the Chapter of the Przemyśl Cathedral), its redactors followed Konrad's translation and simultaneously adapted it to the local conditions.

The significance of the work done by Konrad of Sandomierz is hard to overestimate. He not only translated the *Weichbild* from the German, but also introduced a number of modifications into the text and supplemented it with some provisions from the *Sachsenspiegel*. He collated with great care the manuscripts for his translation job: he doubtless relied on more than a single text that happened to be at hand. It is also certain that his version of the *Weichbild* must have been completed before 1359.

The need to adjust the structure and the content of Konrad's Latin translation of the German texts of the *Weichbild* was most probably the reason why an anonymous writer started work on a new version some time before 1368. After all, even a glance at the *versio Sandomiriensis* showed that it differed considerably from the German *Weichbild* in the Silesian-Małopolska compilation (e.g. with regard to the scope of the articles, their sequence, and the wording of individual clauses). The author of the new version did not intend merely to verify and rearrange Konrad's text. He still relied on it in a broad sense, although he also reached out to other German texts, added his own translations of some passages, and altered the wording of many existing ones. Whereas some of the characteristic features of the *versio Sandomiriensis* were ironed out, the new version was no less distinct thanks to its own modifications of the German prototype. It must have been produced before 1368, because that is the date of St Petersburg MS (F 143), which is based on the Sandomierz version, although it exhibits traces of the Cracow version, as well. Originally, the new version did not include the text of judgments (*ortyle*), as shown by the Częstochowa MS, the Kielce MS, and the St Florian MS. The *ortyle* were added later; their appearance marks the textual evolution of both the Cracow and the Sandomierz versions. The amplification of the Cracow version by the inclusion of the assorted judgments greatly enhanced the normative value of the *Weichbild*. This was all the more important because the official *Commune incliti* did not include any other selection of *ortyle* apart from those that had already become part of the Cracow version. The complex history of the Polish *ius municipale* is further attested by the glosses produced by its users. Those annotations suggest that there had been some connection between the Działyńscy Codex I and the Tomasz of Bydgoszcz's MS (BN 3068). Moreover, the weight of all the notes, cross-references, short indices (*regesta*), glossaries of Polish legal terms, collections of *regulae iuris* intended as an aid in legal argument, and comparisons

with similar provisions of the Chełmno Law indicates that the practitioners of that law were well versed in a variety of legal texts.

The text published by Jan Łaski was neither a new nor a more radically updated version of the *Weichbild*. He compiled the Sandomierz and the Cracow versions, but not in a mechanical way, as did the author of the St Florian MS (1453), who copied them in succession as Part I and Part II. In the *Statutes*, the two were carefully collated, and a number of articles redrawn. The final text was complete – it included the supplementary material from both versions and, at the same time, managed to preserve a character of its own. Occasionally, it carried over the text from both versions, especially to illuminate equivalent legal terms. Thus, the *Weichbild* of the *Statutes* may well represent the final stage of the evolution of a medieval legal text, whereas the Wawel variant, whose author excluded the provisions of the *Sachsenspiegel*, represents its narrowest realization.

A comparison of the Polish adaptations of the *Sachsenspiegel* and the *Weichbild* suggests that the scope of editorial interventions was much smaller in the case of the Magdeburg Law. This may result from the fact that the *Weichbild* was originally a collection of legal rules for towns. Its dependence on the provisions of the *Speculum Saxonum* was limited, even though the starting point (e.g. the formula of the court proceedings) was shared by both.¹⁰ Consequently, the *Sachsenspiegel*, in so far as it was an embodiment of Saxon common law, was bound to undergo a more extensive adaptation when transplanted to an alien setting. It cannot be ruled out, however, that at least some points that represent the legacy of the *Sachsenspiegel* in the *Statutes* had made their way into the Polish tradition much earlier and were simply carried over by Łaski from a Polish source. Emil Kałużniacki, who conducted a study of the Sanok MS before it went missing, claimed that it was that very source from which the compiler of the *Commune incliti* took his basic texts of both the *Sachsenspiegel* and the *Weichbild*. Kałużniacki's description seems to indicate that the text of the Sanok MS, or at least its *Weichbild*, belongs to the Cracow version with the *ortyle* supplement. That group also includes the Baworowscy MS (BN 12607), the Opatów MS (Oss.), and the Żagań MS (II Q 4). It is possible that further

10 Clausdieter Schott, "Magdeburger Recht und Sachsenspiegel – Stadtrecht und Landrecht", in: *Das Bürger Landrecht und sein rechtshistorisches Umfeld. Zur Geschichte der Landrechte und ihrer Symbolik im Mittelalter von Rügen bis Niederösterreich*, eds. Dieter Pötschke, Gerhard Lingelbach, Bernd Feicke, and Ulrich-Dieter Oppitz (collab.) (Berlin, 2014), p. 150. He claims – on the basis of a gloss to the vulgate *Weichbild* – that it had the role of *lex specialis* in regard of the *Sachsenspiegel* (*ibid.*, p. 152).

studies of the reception of the *Sachsenspiegel*, especially with regard to the bilingual manuscript BN 12607, would shed some light on this problem.

The *Weichbild* which was in use in Poland in the Middle Ages is referred to in this study as 'the Silesian-Małopolska compilation'. This is an umbrella term which encompasses both the German texts of the *Weichbild*, also known as the compilation bearing the name of Konrad of Opole, and various Latin texts, descended from German sources. The reasons for proposing the former designation are as follows: 1) Konrad of Opole was just a copyist of the German compilation and not its author; 2) the relevant German text can be traced back to Silesia – we are fairly certain of the Silesian provenance of Henryków MS (II F 8) which appears to be slightly closer to the original *Weichbild* than the Cracow MS (BN 169) signed by Konrad of Opole; and 3) the territorial scope of its early application as well as the territory where they were subjected to considerable transformations (i.e. a string of translations and the emergence of the Cracow version) was Małopolska (later also Wielkopolska). Even the *Weichbild* of the Działyński Codex IV (Dział. IV), with its references to Chełmno Law, originated almost certainly in Cracow, where its author had access not only to the German-language Wawel MS (its use is corroborated by the text of MS Dział. IV), but also to collections of the Chełmno Law.¹¹

The subdivisions of the Latin texts of the *Weichbild* in the Silesian-Małopolska compilation are shown in Figure 4.

4 Cracow – Home of the Urban Law Reform

The significance of Cracow as the centre where the urban law was made and from which it spread across Southern Poland can be analysed on several levels. Most importantly, Cracow's incorporation charter was taken up as a model by newly founded towns all over Małopolska. This created a long-lasting bond, as the affiliated towns kept coming back to the Cracow Council for permission to copy the parent city's new laws, which had their source in the aldermen's *wilkierze* or royal privileges. The provincial guilds, keen to imitate the new regulations of Cracow counterparts, behaved in the same way.¹² New collections of Magdeburg *ortyle*, a significant number of which were handed

11 Excerpts representing that branch of the German town law can be found in Żegota Pauli's MS (BJ 4405), among others.

12 Maciej Mikula, *Prawodawstwo króla i sejmu dla małopolskich miast królewskich (1386–1572). Studium z dziejów rządów prawa w Polsce [Royal and Parliamentary Legislation for the Royal Towns of Małopolska (1386–1572): A Study in the History of the Rule of Law in Poland]* (Kraków, 2014), pp. 278 and 280–282.

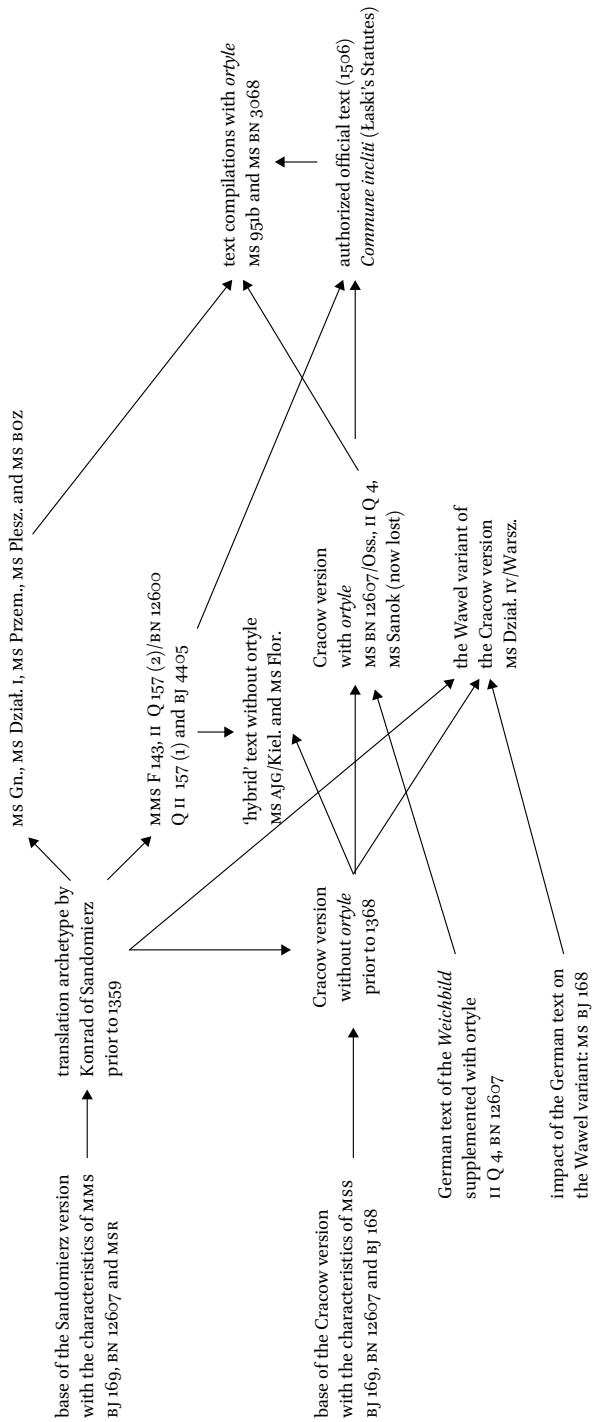


FIGURE 4 Evolution of the Latin texts of the Weichbild in the Silesian-Matopolska compilation. A slash separates manuscripts that form close pairs even though they are not directly related

down in response to queries of the Cracow City Council, were produced in Cracow, and their translation from German into Latin was financed from the municipal treasury.¹³ They were widely circulated in Poland and abroad. One of them was quarried for the German-language version of the *Weichbild* that descended from the Cracow City Council MS. This supplementary material was later translated into Latin (not to be confused with the Latin translations of *ortyle*) and incorporated into a separate Cracow version of the *Weichbild*, a Latin text of relatively early date named after its place of origin. The case law of the High Court of German Law at the Royal Castle of Wawel had a major role in the diffusion and the processes of adaptation of the Saxon-Magdeburg Law. The Court's judgments were based on written law, which meant that whenever the provisions of the Saxon-Magdeburg Law had been superseded or supplemented by the *wilkierze* or royal legislation, the judges took into consideration those revisions. Therefore, for instance, the Court upheld the privilege given to Cracow that its citizens may not be summoned to appear before any tribunal except the Cracow municipal court.¹⁴ Thus, it can be argued that Cracow functioned as an example to other towns, both in the implementation of new ideas and in the consolidation of written law through the case law of the High Court of German Law.¹⁵ It was also a centre where lawyers would consult and make use of the Latin or the German *Weichbild*, as a larger number of available manuscripts allowed them to supplement and modify the interpretation of texts that were considered basic.

5 Adaptation of the Saxon-Magdeburg Law in Poland

A careful reading of the manuscripts of the Saxon-Magdeburg Law leads to the conclusion that the adaptation of the rules of the Magdeburg Law in the Kingdom of Poland was complex and selective.¹⁶ As Zygfryd Rymaszewski

13 Edward Potkowski, *Książka rękopiśmienna w kulturze Polski średniowiecznej* [The Hand-written Book in the Culture of Medieval Poland] (Warszawa, 1984), p. 176.

14 *Decreta* II 833 from 23 July 1501 and *Decreta* II 1044 from [29 January] 1509.

15 The functioning of the High Court of German Law in Cracow is discussed in Lidwik Łysiak, *Ius supremum Maydeburgese castri Cracoviensis 1356–1794. Organisation, Tätigkeit und Stellung des Krakauer Oberhofs in der Rechtsprechung Altpolens* (Frankfurt am Main, 1990).

16 Rolf Lieberwirth describes these developments using the concept of the assimilation of the law; he argues that an important element of that process was the textual evolution of the *Sachsenspiegel* and the *Weichbild*. See: Rolf Lieberwirth, "Einführung oder Rezeption? Mittelalterlich deutsches Recht in slawischen Herrschaftsgebieten. Das Beispiel: Polen", in: *Rechts- und Sprachtransfer in Mittel- und Osteuropa. Sachsenspiegel und Magdeburger*

noted in his study of the *Sachsenspiegel*, translation was one of the key elements of that process.¹⁷ This was also true of the *Weichbild*.¹⁸

Indeed, the first stage of the adaptation process involved choosing those parts of text that were deemed appropriate for translation. For example, in the Sandomierz version, some provisions from the treatise about the system of courts were left out. Such omissions were not a bad thing, as the articles in question had no relevance to the situation of Polish cities. Although the complete translation of the new Cracow version did include those articles, they were not copied in many other related manuscripts (the copyists usually left off after the provision of the Jewish oath, a decision demonstrating their belief that the remaining portion of the law book was of little use in Poland).

The next stage in the adaptation process involved the modification of the original text in the course of the translation. Passages that were found to be

Recht. Internationale und interdisziplinäre Konferenz in Leipzig vom 31. Oktober bis 2. November 2003, eds. Ernst Eichler and Heiner Lück, (Ivs Saxonico-Maideburgense in Oriente) 1 (Berlin, 2008), p. 178. The importance of the adaptation of the law to local requirements is also discussed in Elisabeth Nowak, *Die Verbreitung und Anwendung des Sachsenspiegels nach der überlieferten Handschriften*, Dissertation zur Erlangung der Doktorwürde der Philosophischen Fakultät der Universität Hamburg (Hamburg, 1965) [typescript], p. 326; Inge Bily, "Neb wykpiłdske prawo – to gest miestczke prawo", in: *Městské právo ve střední Evropě. Sborník příspěvků z mezinárodní právnické konference Práva městská Království českého, 19–21 září 2011*, Praha [Urban Law in Central Europe: Proceedings of the International Conference on Law and History: Urban laws of the Kingdom of Bohemia, 19–21 September 2011, Prague], eds. Karel Malý and Jiří Šouša jr. (Praha, 2013), p. 357. For Wieland Carls, the processes of adaptation of legal language are closely linked to the process of reception. He argues, on the basis of a fairly narrow chunk of evidence, that the Saxon-Magdeburg Law went through the process of adaptation virtually unscathed: "Soweit das auf Grund der noch schmalen Textbasis schon möglich ist, kann man davon ausgehen, dass das sächsisch-magdeburgische Recht den Prozess der Adaptation nahezu verlustfrei vollzogen hat, indem die rechtlichen Termini und Institute in der Zielsprache erkennen lassen, dass es sich um ein bereits etabliertes und gelebtes Rechtssystem handelt. Anpassungen an sich ändernde Rechtsvorstellungen sind dem Wesen des Magdeburger Rechts ohnehin immanent und haben den Rezeptionsprozess stets befördert". Wieland Carls, "Hy hebit sich an magdurgisch recht: Wege eines europäischen Rechts und seiner Erforschung", *Denkströme: Journal der Sächsischen Akademie der Wissenschaften zu Leipzig* 5 (2010), 153.

17 Rymaszewski, *Łacińskie teksty Landrechtu Ziemi Sandomierskiej w Polsce. Versio*, p. 210. Modern theory of legal translation accords adaptation an indispensable role in the process of translation, cf. Anne Wagner, King Kui Sin and Le Cheng, "Cultural Transfer and Conceptualization in Legal Discourse", in: *The Ashgate Handbook of Legal Translation* (Ashgate, 2014), p. 39.

18 In her discussion of the Chełmno Law, Danuta Janicka observes that its characteristic profile is the effect of the adaptation of the Magdeburg Law to local conditions. See Janicka, "Zur Topographie der Städte", p. 78; and Danuta Janicka, "Die Rezeption des *Sachsenspiegels* und des Magdeburger Rechts am Beispiel von Thorn im Kulmer Land", in *Rechts- und Sprachtransfer*, pp. 61–74.

inappropriate for the conditions in Poland were amended and supplemented with additional material, whose chief purpose was to clarify and expand existing provisions. Most, although by no means all, of the textual variants in the *Weichbild* manuscripts made their appearance during the translation phase and evolved further within each of the main manuscript branches.

The third stage of the reception of the Latin text involved its adaptation to the needs of its recipients through amendments, omissions, and additions while the manuscript was being copied. The redactors of the new copies tried to adapt them to local conditions, such as, for example, in the Przemyśl MS and the Q II 157 (1) of the *versio Sandomiriensis*, or to modify them to express a reformist view of the judicial procedure, as in the Cracow version (the Działyńscy Codex IV and Warsaw MS). The process of textual differentiation was driven both by modifications and omissions of the received text. A pair of manuscripts, Q II 157 (1) and BN 12600, are rather special in this respect: both of them have a significant number of omissions, but practically no supplementary material, nor any modifications of the copied text. In a case like that, the omission may well have been caused by scribal error. Changes affecting the substance of text paved the way for individual interpretations (to be differentiated from 'private' interpretations)¹⁹ implemented in legal practice. Moreover, the fact of their implementation was used in turn to justify their authority. These changes did have consequences for the shape of the law. At the same time, there is no evidence that the redactors of any new copy of the amended *Weichbild* or the *Sachsenspiegel* ever sought the approval of the authorities of the city by which it had been commissioned, unless we take a general approbation of the city charter and privileges as an expression of such an approval (that would have been too far-fetched).²⁰ A notable exception to this practice, namely, an explicit adoption of a new, amended version of the law, was Jan Łaski's *Commune incliti*, which, by virtue of that formal declaration, became the sole official text of the Saxon-Magdeburg Law in the Kingdom of Poland.

Finally, the fourth stage of the reception of the Latin text consisted of its selective implementation. The proof that such selective practices actually took place must, however, be sought in a different category of sources. It needs also the acknowledgment of the fact that municipal law could be changed not only by new legislation from the king, the Sejm, and municipal by-laws (*wilkierze*, or Ger. *Willkür*), or by statutes set down by the town owners, but also due to inexplicit alteration of the text of the law, a practice generally tolerated in contemporary legal culture. Evolution and adaptation are a pair of terms that together

19 Heiner Lück, "Rechtsbücher als 'private' Rechtsaufzeichnungen?", *Zeitschrift für Neuere Rechtsgeschichte* 131 (2014), 432.

20 Mikula, *Prawodawstwo króla i sejmu*, pp. 66–71 and 43–145.

aply describe the nature of the reception of the German law in Polish towns. Whereas the term ‘transfer’, preferred in German literature, refers primarily to the diffusion of ideas and practices (not just from the field of law, but from the domain of culture in general, through the medium of language,²¹ which

- 21 For Friedrich Ebel, the concept of transfer has a broader scope than reception; it involves the import of a range of solutions which may lead to the displacement of those that were in force previously (Friedrich Ebel, “Rechtsentstehung und Rechtstransfer im Spiegel der Überlieferung (Magdeburger und Lübecker Recht)”, in: *Grundlagen für ein neues Europa*, p. 38; Friedrich Ebel and Renate Schelling, “Die Bedeutung deutschen Stadtrechts im Norden und Osten des mittelalterlichen Europa. Lübisches und Magdeburger Recht als Gegenstand von Kulturtransfer und Träger der Moderne”, in: *Die Stadt im Europäischen Nordosten. Kulturbeziehungen von der Ausbreitung des Lübisches Rechts bis zur Aufklärung. Beiträge anlässlich des II. Internationalen Symposiums zur deutschen Kultur im europäischen Nordosten der Stiftung zur Förderung deutscher Kultur (Aue-Stiftung) Helsinki in Zusammenarbeit mit dem Stadtarchiv Tallinn, dem Estnischen Kunstmuseum, der Ostsee-Akademie Lübeck-Travemünde und dem Deutschen Kulturinstitut Tallinn vom 10. bis 13. September 1998 in Tallinn, Estland*, eds. Robert Schweitzer, Waltraud Bastman-Bühner, and Jörg Hackmann (collab.), (Aue-Säätiön julkaisu / Skrifter utgivna Aue-Stiftelsen / Veröffentlichungen der Aue-Stiftung) 12 (Helsinki – Lübeck, 2001), esp. pp. 38–39). According to Heiner Lück, the concept of transfer is associated with the perspective of the ‘sender’, while the term reception tends to prioritize the point of view of the recipient (Heiner Lück, “Rechtstransfer und Rechtsverwandtschaft. Zum Einfluss des Magdeburger Stadtrechts im Königreich Böhmen”, in: *Městské právo ve střední Evropě, Sborník příspěvků z mezinárodní právnické konference Práva městská Království českého, 19–21 září 2011, Praha* [Urban Law in Central Europe: Proceedings of the International Conference on Law and History: Urban Laws of the Kingdom of Bohemia, 19–21 September 2011, Prague], eds. Karel Malý and Jiří Šouša jr. (Praha, 2013) p. 299). Cf. also Heiner Lück, “Die Rezeption des Sachsenspiegels und des Magdeburger Rechts in Ostmitteleuropa”, in: *Eike von Repgow, Sachsenspiegel, Die Dresdner Bilderhandschrift Mscr. Dresd. M 32. Aufsätze und Untersuchungen*, (Codices selecti) 107 (Graz, 2011), pp. 151–159; Heiner Lück, “Aspects of the Transfer of the Saxon-Magdeburg Law to Central and Eastern Europe”, *Rechtsgeschichte – Legal History* 22 (2014), 79–89; and Wieland Carls, “Das sächsisch-magdeburgische Recht – Sprach- und Rechtstransfer in Mittel- und Osteuropa. Versuch einer Bestandsaufnahme am Beispiel der heutigen Slowakei”, in: *Deutsche Sprache in der Slowakei. Festschrift für Ilpo Tapani Piirainen zum 65. Geburtstag. Internationale Fachtagung, Piešťany, den 13–15. Juni 2007*, eds. Peter Ďurčo, Ružena Kozmová, and Daniela Drinková (Trnava – Bratislava, 2009), pp. 257–265. The concept of transfer is often used in studies of linguistic history; see Irena Szczepankowska, “Rola łaciny w kształtowaniu terminologii prawa polskiego w okresie od XVI do XVIII wieku. Problemy transferu pojęć i nazw” [The Role of Latin in the Development of Polish Legal Terminology in the 16th–18th Century: Problems of the Transfer of Concepts and Names], in: *Język w urzędach i w sądach* [Language in Offices and Courts], ed. Maria Lizisowa (Kraków, 2006), pp. 75–89; Marija Lazar, “Transfer des Rechts und Transfer der Rechtssprache. Sächsisch-magdeburgisches Recht und seine Verbreitung im Ostmitteleuropa nach den Hussitenkriegen”, in: *Persönlichkeiten in der tschechischen Sprach- und Kulturgeschichte. Beiträge zum 8. Bohemicum Dresdense: Tomáš Garrigue Masarik (1850–1937)* 07.11.2014 und 9. Bohemicum Dresdense: Jan Hus (~1370–1415) – Erbe und Bedeutung 30.10.2015, eds. Holger Kuße and Hana Kosourová, (Specimina Philologiae Slavicae) 191 (Leipzig, 2016),

is borne out by the legal advice issued by Magdeburg for numerous towns in Central and Eastern Europe), 'adaptation' serves as a specifying and explicative complement to the broadly based concept of reception.²² The use of the term 'adaptation' makes it easier to differentiate between levels and forms of reception, whether material (the adaptation of legal institutions) or formal (the adoption of legal terminology and points of legislative procedure), in response to local needs. The role of the latter is hard to overestimate, as the choice of German law (broadly speaking) for the purpose of incorporation or refoundation of towns was driven by the demand for new solutions and the attractiveness of a legal code brought by the migrants who became more numerous from the 13th century onwards. The new code was adopted without constraint,²³ and yet the choice was no doubt necessary and appropriate. Nevertheless, it should be noted that from the start, the imported law was combined with other sources of municipal law, among them customary law, whose influence remained as strong as ever. Given the complexity of the sources of law in use in Polish towns incorporated according to the Magdeburg Law, that law may well be referred to as – following the suggestion of Bartłomiej Groicki – Polish urban law.²⁴

pp. 177–202. In the context of importing constitutional solutions, the concept of adaptation is used by Ebel and Schelling, "Die Bedeutung deutschen Stadtrechts", pp. 40–42. At this point it may be worth mentioning the phrase 'legal transplant' whose meaning is defined by Allan Watson as "the moving of a rule or a system of law from one country to another, or from one people to another – [processes that] have been common since the earliest recorded history" (Allan Watson, *Legal transplants. An Approach to Comparative Law*, 2nd ed. (Athens – London, 1974), p. 21).

- 22 For an explanation of the ideas of reception in the context of the French humanities see Juliusz Bardach, "Pojęcie recepcji i jej zakres w dziejach państwa i prawa" [The Concept of Reception and Its Scope in the History of State and Law] in: *Ars historica. Prace z dziejów powszechnych i Polski ofiarowane G. Labudzie* [Ars historica: Studies in World History and the History of Poland. A Festschrift in Honour of Professor Gerard Labuda] (Poznań, 1976), pp. 91–99; Juliusz Bardach, "Recepcja w historii państwa i prawa" [Reception in the History of State and Law], *Czasopismo Prawno-Historyczne* 29/1 (1977), 1–62; Juliusz Bardach, "Recepcja w dziejach: harmonia i dysharmonia w spotkaniu kultur" [Reception in History: Harmony and Disharmony] in: *Pamiętnik XII Powszechnego Zjazdu Historyków Polskich, Katowice 17–20 września 1979* [Proceedings of the 12th General Congress of Polish Historians, Katowice, September 17–20, 1979], 1 (Katowice, 1979), pp. 101–111. See also Maciej Mikula, "Wpływ 'Summa utriusque iuris' mistrza Rajmunda na regulację dziedziczenia testamentowego w Statucie litewskim I z 1529 roku" [The Impact of Master Raymund's *Summa utriusque iuris* on Testamentary Inheritance in the Lithuanian Statute of 1529], *Czasopismo Prawno-Historyczne* 60/2 (2008), 58ff (it includes an outline of the conventions regulating the use of the term 'reception' in Polish historiography).

- 23 Lieberwirth, "Einführung oder Rezeption?", p. 174.

- 24 Bartłomiej Groicki, *Porządek sądów i spraw miejskich prawa majdeburkiego w Koronie Polskiej* [The Order of Judges and Urban Courts of the Magdeburg Law in the Kingdom

6 Practical Consequences of the Evolution of the *Weichbild*

The scope of modifications introduced into the provisions of the *Weichbild* in the course of its transmission was extraordinarily broad. Virtually all areas of life were affected, from urban governance, the administration of justice, and criminal law, down to the order of succession, the passing on of property, and the network of obligations. Some of the alterations in the rules are symptomatic of both the local needs and a general trend of historical change. These modifications include provisions concerning the functioning and the competences of the town council. Its authority was certainly strengthened by Konrad of Sandomierz's introduction of a phrase proclaiming that the laws enacted by the urban commune be compliant with God's law. The explanations and augmentations of the law concerning the status and definition of guests (aliens) reflect the growing importance of mobility and trade. Even the relatively minor alterations related to the wording of individual provisions express the tendency for greater clarity and precision in the language of the law.

A similar trend seems to have been at work in criminal law, namely, the rules of order in presenting proof, the understanding of aiding and complicity, and the guidelines for oath-swearing. The legal ritual of compurgation was cleared of ambiguities and cumbersome formalism (as in the tendency to reduce the mandatory number of oath-swearers). The pressure of everyday realities and the striving for coherence seem to have prompted a string of modifications concerning damages, court fines, and wergild. A sizable part of these modifications were in fact additions to the received text carried over from the Magdeburg *ortyle*.

A conspicuous expansion of the old rules took place in the sphere of family and inheritance law. Again, the source of the supplementary material was

of Poland], repr. in *Biblioteka Dawnych Polskich Pisarzy-Prawników*, 1, ed. Karol Koranyi (Warszawa, 1953), p. 24. According to Krystyna Bukowska: "the burgher-lawyers strive with great determination to free themselves from the shackles of German law and create their own [national] legal culture"; Krystyna Bukowska, "Jeszcze w sprawie rozwoju miejskiego prawa prywatnego w Polsce" [More on the Development of Urban Private Law in Poland], *Czasopismo Prawno-Historyczne* 22/1 (1970), 224. See also Krystyna Bukowska, *Orzecznictwo krakowskich sądów wyższych w sporach o nieruchomości miejskie (XVI–XVIII w.). Studium z historii prawa rzymskiego w Polsce* [The Caselaw of Cracow High Courts Concerning Disputes over Real Property in Towns (16th–18th Century): A Study in the History of Roman Law in Poland] (Warszawa, 1967), p. 107; and Grzegorz M. Kowalski, *Bartłomiej Groicki – prawnik polskiego Odrodzenia. Wystawa w 400-setną rocznicę śmierci. Biblioteka Jagiellońska 5–29 kwietnia 2005* [Bartłomiej Groicki – A Jurist of the Polish Enlightenment: Special Exhibition 400th Anniversary of His Death, Jagiellonian Library, 5–12 April 2005] (Kraków, 2005), p. 15).

often the case law of the courts of the Magdeburg Law (*ortyle*). In general, the changes in the regulations concerning the dower, heritable property, and succession tended to give better protection to the interests of the family in-group, in particular the widow, against claims based on the proximity of blood principle. However, the anachronistic distinction of the deceased's estate into *gerada*, *hergewet*, and the core estate remained intact until a series of Cracow statutes (*wilkierze*) enacted with royal assent came to be adapted by other towns in the Kingdom of Poland. The provision concerning *ius caducum* was subject to a number of modifications which put some limits on the right of the monarch to take over the property of the intestate.

In the provisions concerning the law of obligations, the alterations and additions dealt primarily with debt and the manner in which it was to be proven, especially with regard to guests and servants.

The modifications in this fairly comprehensive collection of texts of the *Weichbild* used in the Kingdom of Poland can be classified as follows: 1) changes in terminology; 2) explanations of legal terms; 3) elimination of ambiguities; 4) alterations and additions that took into account local legal practice; 5) supplementary regulations carried over from other sources of the Saxon-Magdeburg Law; 6) alterations to ensure the coherence of the regulations within the legal code; 7) replacement of outdated clauses by formulations better adapted to contemporary realities, which were also easier to apply; and 8) alterations, usually omissions, caused by scribal error.

The changes in the *Weichbild* were not intended to produce a new law code, nor did they result in the emergence of a law that resigned its Saxon-Magdeburg identity. The innovations were grafted onto the old stem sparingly through legislative acts issued by the monarch, the Sejm, town owners, and town councils. For the most part, the modifications of the *Weichbild* were driven by practical considerations, that is, adapting its provisions and their wording to the needs of its users in the towns of the late medieval Kingdom of Poland.

7 Annotations by the *Weichbild* Users

This study, focused on the normative text of a historic law code, is part of the ongoing research into the medieval legal sources, while, at the same time, it is concerned with the judicial practice of the High Court of Magdeburg Law in Cracow. The latter is analysed here for essentially one reason: namely, to back up my contention that the modifications of the *Weichbild* were to a significant extent adaptations to the demand created by its use. This study, it should be made clear, does offer a full picture of the functioning of written law in Polish

towns in the late Middle Ages. That could be the subject of a separate study, based on preliminary studies of normative acts of the Saxon-Magdeburg Law and other legal sources. Here, the problem of the practical use of the *Weichbild* is examined from different angle, namely, what the annotations tell us about the user's approach to the text.

Most of the copies of the *Weichbild* are annotated. Virtually all of the annotations can be described as practical, even if they are not of the same type. A great number of them are corrections, that is, missing words or passages interpolated by a reader who noticed the omission after checking another manuscript. Such comparisons could result in quite substantial annotations; for example, some manuscripts with the Sandomierz version are patched up with passages from the Cracow version. The users also tried to help one another to navigate the text by putting in indices and cross-references. In the margins we can also find Polish equivalents of Latin words used in the text. Less common are legal maxims inscribed next to individual provisions, most likely inserted with the intention to help subsequent users construct a legal argument.

Printed copies of Jan Łaski's *Commue incliti* (1506) were similarly annotated with cross-references, commentaries, and indices. Some annotations were made after 1535, the year when a new edition of the Magdeburg *Weichbild*, by Mikołaj Jaskier, was published. This fact shows that the *Commue incliti* continued to be used alongside a revised text with a royal imprimatur.

8 The Road to a Single, Authoritative Law Text

According to Waclaw Uruszczak, Alexander I Jagiellon's royal assent covered not only those parts of *Commune incliti* that were concerned with Polish land law, but also included the part of Jan Łaski's statute book which dealt with urban law.²⁵ However, the claim that the royal authorization of the first printed code of law entailed a ban on the use of earlier texts is open to serious doubt.²⁶

25 Waclaw Uruszczak, "*Commune incliti Poloniae Regni privilegium constitutionum et indul-tuum*: O tytule i mocy prawnej Statutu Łaskiego z 1506 roku" [The Title and Legal Authority of Łaski's *Statutes* of 1506] in: *Prace poświęcone pamięci Adama Uruszczaka* [Festschrift in Honour of the Late Adam Uruszczak], eds. Jan Halberda, Michał Hosowicz, and Anna Karabowicz, (Prace Instytutu Prawa Własności Intelektualnej UJ) 96 (Zakamycze, 2006), pp. 121–123 and 127–131. It has been generally held that codes of urban law did have the status of official documents vested. For a dissenting voice cf. Józef Matuszewski, "*Proles illegittima* w polskim prawie ziemskim" [*Proles illegittima* in Polish Land Law], *Czasopismo Prawno-Historyczne* 18/2 (1966), p. 89, Note 85).

26 See Matuszewski, "Proles illegittima", p. 89, and Rymaszewski, *Łacińskie teksty Landrechtu Zwierciadła Saskiego w Polsce. Versio*, pp. 145–146.

Even if the privilege of exclusivity had been intended for *Commune incliti*, the facts on the ground showed that the introduction in 1506 of a uniform official law code did not put an end to the production of manuscripts with versions of the Magdeburg *Weichbild* that differed from Łaski's text. That is, for example, the case of MS BOZ (1513). Moreover, there is sufficient evidence to suggest that the author (copyist) of MS BN 3068 took the authorized text of the *Weichbild* and introduced numerous modifications, including some that altered the wording of the legal provisions. The transition from the medieval paradigm, in which the legal text was believed to be valid because it was used in practice, to the modern paradigm, in which the availability of a uniform printed copy made control of the text used in legal practice possible, took time.²⁷ In the 16th century, the pressure for the codification (i.e. establishment of uniformity) of the law became very strong, with regard to both land law and urban law. The course of reform and codification of both branches of the law was on the whole quite similar, including spectacular setbacks. The failed attempt to promulgate the statutes *Correctura Iurium* in 1534 in one field (land law) was matched by the failure in 1523 of Maciej Śliwnicki's reform of the municipal law (although it did come into effect in the lands of the bishopric of Łowicz), although each project was rejected for different reasons.²⁸

27 Cf.: "in spite of the strongly increased use of printed law books by legal professionals from the mid-sixteenth century onwards, manuscripts continued to co-exist and play an important part in the dissemination of legal texts and literature. Moreover, in spite of the importance of records, written and printed material, the common law profession retained a significant oral culture in the formal and informal handling of its legal business and interests". "Law Books During the Transition from Late-Medieval to Early-Modern Legal Scholarship", in: *The Formation and Transmission of Western Legal Culture. 150 Books that Made the Law in the Age of Printing*, Serge Dauchy, Georges Martyn, Anthony Musson, Heikki Pihlajamäki, Alain Wijffels, eds., coop. Naoko Seriu (Studies in the History of Law and Justice) 7, series eds. Georges Martyn, Mortimer Sellers (New York – Berlin – Heidelberg, 2016), p. 18.

28 Wacław Uruszczak, *Próba kodyfikacji prawa polskiego w pierwszej połowie XVI wieku. Korektura praw z 1532 r.* [An Attempt to Codify Polish Law in the First Half of the 16th Century: *Correctura Iurium* of 1532] (Warszawa, 1979), pp. 55–56. Krystyna Bukowska-Gorgoni, "Das sächsisch-magdeburgische Recht und die vermögensrechtlichen Verhältnisse in den polnischen Städten der Renaissance", in: *Studien zur Geschichte des sächsisch-magdeburgischen Rechts in Deutschland und Polen*, eds. Dietmar Willoweit and Winfried Schich, (Rechtshistorische Reihe) 10 (Frankfurt am Main, 1980), p. 130; Jarosław Reszczyński, "Sigismundina Macieja Śliwnickiego. Uwagi o genezie dzieła, technice wprowadzania norm i interesie państwa jako ratio legis" [Maciej Śliwnicki's *Sigismundina*: Some Remarks about the Origin of the Treatise, Methods of Promulgating Norms and the Raison d'état as ratio legis], in: *Honeste vivere. Księga pamiątkowa ku czci Profesora Władysława Bojarskiego* [Honeste vivere: Festschrift in Honour of the Late Professor Władysław Bojarski], eds. Ewa Gajda and Andrzej Sokala (Toruń, 2001), p. 550;

While the failure of attempts to codify the land law resulted in the emergence of private codes of law, the early setbacks did not thwart the reform in the sphere of urban law – or more precisely, the law used in towns incorporated under the Magdeburg Law – based on new glossed editions of the *Weichbild* and the *Sachsenspiegel*.²⁹ They were published by Mikołaj Jaskier in 1535 and authorized by King Zygmunt I the Old for court use as the sole official text of the law. Mikołaj Jaskier's printed text retained its exclusive status even after the publication in 1581 of a Polish edition of the two codes of law. Paweł Szczerbic's translation did not follow Jaskier's Latin version – it was more like a compilation of that text and a variety of other legal sources.³⁰ Yet even after 1535, the earlier versions continued to be used, as shown by the glosses on the pages of several copies of *Commune incliti*. Those annotations can be dated back with great certainty to a time after the publication of Jaskier's *Ius municipalis et*

Jarosław Reszczyński, *Sądownictwo i proces w kodyfikacji Macieja Śliwnickiego z 1523 roku: o wpływach prawa rzymskiego i praw obcych na myśl prawną polskiego Odrodzenia* [The Justiciary and the Trial in Maciej Śliwnicki's Draft Code of 1523: The Influence of Roman Law and Foreign Laws on the Legal Thought of the Polish Renaissance] (Kraków, 2008), esp. p. 30, 33–35 and 50.

- 29 The role of the legal books in the legal practice cf. "Preface", in: *The Formation and Transmission of Western Legal Culture. 150 Books that Made the Law in the Age of Printing*, Serge Dauchy, Georges Martyn, Anthony Musson, Heikki Pihlajamäki, Alain Wijffels, eds., coop. Naoko Seriu (Studies in the History of Law and Justice) 7, series eds. Georges Martyn, Mortimer Sellers (New York – Berlin – Heidelberg, 2016), p. 5. The introduction of glosses onto the pages of the *Sachsenspiegel* and the Magdeburg *Weichbild* was a multidimensional expansion (with regard to norms, ideas, cultural interaction) of the original text. This is demonstrated by the analysis of the characteristics of an exemplary gloss added to the text of the *Sachsenspiegel* Johann von Buch. See Bernd Kannowski, *Die Umgestaltung des Sachsenspiegelrechts durch die Buch'sche Glosse*, (Monumenta Germaniae Historica, Schriften) 56 (Hannover, 2007). In his edition of the *Weichbild* Mikołaj Jaskier relied heavily on the gloss written by Burchard von Mangefeld (See Krystyna Bukowska, "O wpływach obcych w dawnym prawie miast polskich" [Foreign Influences on Early Urban Law of Polish Towns], *Czasopismo Prawno-Historyczne* 17/1 (1965), 263; Bukowska-Gorgoni, "Das sächsisch-magdeburgische Recht", p. 131; and Lesław Pauli, "Die polnische Literatur des Magdeburger Rechts im 16. Jahrhundert", in: *Studien zur Geschichte des sächsisch-magdeburgischen Rechts*, pp. 151–152). For an analysis of the 'French' glosses in Jaskier's treatises and the way they clash with the case law of the High Court of German Law at Wawel and the Commissary Court of the Six Towns, see Bukowska, *Orzecznictwo*.
- 30 In the case of the *Sachsenspiegel*, it is an alphabetical list of legal issues based on both the *Sachsenspiegel* and the *Weichbild*. While preparing his edition of the Magdeburg *Weichbild*, Paweł Szczerbic collated its Latin and German versions. In his book, those passages that could be found only in the German sources and those that appeared only in the Latin texts are marked appropriately. Even a brief comparison of Szczerbic's text with the edition of the vulgate *Weichbild* prepared by Alexander von Daniels and Franz von Gruben leaves no doubt about the solid quality of his accomplishment.

provincialis. We may thus treat that new translation not just as an attempt to produce a revised edition, free of the errors of the earlier texts, but as a harbinger of Renaissance reforms, codification of the law, and a new age of legal uniformity and certainty.³¹ This aspect of the transition has already been noted by a number of eminent historians of Polish law, such as Adam Vetulani,³² Krystyna Bukowska,³³ and Jarosław Reszczyński.³⁴

The process of transition from the law transmitted by hand-written manuscripts to uniform, printed law was a lengthy one, but it was, in fact, irreversible. Another milestone on this road from manuscript to print was Bartłomiej Groicki's collections and treatises of municipal law in Polish. His books, as it soon turned out, proved to be more useful than the Latin manuals of Jan Cerasinus Kirstein and Jan Cervus Tucholczyk. The process of change was also actively supported by Poland's kings. One notable example was Kazimierz IV Jagiellon's recognition in 1476 of the Chełmno Law (from the collection of laws entitled *Der alte Kulm*) as the sole legal text valid in Royal Prussia. It was also used in Ducal Prussia. For much of the 16th century, it was still evolving and continued to be reformed.³⁵ When it eventually went into print in Toruń in

31 Cf. Waław Uruszczak, "Europejskie kodeksy prawa doby renesansu" [European Legal Codices of the Renaissance], *Czasopismo Prawno-Historyczne* 40/1 (1988), 885–900.

32 Adam Vetulani, "W sprawie prawa chłopskiego w Polsce feudalnej" [Concerning Peasant Law in Feudal Poland], *Państwo i Prawo* 10 (1956), 624–5. Meanwhile Rymaszewski remains sceptical of the interpretation others find so compelling. He argues that: "a large number of manuscripts with the same content as can be found in Łaski would surely indicate that the laws he collected and published had been in general use before; therefore it makes little sense to talk about a shift towards unification" (Rymaszewski, *Łacińskie teksty Landrechtu Zwierciadła Saskiego. Versio*, p. 150). This cannot be right. After all, the arrival of printing made it possible not only to set up a canon of the sources of urban law but also to produce a large number of identical copies of the legal text. Rymaszewski's stance must come as a surprise, especially as we know he has good eye for differences between various versions of the *Sachsenspiegel* and even between manuscripts of the same version (*ibid.*, pp. 137, 210 and 214–215). The diversity is even more conspicuous in the case of the *Weichbild* manuscripts – I have not seen two identical ones.

33 Bukowska, *Orzecznictwo*, pp. 7–8. For a critical view of the matter, cf. Rymaszewski, *Łacińskie teksty Landrechtu Zwierciadła Saskiego w Polsce. Jaskier*, p. 6, Note 10. Bukowska claims that the publishing of glossed editions of the *Sachsenspiegel* and the *Weichbild* reflected the demand for a legal text that would be more suited for legal practice than Master Raymund's *Summa utriusque iuris* appended to the *Commune inciliti* (Bukowska, *Orzecznictwo*, pp. 105–106).

34 Reszczyński, *Sądownictwo i proces*, pp. 30 and 50.

35 Danuta Janicka, *Prawo karne w trzech rewizjach prawa chełmińskiego z XVI wieku* [Criminal Law in Three Revisions of the Chełmno Law in the 16th Century] (Toruń, 1992), esp. pp. 130 and 135.

1568, the text was extensively glossed.³⁶ Unfortunately, not a single copy of the first printed edition survived the confiscations ordered by the Duke of Prussia. He had them destroyed because he feared the judges would continue to credit the glosses with the same authority as the main text. That would have been contrary to King Kazimierz's original intention and would have greatly hindered the duke's plans of unification of the Chełmno Law. The Toruń incident no doubt signalled the advent of a new era. If legal culture is to be regarded as a complex of individual and collective attitudes towards the law, the arrival of print, a new medium which changes its transmission and availability, the legal culture is bound to change as well – gradually, but inexorably.

36 Zbigniew Zdrójkowski, "Wstęp historyczny" [A Historical Introduction], in: *Prawo starochełmińskie* [*Der alte Kulm Law Code*] 1584 (1394), eds. Witold Maisel and Zbigniew Zdrójkowski, trans. Andrzej Bzdęga and Anna Gaca, (Teksty Pomników Prawa Chełmińskiego w Przekładach Polskich) 2 (Toruń, 1985), p. 8.