

## The Other Townsfolk: The Legal Status and Social Positions of the Jews in Cities of the Grand Duchy of Lithuania in the 17th and 18th Centuries

»The Jews are as much burghers as the Christian burghers are.« This was a crucial statement by Stanisław Niezabitowski, the administrator of Slutsk, one of the major towns and Jewish communities in the Belorussian part of the Grand Duchy of Lithuania.<sup>1</sup> The Jews constituted the largest religious minority group in the early modern Polish-Lithuanian Commonwealth and were mostly city-dwellers. At the end of the 17<sup>th</sup> century about twenty percent of the region's urban inhabitants were Jewish, and by the end of the 18<sup>th</sup> century the percentage of Jews in cities and towns had grown to fifty percent.<sup>2</sup> However, the Jewish population did not enjoy the same legal status as the Christian townsfolk. One could ask: What did Niezabitowski have in mind with his statement about Jewish and Christian burghers? What did it mean that the Jews were referred to in the same way as the Christian burghers in many documents? Did they have the same status as Christian burghers or did a different type of Jewish citizenship exist?

This article attempts to determine the differences in the legal status of Christian and Jewish townsfolk in the Grand Duchy of Lithuania. Its main aim is to describe what Jewish citizenship meant in practice. In order to show the most significant distinctions, I chose four issues – political rights, jurisdiction, taxes and duties, and economic activity – which in my opinion, mark the crucial differences between Christian and Jewish city dwellers.

- 1 Central Archives of Historical Records in Warsaw/Archiwum Główne Akt Dawnych we Warszawie (hereafter AGAD): Archiwum Radziwiłłów (hereafter AR), XXIII, teka (file) 135, plik (folder) 6, 282–283.
- 2 Jerzy Topolski, »Jews in the Urbanization of Poland,« in *Jews in Poland*, ed. Andrzej K. Paluch (Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego, 1992), 45–51, here 47.

The sources that I draw from are handwritten documents from the Warsaw Radziwiłł Family Archive and state documents stored now in the Lithuanian Historical Archive in Vilnius. Generally speaking, this research is based on two types of sources: legal documents – Jewish and general privileges, privileges for artisans’ guilds, and other legal documents – and court acts from royal and private towns. Based on the combination of both types of sources, I seek to describe the law and answer the question of how the legal status of the Jews was implemented in practice on the local level in the Grand Duchy of Lithuania. Due to excellent preservation of the relevant source material, the paper focuses mostly on two cities, Slutsk and Vilnius, which were among the most important Jewish communities in the early modern period. Both communities were prominent members of the autonomous Jewish council of Lithuania (*Va’ad medinat Lita*), featured a concentration of Jewish economic activity, and hosted famous religious scholars.<sup>3</sup> My choice of Lithuania as my area of interest is no coincidence. Firstly, it is important to stress that the Grand Duchy of Lithuania had a different legal system from Crown Poland. The so-called Third Lithuanian Statute, introduced as a binding law codex for the Duchy in the late 16<sup>th</sup> century, had a special importance. As I will argue further on, thanks to this codex, the Jews gained a higher social standing within Christian society.<sup>4</sup> Secondly, the Duchy is considered to have been more tolerant towards religious minorities.

The society of the Grand Duchy of Lithuania was very heterogeneous in terms of religion. It hosted various Christian denominations, including Greek Ortho-

3 The community of Vilnius was described in several works, see: Israel Klauzner, *Toldot ha-kehillah ha-ivrit be-Vilna* (Vilna: Ha-kehillah ha-ivrit, 1938); David Frick, »Jews and Others in Seventeenth-Century Wilno: Life in the Neighborhood,« *Jewish Studies Quarterly* 12 (2005): 8–42; idem, »Jews in public places; Further Chapters in the Jewish Christian Encounter in the Seventeenth Century Vilna,« *Polin* 22 (2009): 215–248; idem, *Kith, Kin, and Neighbors: Communities and Confessions in Seventeenth-Century Wilno* (Ithaca–London: Cornell University Press, 2013). In contrast the community of Slutsk was studied less, see: Anna Michałowska-Mycielska, »Władza dominalna a konflikt w gminie. Wybory władz gminnych i rabina w Slucku, 1709–1711,« in *Matżeństwo z rozsądku? Żydzi w społeczeństwie dawnej Rzeczypospolitej*, eds. Anna Michałowska-Mycielska and Marcin Wodziński (Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 2007), 59–73; Barbara Pendzich, »The Jewish Community of Sluck After the Polish-Muscovite War of 1654–1667,« in *Proceedings of the 11<sup>th</sup> World Congress of the Jewish Studies* (Jerusalem: Magnes Press Hebrew University of Jerusalem, 1997), 173–180; Barbara Pendzich, »Civic Resilience and Cohesion in the Face of Muscovite Occupation,« in *Citizenship and Identity in a Multinational Commonwealth. Poland-Lithuania in Context 1550–1772*, eds. Barbara Pendzich and Karin Friedrich (Leiden and Boston: Brill, 2009), 103–127.

4 About the Third Lithuanian Statute, see Juliusz Bardach, *Statuty litewskie a prawo rzymskie* (Warszawa: Uniwersytet Warszawski, 1999); Juliusz Bardach, *O Dawnej i nie dawnej Litwie* (Poznań: Wydawnictwa Naukowe UAM, 1989).

dox, Greek Catholics, Calvinist and Lutheran Protestants, as well as non-Christian groups such as Jews, Karaites, and Tatars. Non-Catholic Christian churches had a better legal position than in Crown Poland due to the fact that the Warsaw Confederation Act of 1573, a document which guaranteed religious freedom for noble Protestants (Lutherans and Calvinists alike), was included into the Third Lithuanian Statute. While the political life of the country was dominated by Protestant families, especially in the 17<sup>th</sup> century, it can be argued that the Lithuanian Statute and the Warsaw Confederation, as part of the Statute, affected the Jewish standing there as well.<sup>5</sup> Finally, Lithuanian Jews constituted a separate subgroup among the Jews living in the early modern Polish-Lithuanian Commonwealth. They differed from their brethren in Poland in terms of community organization, language, and their customs.<sup>6</sup> Differences in the social structures of Christian society – in particular, a weaker townsfolk and a more significant position of magnates than in Crown Poland – were also of fundamental importance in the formation of the Jewish diaspora in Lithuania.<sup>7</sup>

- 5 Wojciech Kriegseisen, *Ewangelicy polscy i litewscy w epoce saskiej (1696–1763). Sytuacja prawna, organizacja i stosunki międzywyznaniowe* (Warszawa: Semper, 1996), 26–27; Józef Gierowski, »Przestrzeń etnograficzno-geograficzna Rzeczypospolitej,« in *Na szlakach Rzeczypospolitej w nowożytnej Europie*, ed. Andrzej K. Link-Lenczowski (Kraków: Księgarnia Akademicka, 2008), 557–573, here 571; Henryk Wisner, *Najjaśniejsza Rzeczypospolita. Szkice z czasów Zygmunta III i Władysława IV Wazy* (Warszawa: Neritron, 2001).
- 6 See: Dovid Katz, *Lithuanian Jewish Culture* (Vilnius: Baltos Lankos, 2004). About the special features of the Jewish autonomy in Grand Duchy of Lithuania, see Abba Gomer, *Beiträge zur Finanz- und Sozialgeschichte des litauischen Judentums* (Bochum, 1932); Mark Vishnitzer [Wischnitzer], »Litovskii Vaad,« in *Istoriia evreyskogo naroda*, vol. 11, eds. Aleksandr Braudo et al. (Moskva: Mir, 1914), 181–204; Haim Hillel Ben-Sason, »Lithuania. The Structure and Trends of its Culture,« in *Encyclopedia Judaica Year Book 1973* (Jerusalem: Encyclopedia Judaica 1973), 120–134; Vital Zajka, »Lithuanian-Belarusian Jewry in the Eighteenth and Nineteenth Centuries,« *Polin* 14 (2001): 19–30; Maria Cieśla, »Sharing a Commonwealth – Polish Jews or Lithuania Jews,« *Gal-Ed* 24 (2015): 15–44.
- 7 The differences between Crown Poland and the Grand Duchy of Lithuania have been studied by Polish historians, see for example Juliusz Bardach, *O dawnej i niedawnej Litwie*, 73–119; Urszula Augustyniak, *Dwór i klientela Krzysztofa Radziwiłła 1585–1640. Mechanizmy patronatu* (Warszawa: Semper, 2001); Urszula Augustyniak, »Specyfika patronatu magnackiego w Wielkim Księstwie Litewskim w XVII w. Problemy badawcze,« *Kwartalnik Historyczny* 109 (2002): 97–111; Henryk Wisner, *Rzeczpospolita Wazów III. Sławne Państwo Wielkie Księstwo Litewskie* (Warszawa: Neritron IH PAN, 2008); Andrzej Rachuba, *Wielkie Księstwo Litewskie w systemie parlamentarnym Rzeczypospolitej 1569–1763* (Warszawa: Wydawnictwo Sejmowe, 2002); Andrzej Zakrzewski, *Sejmiki Wielkiego Księstwa Litewskiego w XVI–XVIII w. Ustrój i funkcjonowanie: sejmik trocki* (Warszawa: Liber, 2000); Maria Barbara Topolska, *Spółczesność i kultura w Wielkim Księstwie Litewskim od XV do XVIII w.* (Poznań: Bogucki Wydawnictwo

There has been almost no specific research on the Jewish diaspora in Lithuania. Historians have considered it to be identical with its Polish counterpart and have very seldom paid attention to the differences between Polish and Lithuanian Jews.<sup>8</sup> Yet, without doubt a clear distinction between the two parts of the Commonwealth needs to be drawn.

*Jewish citizenship – »The Jews are as much burghers as the Christian burghers are«?*

The first question is: What did it mean for the Christians to have urban citizenship? The privileges of the city burghers included freedom of economic activity, juridical independence, and political rights. Political rights meant the right to elect and to be elected to the city council that decided the internal and external policies of the city. Scholars argue that the political rights constituted the most important component of citizenship.<sup>9</sup> People who wanted to receive citizenship had to meet several conditions. The first and most important was that only Christians were entitled to apply for citizenship. It is clear enough that the Jews could not meet this particular condition because of their religion. However, the Jews fulfilled other requirements, such as providing a birth certificate, an oath, a fee for recording in the town's register, and in some cases having to buy a

Naukowe/Zielona Góra distr. Oficyna Wydawnicza Uniwersytetu Zielonogórskiego, 2002).

- 8 Gershon D. Hundert, *Jews in Poland-Lithuania in the Eighteenth Century: A Genealogy of Modernity* (Berkeley–Los Angeles: University of California Press, 2004); See also David Ruderman, *Early Modern Jewry: A New Cultural History* (Princeton: Princeton University Press, 2010). Only in some older works was the Grand Duchy of Lithuania separated from Crown Poland, see for example Sergei Bershadskii, *Litovskie evrei. Istorii i ikh iuridicheskogo i obshchestvennogo polozheniia v Litve ot Vitolda do Lubel'skoi Unii* (St. Petersburg: Tipografia M. M. Staciulevicha, 1883). Exceptions in the most recent research are Adam Teller, *Kesef, koah, ve-bashpašh: yehudim be-ahuzot beit Radzivil be-Lita ba-meah ha-18* (Jerusalem: Zalman Shazar Center for Jewish History, 2006); Jurgita Šiaučiūnaitė-Verbickienė, *Žydai Lietuvos Didžiosios Kunigaikštystės visuomenėje: sambūvio aspektai* (Vilnius: Žara, 2009).
- 9 Stanisław Gierszewski, *Obywatele miast Polski przedrozbiorowej* (Warszawa: PWN, 1973), 35; Maria Bogucka, »Struktury ustrojowe, społeczne i etniczne oraz konflikty grupowe w miastach,« in *Dzieje miast i mieszczaństwa w Polsce przed rozbiorowej*, eds. Henryk Samsonowicz and Maria Bogucka (Wrocław et al.: Ossolineum, 1986), 454–489, here 465; Andrzej Sulima-Kamiński, »Przestrzenie obywatelskie w wieloetnicznej, wielowyznaniowej i wielokulturowej Rzeczypospolitej,« in *Lex est Rex in Polonia et in Lithuania [...] Tradycje prawnoustrojowe Rzeczypospolitej – doświadczenie i dziedzictwo*, ed. Adam Jankiewicz (Warszawa: DiG, 2011), 85–99, here 90.

house in the city.<sup>10</sup> Nevertheless, as is obvious from the introductory quote, contemporaries spoke of there being Jewish burghers as well.

How does the situation appear if one examines the privileges more closely? A quotation from the privilege given for the town of Kiejdany, a private town that belonged to the Radziwiłłs, states that »no Christian or Jew should live, trade, or work as an artisan in the town of Kiejdany, who has not taken the oath of allegiance to the town's owner.«<sup>11</sup> The same rule was introduced in Slutzk, which belonged to the same family. The town privilege stipulates:

As it is the custom in all towns it should also be here that every newcomer to the town, whether a Christian or a Jew, with due respect to its laws, should pay a fee when recording his presence in the town's register: a Christian should pay two zloty and a Jew a proper plenty.<sup>12</sup>

The cited documents seem to suggest that Jewish burghers had exactly the same status as did Christian burghers, who after swearing an oath of allegiance received all economic privileges. They did, however, have to pay more for the privilege, so that it would appear that the Jews had a lower social standing.

The issue of Jewish political rights is not discussed in these privileges. One has to take into consideration the sources that describe the practice. As my research has shown, Jews had no right to elect or to be elected to any position on the city council in any of the royal towns of the Grand Duchy of Lithuania.<sup>13</sup> In contrast, the situation seems to have been more complicated in private towns. As the election rights of Jews are not known in the Grand Duchy of Lithuania, some other privileges have to be taken into consideration.<sup>14</sup> After the introduction of

10 Stanisław Gierszewski, »Obywatele miast Polski przedrozbiorowej,« 32.

11 »Žadnemu chrześcijaninowi i Żydowi wolno nie być może mieszkać osiadłością abo handle odprawować abo rzemiosło robić w mieście kiejdańskim, któryby przysięgę wierności nie wykonał Panu dziedzicznemu.« *Lietuvos magdeburginių miestų privilegijos ir aktai*, vol. 3, ed. Antanas Tyla (Vilnius: Lituovos Istorijas Institutas, 2002), no. 61.

12 »Jako zwyczaj wszystkich miast niesie tako i tu kto nowo do miasta wstępuje i prawo miejskie przyjmuje bądź chrześcijanin bądź Żyd, tedy przy wpisywaniu w miejski registr niech dwa złote przyjmieszczyzny chrześcijanin a Żyd sowito do miejskiej skrzynki dołoży.« AGAD, AR XXIII, teka 133, plik 16; see also: AR XXIII, teka 134, plik 1. The governor of the city, Stanisław Niezabitowski, wrote in his memoirs about Jews swearing an oath (May 21, 1695): »Jm p. wojewoda mściślawski odebrał przysięgę od mieszczan i Żydów słuckich, także od żołnierzów słuckich«, Stanisław Niezabitowski, *Dzienniki 1695–1700*, ed. Alojzy Sajkowski (Poznań: Wydawnictwo Naukowe UAM, 1998), 82.

13 Maria Cieśla, *Żydzi w Wielkim Księstwie Litewskim 1632–1764. Sytuacja prawna. Demografia. Działalność gospodarcza*, Ph.D. thesis, Polish Academy of Sciences: Institute of History, 2010, 131–134.

14 In some cities in Crown Poland Jews could participate in city council elections, see Tomasz Opas, »Żydzi w miastach szlacheckich województwa lubelskiego w

Magdeburg Law to Slutsk in the second half of the 17<sup>th</sup> century, the Jews had the opportunity to influence the economic policy of the city. A representative of the *kahal*, the administration of the Jewish community, had to take part in the city council session, during which the taxes were assessed. In a meeting of the city council in November 1661 the following decision was taken:

Dawid Jakubowicz, a Jew and a subject of the Jewish community, is hereby designated to participate in the town's council sessions every Thursday as the representative of the Jewish community responsible for executing the Jewish obligations of providing accommodation to soldiers, and other duties of Jewish houses.<sup>15</sup>

As can be seen from the quotation, Jews could only decide in matters connected to the duties and taxes that they paid. As a result they could be sure about a fair assessment of the taxes; however, their position within the city council cannot be considered as equal to the position of the Christian burghers. The sources do, nevertheless, indicate that the Jews did indeed take part in the sessions. Moreover, if a representative of the Jewish community was missing for a session, the community was reprimanded by the Christian city governors.<sup>16</sup>

In connection to the issue of Jewish political rights one has to focus one's attention on the Jewish community – the *kebilah*. Every privilege for a new Jewish settlement guaranteed the right to establish a structured community. One such example was the community in Poswol, a small town in the northern part of the Grand Duchy of Lithuania that was church property. The Jews there were allowed »to elect elders in accordance with the above mentioned [rules of the] Jewish religion, just as it is in other towns and communities.«<sup>17</sup> Some privileges described very precisely the way in which the elders of the community were to be

XVIII w.,« *Biuletyn Żydowskiego Instytutu Historycznego* 67 (1968), 3–37; Józef Mazurkiewicz, »O niektórych problemach prawno-ustrojowych miast prywatnych w dawnej Polsce,« *Annales Universitatis Mariae Curie-Skłodowska* (Sectio G: Jus) 12 (1965): 97–119.

- 15 »Dawida Jakubowicza Żyda poddanego z szkoły ich żydowskiejznaczono do stanownictwa, który ma co czwartek stawać do sesji i pilnować spraw swoich żydowskich względem stancy i serwiz z domów swoich żydowskich.« AGAD, AR XXIII, teka 134, plik 1, 397 (October 1, 1661). Concerning the same matter see also: AR XXIII, teka 137, plik 4, 50–52 (Respons na punkta od Żydów słuckich, February 2, 1661); AR XXIII, teka 134, plik 1, 477 (Protokół sesji rady miejskiej, February 7, 1664).
- 16 AGAD, AR XXIII, teka 134, plik 1, 386 (Protokół sesji rady miejskiej, May 16, 1661), AR XXIII, teka 154, plik 5, 19 (Protokół sesji rady miejskiej, September 17, 1673); *ibid.* (Protokół sesji, February 10, 1674).
- 17 »Starszych według wzwyz mianowanej religii żydowskiej jako po inszych dzieje się miastach przykahałkach obrali.« Wróblewski Library of Lithuanian Academy of Sciences/Lietuvos Mokslų Akademijos Biblioteka (hereafter LMAB), fond (collection) 43, no. 14811.

elected. For instance, in the privilege for Stary Bychów issued in 1758, Michał Antoni Sapieha wrote: »two Jewish elders from one family cannot be nominated as chairs at the same time; instead, the whole community should elect the chairs among themselves by signing in the presence of an envoy of the castle.«<sup>18</sup>

The Jewish communities were completely independent from the Christian city council, with a structure and functions that existed »parallel to those of the city council«. <sup>19</sup> Salo W. Baron has argued that in »medieval and early modern Europe the Jewish community reached its apogee. In many countries and periods it came close to justifying complaints that it constituted a state within the state«. <sup>20</sup> Every member of the community who paid taxes could elect and be elected to the *kahal*. However, it seems that the public activity of the Jews in the *kehillah* cannot be seen in the same way as the political rights of the Christians. The Christian council decided on all of the town's regulations. This influenced the lives of Christians and Jews alike. By contrast, the *kahal* was important only for the Jewish community; it was not able to pass resolutions that were in force for both Christians and Jews. However, if the Jews had to fulfill an obligation, the role of the *kahal* was exactly the same as the role of the city council. So one could say that the two institutions were equal with regard to internal matters, but in matters concerning the whole town, they were not.

*Jurisdiction – »The Jews should obey only the king and his officials within their jurisdiction«*

The second important issue was that of matters of jurisdiction. If a town had Magdeburg Law its inhabitants had the right to be under the exclusive jurisprudence of the town courts. The exception was only the *jurydyki*, the parts of the city that belonged to magnate or Church owners. These parts were located within the towns but were not part of the town in terms of their organization. In terms of law and jurisdiction they were independent of the town's council. Their inhabitants were mostly judicially subject to the town's lord; however, the latter

- 18 »starsi żydowscy dwaj z jednej familii obrani być nie mają, ale cały gmin kreskami z porządku siebie obrać onych ma przy widzie z zamku zesłanym.« Jakub Goldberg, *Jewish Privileges in the Polish Commonwealth: Charters of Rights Granted to Jewish Communities in Poland-Lithuania in the Sixteenth to Eighteenth Centuries*, vol. 1 (Jerusalem: The Israeli Academy of Sciences and Humanities, 1985), no. 3.
- 19 Adam Teller, »Telling the Difference: Some Comparative Perspectives on the Jews' Legal Status in the Polish-Lithuanian Commonwealth and the Holy Roman Empire.« *Polin* 22 (2009): 109–142, here 120.
- 20 Saul W. Baron, *The Jewish Community its History and Structure to the American Revolution* (Philadelphia, PA: Westport, CT, 1942), 208.

sometimes used Magdeburg Law as well.<sup>21</sup> The Jewish juridical system was slightly different. The general privilege for the Lithuanian Jews confirmed that the »Jews should obey only the king and his officials within their jurisdiction.« The Jews thus had the status of free people with juridical dependence only on the king and his officials. The same principle was sanctioned in every document addressed to Jewish communities in the Grand Duchy of Lithuania, as the privilege for the community in Jurbork, issued in 1642, illustrates: »The Jews should not resolve their issues in court other than the *starosta's* court [the royal court] in Jurbork.«<sup>22</sup>

Such direct dependence on the king, represented, at the local level, by his officials – was one of the features that distinguished Jews from Christians. Two other significant principles concerning jurisdiction were introduced into the general Lithuanian privilege. The first was the exclusion from the jurisdiction of the Lithuanian Tribunal. The second is the principle of *actor sequitor forum rei*, which was applied to conflicts with burghers. It prescribed that, if a Jew accused a Christian townsman of something, the conflict would be solved in the court of the town council. However, in this case the privileges granted that »not the Magdeburg but the common law [*prawo ziemskie*] should be applied; they should be judged according to the common law and the [third] land statute.«<sup>23</sup>

This principle seems to have been very significant for the social position of the Jews. One has to bear in mind that only the nobility had the same rights.<sup>24</sup> Moreover, in many cases Lithuanian law – in this case the Third Lithuanian Statute – was more advantageous to the Jews. Particularly insulting items in Magdeburg Law were not adopted in the Third Lithuanian Statute, as I will argue below based on the example of the Jewish oath.

The system of appeals was very simple in royal towns, where Jews had the right to appeal to assessorial courts. In the case of substantial conflicts, a commission (*sąd komisarski*) was arranged. One such example was the conflict between Jewish and Christian burghers in Vilnius that was resolved by a commission in 1636. The commission had to decide on the Jews' rights to trade

21 Concerning the *jurydyki*, see Józef Mazurkiewicz, *Jurydyki lubelskie* (Wrocław: Zakład im Ossolińskich – Wydawnictwo PAN, 1956); Tomasz Opas, *Własność w miastach i jurydykach prywatnych w dawnej Polsce. Studium historyczno-prawne* (Lublin: Wydawnictwo UMCS, 1990); especially about the Lithuanian cities, see Przemysław Borowik, *Jurydyki miasta Grodna w XV–XVIII wieku. Stanowy podział nieruchomości* (Supraśl: Stowarzyszenie Collegium Suprasliense, 2005).

22 »Sami też względem osób swych przed żadnym innym sądem stawać i sprawować się we wszelkich in genere sprawach nie powinni jeno przed starostą naszym tamecznym jurborskim«. *Lietuvos magdeburginių miestų privilegijos ir aktai*, vol. 1, ed. Antanas Tyla (Vilnius: Lietuvos Istorijos Institutas, 1991), no. 98.

23 AVAK, 5, 304.

24 Ibid.

and work as artisans in the town. Due to the fact that the privileges issued to the Jews and those of the Christian townspeople were contrary to each other, the royal court could not pass a sentence, thus giving way to the establishment of a commission. In most cases the members of the commission were recruited from among local officials and priests. In the conflict described above, for instance, the commission consisted of the local bishop Abraham Wojna, the Vilnius voivode Krzysztof Radziwiłł, the Mściśław voivode Mikołaj Kiszka, the Chancellor of the Grand Duchy, Albrycht Stanisław Radziwiłł, and the Vice Chancellor, Stefan Pac.<sup>25</sup>

A similar development can be seen in private towns, apart from one significant difference. A good illustration is provided in the privilege for the Jewish community in Kiejdany. The document states: »On no account should Jewish cases be brought before the town court, but they should be judged by the castle court according to the Jewish privileges and laws of the Grand Duchy of Lithuania.«<sup>26</sup> The Jews were thus excluded from municipal jurisdiction, while they were, however, directly responsible to the court of the town owner. This rule was introduced by a general privilege granted to the nobility in 1539, which is seen as one of the most important privileges for the development of the Jewish legal position in the Polish-Lithuanian Commonwealth.<sup>27</sup>

In practice, Jews were judged by a different person in every single private town. Officials of the noble lord who managed the towns were generally responsible for jurisdiction over the Jews. In every estate they had different tasks, which were adjusted to the local situation and referred to by different titles. In Slutzk, which belonged to the Radziwiłł family, special officials, called *podstarosta* (vice-major) or *ekonom generalny* (general steward), were responsible for the Jewish jurisdiction. In Shklov, by comparison, which belonged to the Czartoryski family, the same obligation was given to the governor of the city.<sup>28</sup>

25 Lithuanian Metrika/Metryka Litewska (hereafter ML), vol. 111, 718; see also concerning other commissions ML, vol. 312, 8; ML, vol. 312, 89; ML, vol. 176, 119–120; AGAD, AR XXIII, teka 32, plik 3, 643. Stanisław Albrycht Radziwiłł, the Chancellor of the Duchy, who took part in the Vilnius commission in 1636, described his activity as following: »My komisarze królewscy doprowadziliśmy do zgody magistrat wileński z Żydami w sprawie wznieconego tumultu. Aby jednak sine było okazji do podobnych ekscesów staraliśmy się w domu wojewody znaleźć sposób na zapewnienie bezpieczeństwa. Ale nieobecność biskupa zmusiła nas do odłożenia tej sprawy do następnego dnia.« Albrycht S. Radziwiłł, *Pamiętniki o dziejach w Polsce*, vol 1. (1632–1636), eds. Adam Przyboś and Roman Żelewski (Warszawa: PIW, 1980), 561.

26 Stefan Gąsiorowski, »Żydzi w Kiejdanach w XVII i XVIII w. Rekonesans badawczy,« in *Małżeństwo z rozsądku*, 73–87, here 85.

27 Teller, »Telling the Difference,« 119.

28 Adam Kaźmierczyk, *Żydzi w dobrach prywatnych w świetle sędowniczej i administracyjnej praktyki dóbr magnackich w wiekach XVI–XVII* (Kraków: Księgarnia Akademicka, 2002), 93.

In the Grand Duchy of Lithuania, Jewish dependence on municipal jurisdiction was very rare. The relatively late adoption of Magdeburg Law and, to an even greater extent, a weak burgher community can be seen as the most important factors that contributed to the preservation of Jewish juridical independence from the Christian burghers.<sup>29</sup>

In contrast to the royal cities, the appeal system in the privately owned estates was much more complicated. In Slutsk, the jurisdiction of the office of the *ekonom generalny* served the Jews as the court of appeals. At the same time, the Jews had the right of appeal to the owner of the city. However, due to the fact that Ludwika Karolina Radziwiłł, the owner of the town, first married Frederic William of Brandenburg and, after his death, Charles III Philip Elector of the Palatinate, and lived in the Holy Roman Empire, this privilege was limited.<sup>30</sup> In contrast to Slutsk, Jews in Shklov had a limited right to appeal. They were allowed to go to the town lord only in vital cases.<sup>31</sup>

The regulations of the Third Lithuanian Statute were established as legally binding law through the Jewish privileges in the Grand Duchy of Lithuania. Furthermore, the application of Magdeburg Law was prohibited in many documents. In the present context it has to be stressed that the application of the Third Lithuanian Statute was also significant for the social position of the Jews. As mentioned above, Jews had the same position as nobles in court trials with burghers. This is supported by other examples, the first being the status of the Jews who converted to Christianity. The Statute stipulated that »if a Jewish man or a Jewish woman joins the Christian Church, every such person and their descendants should be recognized as noble.«<sup>32</sup> Scholarly opinion is still divided about whether this ruling was really put into practice. Doubts arise because the law quoted above was introduced in the paragraphs describing punishments for all kinds of criminal cases. The sentence about the converts seems to be taken out of context. Due to the lack of sufficient source materials it is almost impossible to find examples of converted Jews. Some scholars have maintained that this privilege never functioned in practice.<sup>33</sup> However, Jakub Goldberg's assumption

29 Concerning the application of the Magdeburg law in the Grand Duchy of Lithuania, see Bardach, »Ustrój miast na prawie magdeburskim,« 73–119. By contrast, cases of Jewish dependence on the Municipal Courts were known in Crown Poland, see Kaźmierczyk, *Żydzi w dobrach prywatnych*, 27–40.

30 Ibid., 127.

31 Ibid., 93.

32 »A jeśliby który Żyd albo Żydówka do wiary chrześcijańskiej przystąpili tedy każda taka osoba i potomstwo ich za szlachcica poczytani być mają« Statut Wielkiego Księstwa Litewskiego (Wilno: Nakładem Wileńskiego Towarzystwa Topograficznego, 1819), chapter 12, part 7.

33 See Marceli Janecki, *Erhielten die Juden in Polen durch die Taufe den Adelstand* (Berlin: J. Sittenfeld, 1888); Jerzy Michta, »Nobilitacje Żydów litewskich w

that it was a law that was in fact used very rarely seems to be more plausible, because the few known cases from the second half of the 18<sup>th</sup> century are not sufficient to confirm the hypothesis that it never was used.<sup>34</sup>

The second example was the punishment for killing or injuring a Jew, which was exactly the same as for killing or injuring a noble.<sup>35</sup> The Jews thus had a higher social position than Christian townsfolk, as the punishment for killing a Christian burgher was less severe. Contemporaries were well aware of the significance of this privilege. In a Jewish legend from the 18<sup>th</sup> century about Saul Wahl, who was supposedly king of Poland for a day, it was mentioned among the most important Jewish privileges in the Grand Duchy of Lithuania. According to the legend, it was indeed issued by the Jewish king Saul Wahl.<sup>36</sup>

The significance of the application of the Third Lithuanian Statute can also be shown using the example of the Jewish oath, as the Polish version of the Magdeburg Law included a number of insulting elements, which were absent in the Third Lithuanian Statute.<sup>37</sup> Many Jewish privileges confirmed the rules of the Lithuanian Statute. These documents often state that Jewish oaths had to be consistent with the Jewish religion.<sup>38</sup> Jewish internal jurisdiction also has to be mentioned as an important legal authority. Every kind of internal litigation had to be judged in Jewish courts; the Third Lithuanian Statute even allowed them to judge cases of murder.<sup>39</sup> However, this was limited in practice by local Jewish privileges, as in Birze by Ludwika Karolina Radziwiłł in the second half of the 17<sup>th</sup> century:

XV–XVIII w.« in Miasta ludzie, instytucje, znaki. Księga jubileuszowa ofiarowana prof. Bożeny Wyrozumskiej, ed. Zenon Piech (Kraków: Towarzystwo Naukowe Societas Vistulana, Instytut Historii UJ, 2008), 369–375.

34 Jakub Goldberg, »Die getauften Juden in Polen-Litauen im 16.–18. Jahrhundert: Taufe, soziale Umschichtung und Integration,« *Jahrbücher für Geschichte Osteuropas* 30 (1982): 161–183; David Frick, »Jews and Others in Seventeenth Century Wilno: Life in the Neighborhood,« *Jewish Studies Quarterly* 12 (2005): 8–42, here 33–34.

35 Statut Wielkiego Księstwa Litewskiego, chapter 12, part 7.

36 Concerning the Saul Wahl legend, see Tsvi Hirsch Edelman, *Gdulat Shaul* (London, 1854); Majer Bałaban, *Skizzen und Studien zur Geschichte der Juden in Polen* (Berlin: L. Lamm, 1911), 26–31; Philipp Bloch, »Die Sage vom Saul Wahl dem Eintagskönig von Polen,« *Zeitschrift der Historischen Gesellschaft für die Provinz Posen*, 4 (1889): 234–258; Moshe Rosman, *How Jewish is Jewish History?* (Oxford: Littman Library of Jewish Civilisation, 2007), 156–158.

37 Kaźmierczyk, *Żydzi w dobrach prywatnych*, 122–123.

38 Goldberg, Jewish Privileges in the Polish Commonwealth, no. 58; ML, vol. 118, 169.

39 »Gdyby Żyd Żyda na śmierć zabił, ranił, albo i zbił tedy o tym sąd i skazanie o tym ma być uczynione według prawa i przywilejów ich.« Statut Wielkiego Księstwa Litewskiego, chapter 12, part 7.

*Interea* [among others], it is ordered that Jews should not judge criminal cases among themselves as they belong to the castle court's jurisdiction, except matters of the Jewish religion which are to be resolved in their own courts, as is the case in other towns where Jews reside.<sup>40</sup>

Lastly, it is crucial to remember that the *Va'ad medinat Lita* was also accepted by the king as a court of appeal.<sup>41</sup> The application of the legislation also has to be taken into consideration when analyzing the issue of juridical sources. A closer investigation of different court sources shows that the written law was not always applied in practice. Still, differences between the 17<sup>th</sup> and the 18<sup>th</sup> century have to be noted. It seems that the written law was observed more conscientiously in the 17<sup>th</sup> century. Many court sources attest to trials in which Jews enforced their juridical rights.<sup>42</sup> In the 18<sup>th</sup> century, the situation changed and Jewish juridical privileges were no longer observed as conscientiously, with Jewish cases present in each kind of court. Jewish trials were held in the municipal courts, with even the Lithuanian Tribunal imposing sentences. Processes in which Jews brought Christians up on charges in what was deemed to be the wrong court – something typical for the 17<sup>th</sup> century – occurred very rarely in the 18<sup>th</sup> century. In fact, Jews often used Christian courts for internal litigation.<sup>43</sup> It seems that there were many reasons for this development. Firstly, it can be seen as a sign of assimilation of the Jews into the social and juridical system. As they mostly lived in towns, they had the same economic privileges and used the same courts as Christian burghers. Secondly, in non-Jewish courts, procedures and verdicts appeared to be more advantageous for Jews. Due to the crisis in the Jewish *kehillah*, Jews often complained that the Jewish courts were too expensive and that the judges were not fair.<sup>44</sup>

40 »Interea nakazuje się Żydom, aby [...] criminalia między sobą nie sądzili, bo te do nich nie należą ale do dworu krom spraw i deferencji zakonnych między nimi zachodzących, które im wolno samym rozsądzać i terminować według zwyczaju inszych miast, gdzie Żydzi mieszkają.« LMAB, f. 25, no. 167, 381.

41 ML, vol. 119, 73.

42 ML, vol. 319, 526; ML, vol. 146, 71.

43 ML, vol. 159, 95.

44 Lithuanian State Historical Archives/Lietuvos valstybės istorijos archyvas (hereafter LVIA), fond/f. (collection) 1280, signature/sign. 2070 (October 10, 1717).

*Taxes – »taxes will be levied on every Jewish house in town,  
just like on other townsmen's houses«*

The taxes and duties that Jews paid fall into two groups, the first being state taxes. Among these the Jewish poll tax (*podgłowne żydowskie*) was the most significant, while the »return tax« (*powrotne*) was of minor importance. As for the other state taxes, the Jews had to pay, together with all other state citizens, the hearth tax (*podymne*) and the general poll tax (*podgłowne generalne*).<sup>45</sup> City taxes and duties are especially significant for this analysis. A more detailed examination reveals that the text of the general privilege did not introduce any binding principle and that, »taxes will be levied on every Jewish house in town, just like on other townsmen's houses; Jews are not liable for other duties like the donativum<sup>46</sup> [...] and if they have contracts with the burghers, they should pay accordingly.«<sup>47</sup>

As a further analysis of examples from different places has shown, there was no generally applicable system. The Jews paid different taxes in every town and sometimes even the individual systems changed over time. In cases where the Jewish community was important and the Christian burghers weak, the Jews often succeeded in receiving tax exemptions. For instance in Grodno the community received a separate privilege in the form of an exemption from the military tax (*hiberna*), originally paid to support the army during the winter in ecclesiastical and royal estates, and later a permanent tax paid to the commander or the army *hetman*.<sup>48</sup>

Generally speaking, the Jews had to pay the rent (*czynsz*) for their houses in every city, but a slight difference between royal and private towns must be noted: In royal towns the Jews paid exactly the same rent as the Christian burghers,<sup>49</sup> whereas in the private towns of the second half of the 18<sup>th</sup> century a new »Jewish

45 Anna Filipczak-Kocur, *Skarbowość Rzeczypospolitej 1587–1648* (Warszawa: Wydawnictwo Sejmowe, 2006), 258; Roman Rybarski, *Skarb i pieniądz za Jana Kazimierza, Michała Korybuta oraz Jana III* (Warszawa: TNW, 1939), 214–235; Henryk Wisner, *Rzeczpospolita Wazów III. Sławne Państwo Wielkie Księstwo Litewskie* (Warszawa: Neritron IH PAN, 2008), 226.

46 A general tax for merchants.

47 »z domów tych, które w miastach mają podatki powinni dawać zwyczajne, iako inni mieszczanie innszym powinnościom miejskim nie zwyczajnym jako donativum nie podlegają [...], albo gdzie pakta z mieszczanym mają, tedy podług ich płacić powinni.« AVAK, vol. 5, 304 (October 19, 1744).

48 ML, vol. 149, 492–497.

49 AGAD, Archiwum Roskie/Roś Archive, sygnatura (file) 831.

rent« was introduced. Jews henceforth paid more than Christians, but at the same time they were exempted from all personal duties.<sup>50</sup>

This process was typical for small towns, whereas in medium-sized private towns the old identical rent was paid till the end of the 18<sup>th</sup> century. In every town the buildings that were used for religious services, e.g. synagogues, ritual baths, were exempted from any tax. Usually these exemptions were introduced into the local privileges for Jewish communities as in the case of Stołpce:

Jews from Stołpce have asked me for permission to build a synagogue and a cemetery for the purpose of their religious education and services, and I hereby grant it to them seeing that the cause is right [...] I also allow them to use a garden two *morgen* in size on the outskirts of the town [...] where they can bury their deceased, build their school and their baths. From this day on, in perpetuity, they are released from any kind of tax and obligation for the use of this land.<sup>51</sup>

It is worth remembering that this principle was introduced for every kind of religious institution, both Jewish and Christian. Therefore, in terms of taxation, Jewish synagogues and Christian churches were treated equally.<sup>52</sup>

The second important group of taxes was connected to the economic activity of the Jews. Taxes were paid, for example, for the right to produce and sell alcoholic beverages (*czopowe, szelężne*) and to trade (*donativum kupieckie*). Two general principles were introduced with regard to these taxes: First, in some towns the Jews paid a part of all taxes, proportional to the number of Jews living in the town. In Słutsk for instance, in the first half of the 17<sup>th</sup> century Jews constituted about one third of all city inhabitants so that they paid one third of all city taxes and duties. In the second half of the 17<sup>th</sup> and in the 18<sup>th</sup> century, the rapid demographic growth of the Jewish population contributed to a conflict with the Christian burghers, who tried to increase the Jewish share of the general taxes.<sup>53</sup> The second principle was that, instead of paying the tax, the Jews paid a

50 Teller, *Kesef, koah*, 51; Adam Teller, »The Legal Status of the Jews on the Magnate Estates of Poland-Lithuania in the Eighteenth Century,« *Gal-Ed* 15–16 (1997): 41–65, here 48.

51 »Ci Żydzi stołpeccy wnieśli prośbę do mnie aby wolno szkołę dla ich nabożeństwa i ogród dla chowania ciał zmarłych Żydów mieć widząc tedy rzecz słuszną pozwoliłem im szkołę pobudować w mieście Stołpcach [...] dwa place dołączam także na ogród dwa morgi puste za miastem [...] na mogiłki dałem Żydom łąnie i kompalnie na tychże dwóch placach przy szkole [...] z których to zajętych szkołę i ogrodem placów [...] i tej łąni od daty tego kwitu uwalniam ich na potome czasy od płacenia czynszów i wszelkich składanek.« Czartoryski Library Krakow, Manuscript Collection/Biblioteka Książąt Czartoryskich Kraków, Dział Rękopisów, no. 9219.

52 Abba Gomer, *Beiträge zur Kultur- und Sozialgeschichte des Litauischen Judentums im 17. und 18. Jahrhundert* (Köln: F. W. Fretlöh, 1930), 5.

53 AGAD, AR XXIII, teka 134, plik 1; AR XXII, teka 154, plik 5.

fixed contribution to the city council, which paid the tax money from the whole city into the state treasury. One such example was Vilnius, where the contribution was introduced in the 1630s, with the Jews there paying 300 zloty annually. It was not long, however, before the amount was raised to 600 zloty as a result of a conflict with the Christians. After paying this contribution the Jews were liberated from all taxes connected to their economic activity. All other direct taxes, as for instance the *donativum*, were paid only by Christian burghers.<sup>54</sup>

Personal obligations were also connected to the taxes. Military service was the first and most important obligation that the Jews had to bear together with other inhabitants. In Slutsk and Vilnius, the Jews were organized into units in the same way as the Christians. Once a year they had to take part in military displays, in which every unit had to present their weapons. Together with the Christians, they had to take care of buildings important for the defense of the town.<sup>55</sup> Also connected to military service was the aforementioned *hiberna tax*.<sup>56</sup> However, while Jews in Crown Poland paid this tax, it is not certain whether Lithuanian Jews did so as well. My own research has shown that not every Jewish community in Lithuania contributed to it.<sup>57</sup> The cities of Brześć and Grodno had a separate privilege, which exempted the Jews from the tax.<sup>58</sup> Sometimes the Jews had to provide accommodation (*stacje*) to soldiers, members of parliament, or emissaries. This obligation was significant in the capital city of Vilnius as it was the place where the Sejm and the Lithuanian Tribunal met. During their sessions, delegates there were lodged in burgher homes, whether Christian or Jewish.

The obligation to deliver money to the town's owner (*podwoły*) should also be listed among personal duties. The representatives of the community were responsible for the transfer of the money collected in the city to the main treasury of the private owner and to the state treasury. Due to the Jews' economic activity and their basic economic skills it was a very common Jewish obligation,

54 Maria Łowmiańska, »Wilno przed najazdem moskiewskim 1655 roku,« in *Dwa doktoraty z Uniwersytetu Stefana Batorego w Wilnie* (Poznań: Wydawnictwo Poznańskie, 2005), 151–329, here 170.

55 Anatol Hryckiewicz, »Milicje miast magnackich na Białorusi i Litwie w XVI–XVIII wieku,« *Kwartalnik Historyczny* 77 (1970): 47–61, here 50.

56 About the hiberna tax, see Michał Nycz, *Geneza reform skarbowych Sejmu Niemego. Studium z dziejów skarbowo-wojskowych z lat 1697–1717* (Poznań: PTPN, 1938), 35–47.

57 Maria Cieśla, *Żydzi w Wielkim Księstwie Litewskim*, 101.

58 Maurycy Horn, *Powinności wojenne Żydów w XVI i XVII wieku* (Warszawa: PWN, 1978), 40; ML, vol. 149, 492–497; AVAK, vol. 5, 161.

in Slutzk as elsewhere. However, as many documents indicate they employed local peasants to take care of the collection.<sup>59</sup>

As special attention has to be paid to the many small private towns, it is worth bearing in mind that in the Grand Duchy of Lithuania, most of them had a semi-agrarian character. The majority of the towns' inhabitants were involved in agriculture and, at the same time, had to carry out some farming work for the towns' owners.<sup>60</sup> Jews were always exempted from this obligation.<sup>61</sup> A quotation from a privilege issued by Hetman (military commander) Stanisław Denhoff on 20 April 1725 for the Jewish community of the private town of Stołpce sheds light on this issue: »I release them [the Jews] from all the duties that the burghers of my court of Kowalewsczyzna have to fulfill: from obligations of delivering mail and harvesting, filling the dikes, working in the granary, and repairing the bridges.«<sup>62</sup> In summing up the analysis of the tax and obligation system it should be pointed out that, in most cases, Jewish and Christian taxpayers were treated in the same way. A clear tendency to tax Jews and Christians equally is documented for many towns. In addition to taxes paid to the state and to the town owners, Jews paid internal taxes as well. Among the most significant of these were the tax for the support of Jewish autonomous institutions (*skhum*), the payment for all kinds of professional activity (*hazaka*), and a tax for selling and buying products (*korobka*). Other taxes do not merit closer consideration in this context as they tended to be less important for the subject discussed.<sup>63</sup>

59 AGAD, AR XXIII, teka 133; AVAK, vol. 28, no. 145.

60 Concerning the specific characteristics of Lithuanian towns, see Jerzy Ochmański, »W kwestii agralnego charakteru miast WXL w XVI,« in *Studia historica w 35 lecie pracy naukowej Henryka Łowmiańskiego*, eds. Aleksander Gieysztor et al., (Warszawa: PWN, 1958), 279–295.

61 ML, vol. 159, 380–381; ML, vol. 149, 738–741.

62 »uwolniłem ich wszystkich od powinności tych które mieszczanie moje mają do dworu mego Kowalewsczyzny pełnią to jest od podwód odprawowania posyłek listownych od tłok latem do żniwa od gwałtu pospolitego do zasypywania grobel stawów od robienia spichlerzów i od poprawowania mostów na rzekach od tego wszystkiego uwalniam.« Czartoryski Library Krakow, Manuscript Collection, no. 9219.

63 Concerning internal Jewish taxation, see Gomer, *Beiträge zur Kultur- und Sozialgeschichte*, 25–26; Israel Susis, »Der yidisher seym in Lite un Vaysrusland in zayn gezetsgeberisher tetikkayt loyt zayne protokoln 1623–1761,« *Tsaytskrift*, 1928, no. 2–3: 1–73, here 14–15. See also Judith Kalik, *Scepter of Judah: The Jewish Autonomy in the Eighteenth-Century Crown Poland* (Leiden–Boston: Brill, 2009), 17.

*Artisans and economic activity – »They can enjoy all liberties (...) of trade«*

The last of the issues to be discussed here are the laws that influenced the economic activity of the Jews, with such rules introduced both in the general city privileges and in Jewish privileges. Formal agreements with municipal councils were of special importance.<sup>64</sup> Generally, the Jews enjoyed many of the rights that the Christian city burghers had. Among them, exemption from customs, the right to use wood from the nearby forest (*wychody*), and the right to meadow use were particularly significant.<sup>65</sup> Other regulations were introduced by the Jewish privileges as well. The general privilege for Lithuanian Jewry stated:

They can enjoy all liberties, *in genere et in specie*, of trade [...] if there are any artisans among them, they are allowed to work freely in the professions they have learned but they should not be accepted into guilds.<sup>66</sup>

With regard to this quotation, it must be stressed that the Jews had the right to work in every profession, especially in trade and artisanship. Nevertheless, other types of sources must be analyzed in order to show the nature of the legal practice. The economic activity of the Jews was one of the areas that were most strictly limited. It was quite common for conflict over Jewish economic activity to break out shortly after the formation of a Jewish community. Ultimately, Jews and Christians had to reach an agreement, which in almost every case limited Jewish economic activity. In some cases, this process of limitation took a long time. In Vilnius, for instance, the first limitations were introduced in the first half of the 17<sup>th</sup> century. However, the struggle continued through the second half of the 18<sup>th</sup> century. In the first years of the 18<sup>th</sup> century, seventeen cases between Jews and the city burghers – represented by the city council or the guilds – concerning Jewish economic rights were heard by royal courts. Limitations were

64 At the end of the 18th century the formal agreements became the basis of the Jewish settlement in Polish-Lithuanian cities. See Jerzy Michalski, »Problem ludności żydowskiej w polskiej opinii publicznej w pierwszym dwudziestolecu panowania Stanisława Augusta Poniatowskiego,« in Jerzy Michalski, *Studia Historyczne z XVIII i XIX wieku*, vol. 1 (Warszawa: Stentor, 2007), 104–123; Idem, »Sejmowe projekty reform położenia ludności żydowskiej w Polsce w latach 1782–1792«, in: Ibid., 305–323; Teller, »Telling the Difference,« 131.

65 ML, vol. 114, 282; ML, vol. 118, 169; ML, vol. 118, 219; Henryk Łowmiański, »Wychody miast litewskich,« in Henryk Łowmiański and Maria Łowmiańska, *Dwa doktoraty z Uniwersytetu Stefana Batorego w Wilnie* (Poznań: Wydawnictwo Poznańskie, 2005), 110–147. See also Stanisław Grodziski, *Obywatelstwo w szlacheckiej Rzeczypospolitej* (Kraków: UJ, 1963), 138–139.

66 »Wszystkie wolności in genere et in specie onym nadane jako to na: wolne handle, [...] Rzemieślniki, którzykolwiek są między Żydami jakie kto z nich rzemiosło umie wolno im robić bez przeszkody wszelakiej a do cechu należeć nie mają.« AVAK, vol. 5, 304.

introduced in several areas. First, the Jews were not allowed to trade in certain products:

They are not to trade in the following products: salt, rye, flax, seeds, hemp, oil, wine, herring, wax, iron, silk, tin plate, steel, linen cloth more expensive than six zloty, expensive belts, Turkish cloth, and goods more expensive than plain woolen cloth (*falandysz*).<sup>67</sup>

All products listed in this quotation were crucial to Lithuania's foreign trade.<sup>68</sup> The merchandise of the Jewish merchants was further limited by the artisans' guilds. Generally, Jews were not allowed to trade goods produced by the members of artisans' guilds such as shoes and caps.<sup>69</sup> Second, restrictions on the number of Jewish market stalls and shops were very common, which can be illustrated with the example of Vilnius: Jews could have market stalls in the Jewish quarter of the city, while in other areas only some products could be sold.<sup>70</sup> In a 1732 agreement between the city council and the elders of the Jewish community, the Jews were reminded that they »should not bring any groceries, sugar, or other merchandise out to the streets, market squares, or courts. The foregoing applies also to people pretending to work for the nobles as advisors (*faktorzy*).«<sup>71</sup> Third, a limitation to the market time for Jews was introduced in some towns; in Grodno, for example, Jews were allowed to trade only after ten in the morning.<sup>72</sup>

The situation of Jewish artisans was different. Generally, only people who were members of artisan guilds, which were indeed also religious and professional organizations barred to Jews, could work as artisans. Nevertheless, some Jewish artisans did work in the towns. Generally speaking, Jews were allowed to work in professions that required a Jewish religious background in order to meet the needs of the community, for instance butchers, who had to observe the rules of ritual butchering (*shehitah*), and tailors, who were prohibited from mixing

67 »Towarami nie handlowali solą, żytem, lnem, siemieniem, pianką, woskiem, olejem, winem, śledziami, żelazem, stalą, blachą, jedwabiem, jedwabnymi materiałami, sukniem nad złotych sześć każdego waloru, pasami drogimi, oponami, ubraniami tureckimi [...] towarów droższych nad falendysz prosty nie sprzedawali.« ML, vol. 413, 413 (January 28, 1752).

68 Klausner, *Toldot ha-kebilah ha-ivrit be-Vilna*, 10.

69 *Akty cechów wileńskich 1495–1759*, eds. Henryk Łowmiański, Maria Łowmiańska, Stanisław Kościłkowski and Jan Jurkiewicz (Poznań: Wydawnictwo Poznańskie), nos. 96 and 280; ML, vol. 398, 285–292.

70 Klausner, *Toldot ha-kebilah ha-ivrit be-Vilna*, 10.

71 »towarów po rynku, ulicach przedmieściach, pałacach, dworach, korzeni, cukrów, et in generis kupieckich towarów nosić nie powinni etiam pod pretekstem niesienia za kimś faktorii czynić nie mają.« LVIA, Senej Aktai/Old Acts 4761, 1214.

72 ML, vol. 408, 48.

linen and wool (*sha'atnez*).<sup>73</sup> Jewish artisans also worked in professions that did not have a guild. Many privileges stated that »Jews can work as artisans and learn artisan professions, especially professions without a guild.«<sup>74</sup> Another method allowed Jews to produce only for the internal Jewish market, as it was stated in the privilege for tailors in Vilnius: »They are not allowed to manufacture, repair, or rework Polish or any other Christian dress, either for men or for women, in their workshops.«<sup>75</sup>

However, as closer analysis has revealed, the status of Jewish artisans did in fact change. A common practice in the late 17<sup>th</sup> century was to allow Jews to work in a chosen profession for Christians in return for payment, for which the tailors' guild in Grodno is a typical illustration. In 1649, the artisans' guilds came to an agreement with the Jewish community. Under the terms of this agreement, Jewish tailors, cap makers, and furriers were allowed to trade their goods after paying a fee to the artisan's guild. Additionally, Jews were allowed to hire Christian assistants.<sup>76</sup> Similar regulations were introduced to other towns such as Brześć, where this affected the butchers' guild, as in Vilnius the musicians' and medical guilds.<sup>77</sup>

Analyzing the issue of Jewish economic activity, we need to differentiate between private and royal towns. It seems that the differences were very significant in this area. Firstly, limitations to Jewish trade were very rare in private towns. Slutzk is a good case in point as a place where Jews had unlimited opportunity to trade.<sup>78</sup> Restrictions were imposed only on Jewish agents or brokers, who connected foreign merchants with the local ones. The group of Jewish brokers grew in the second half of the 17<sup>th</sup> century as a result of the pauperization of the Jewish population. The owner of the town thus decided that no more than two Jewish agents should work in Slutzk.<sup>79</sup>

73 Akty cechów wileńskich 1495–1759, nos. 176 and 187.

74 »rzemiosła, w których bywają Żydzi ćwiczeni, a zwłaszcza tych, których nie ma cechów wolno robić.« See as well the privilege for artisans in Mińsk: »gdzie cechy od antecessorów naszych uprzywilejowane i od nas potwierdzone nigdzie Żydzi rzemiosła cyrulickiego publice ani privatum nie zażywają.« Ibid., no. 192.

75 »Nie mają sukien Żydzi, w których chrześcijanie tak Polacy, jako cudzoziemcy chodzą oboi płci na warsztatach swoich rabiąc i przerabiać żadnym sposobem i żadnym obyczajem wymyśliwszy albo wymyślając robić.« *Akty cechów wileńskich 1495–1759*, nos. 176 and 187.

76 Mark Vishnitsner [Wischnitzer], »Evrei remeslnik i tsekhovaia organizatsiia,« in *Istoriia evreiskogo naroda*, vol. 11, 290.

77 Rywka Notik, »Tsu der geshikhte fun handverk bay litvisher idn,« *YIVO-Bleter* (1936): 107–118, here 112–113; Vishnitsner, »Evrei remeslnik,« 290; ML, vol. 362, 244–245; *Akty cechów wileńskich 1495–1759*, nos. 376, 570, 700 and 804.

78 AGAD, AR XXIII, teka 134, plik 1, 272–273.

79 AGAD, AR XXIII, teka 154, plik 5, 307–337; AR XXIII, teka 138, plik 3, 25.

It seems that artisans also had a much better position in private towns. This is illustrated by a quotation from the privilege for the town of Kiejdany: »Jews working in artisan professions should join guilds, pay the dues, and obey every rule and law of the guild, or else they will lose the right to work in the profession.«<sup>80</sup> Artisans' guilds open to Jews were characteristic for every town that belonged to the Protestant Radziwiłł family, with the result that Jews could work in any profession there. However, the question whether the same principle was introduced to other private towns in Lithuania remains unanswered.

Analyzing the limitation of Jewish economic activity, one has to bear in mind that most restrictions were not in fact introduced in practice. Vilnius is a good case in point: As mentioned above the rules in the capital city were very restrictive. However, one should note that Jewish merchants and artisans continued to work there nevertheless. As every few years things changed, with new limitations being introduced and old ones removed, one is tempted to conclude that these regulations were quite temporary.

Lastly, some other issues have to be mentioned that distinguished Jewish from Christian town dwellers, as for instance the limitation of settlement, the *hazakah* rights. It is worth remembering that according to many privileges and agreements Jews were not allowed to settle anywhere in town, and Christian burghers especially tried to limit the settlement of Jews in the market squares. However, as the research carried out by Adam Teller and David Frick has shown, this was not translated into practice.<sup>81</sup> Jewish settlement was limited not only by Christians, but by the Jewish communities as well. Every Jew who wanted to settle down and work in a given community had to receive the *hazakah*. Due to the high payments connected to this right not every Jew could afford it.<sup>82</sup>

80 »Žydzi tež jakimkolwiek się rzemiosłem bawiący, do cechu tegoż rzemiosła należeć składanki czynić i wszelkich postanowionych porządków i powinności postrzegać pod utraceniem rzemiosła mają.« in *Lietuvos magdeburginių miestų privilegijos ir aktai*, vol. 3: Kedainiai, ed. Antanas Tyla (Vilnius: Lietuvos Istorijas Institutas, 2002), no. 41.

81 Teller, *Kesef, koah*, 57; Frick, »Jews and Others,« 8–42; Jurgita Šiaučiūnaitė-Verbickienė, »The Jewish Living Space in the Grand Duchy of Lithuania: Tendencies and Ways of Formation,« in *Jewish Space in Central and Eastern Europe: Day to Day History*, ed. eadem (Cambridge: Scholars Publishing, 2007), 7–27.

82 Concerning *hazakah* rights, see: Ignacy Schiper, *Dzieje handlu żydowskiego na ziemiach polskich* (Kraków: KAW, 1990), 144–145; Mojżesz Siemiatycki, *Prawa obywatelstwa w gminach żydowskich w Polsce w XVII i XVIII wieku*. Praca Magisterska, Archiwum Żydowskiego Instytutu Historycznego (ŻIH), sygnatura/sygn. (file) 7/11, 5–7; Louis I. Rabinowitz, *The Herem Hayyishub. A Contribution to the Medieval Economic History of the Jews* (London: Edward Goldston, 1945).

Considering the position of the Jews, it has to be taken into account that Jewish society was not homogenous. This is especially true for royal towns, where the Jewish advisers of the Crown (*faktorzy królewscy*) lived and were under direct jurisdiction of the king due to the services they rendered to the royal court. Sometimes, especially in the 18<sup>th</sup> century, they were exempted from the jurisdiction of Jewish courts. Often they were liberated from all payments and obligations; and what is more, their economic activity was not limited.<sup>83</sup> The king's advisers thus differed from other Jews in terms of their legal position, jurisdiction, economic activity, and social position.

### Conclusion

In summary, let us revisit the significant features that marked the position of the Jews and the differences between the positions of the Christian and Jewish townsmen. Firstly, the Jews had no general political rights; their public activity was restricted to the Jewish communities. Secondly, they differed from the Christian burghers in terms of jurisdiction and thus depended on the king or his officials in royal towns. This was a contrast to private estates, where the owner of the town and his officials were responsible for the Jewish jurisdiction. Furthermore, Christian and Jewish burghers were subject to different laws, the Christians to Magdeburg Law and the Jews to the Third Lithuanian Statute. In contrast, the analysis of the tax system has shown a clear tendency toward the harmonization of the Jewish and Christian systems. Thus in many places Jews had to pay exactly the same taxes as Christians. Finally, comparing the terms of economic activity of the Jewish and Christian burghers one has to bear in mind that Jewish traders and artisans were limited in their professional activity. As the different privileges show, limitations were different in every given city.

In the documents Jews are called citizens or burghers just like the Christians. The Jews lived in the city, where they concentrated their economic activity, but their legal status was not equal to that of the Christian burghers. Scholarly opinion is still divided on whether the Jews constituted a separate, second urban estate.<sup>84</sup> However, one has to bear in mind that Jewish citizenship was not the

83 Maria Cieśla, »Mojżeszowicz, Gordon, Ickowicz: The Jewish Economic Elites in the Grand Duchy of Lithuania (in the 17th and 18th Century),« *Acta Poloniae Historica* 107 (2013): 101–127; Maria Cieśla, »Łazarz Mojżeszowicz przykład żydowskiej kariery w Wielkim Księstwie Litewskim w połowie XVII wieku,« *Kwartalnik Historyczny* 112, no. 4 (2005): 5–29.

84 Teller, »Telling the Difference,« 121; Juliusz Bardach, »Głos w dyskusji,« in *Żydzi w dawnej Rzeczypospolitej*, Materiały z konferencji »Autonomia Żydów w Rzeczypospolitej Szlacheckiej«. Międzywydziałowy Zakład Historii i kultury Żydów w Polsce Uniwersytet Jagielloński 22.–26.9.1989, eds. Andrzej Link-

same as that of the Christians. In most cases, Jews and Christians shared only the same obligations. Some scholars argue that Jewish and Christian burghers constituted two separate urban estates, which differed legally and socially. The Christian one had a privileged position, whereas the Jewish estate enjoyed only limited rights. However, Juliusz Bardach's assumption that the Jews constituted a group outside of every estate seems to be more plausible.<sup>85</sup> It has to be emphasized, nevertheless, that the specific status of the Jews was nothing extraordinary in early modern Lithuanian towns, in which different people lived and every group had its own legal position,<sup>86</sup> its own rights, and its own duties. As an organism, the city could function only if the different groups were to cooperate.

Maria Cieśla

Lenczowki and Tomasz Polański (Wrocław et al.: Zakład Narodowy im. Ossolińskich Wydawnictwo, 1991), 344–347, here 345.

85 Bardach, »Głos w dyskusji,« 345.

86 Andrzej B. Zakrzewski, »Rzeczypospolita XVI–XVIII w. Państwem Tatarów,« in *Rzeczypospolita państwem wielu narodowości i wyznań XVI–XVIII w.*, eds. Tomasz Ciesielski and Anna Filipczak-Kocur (Warszawa–Opole: DiG, 2008), 221–231; Gierszewski, *Obywatele miast Polski przedrozbiorowej*, 92. The other example were the Armenians although they lived mostly in Crown Poland and not in the Grand Duchy of Lithuania, see Renata Król-Mazur, *Miasto trzech nacji – studia z dziejów Kamiénca Podolskiego w XVIII w.* (Kraków: Avalon, 2008).