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THE KULMIAN LETTERS PATENT OF THE TEUTONIC ORDER OF 1233

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Abstract: This study subjects to scrutiny the articles of the Kulmian letters patent of 1233 which determined the conditions of private and public law in the would-be state of the Teutonic Order in Prussia. *The Kulmer Handfeste* had laid down, at the same time, the privileges facilitating planned settlement prior to the conquest of Prussian lands. This diploma ruled on the conditions pertaining to the order of succession, the size of plots, the system of field utilization, fishing and hunting rights as well as those of criminal law and court procedures. It determined the privileges as well as the obligations linked to land-grants while it also determined the conditions of providing for the sustenance of parishes, as well as the currency of the future Teutonic state.

Keywords: Magdeburgian law, Thorn and Kulm, jurisdiction, judge, fishing and hunting, priest, patronage right, Scheffel, coinage, colonization, Article

Subsequent to the great victory of the Teutonic Order and the army of the crusaders by river Sirgune over the Prussian tribe¹ resident in the territory of Pomesania,² Grandmaster Hermann von Salza and landmaster Hermann Balk issued the letters patent in 1233 that came to be known as *Kulmer Handfeste* and later became the mainstay of the so-called Kulmian Law, which played a decisive role in the later life of the state of the Order of Knights.³ Although the letters patent makes mention of the cities Thorn (Toruń) and Kulm (Chelmno), yet it does not address borough privileges only but it is the earliest formulation of provincial rights⁴, which in the initial stage of the appearance of the Teutonic

¹ The westernmost tribal area of Prussia was bordered by river Ossa in the south and river Vistula in the west, in the north, however it extended the river Nogat as along far as the Vistula estuary. In the east it bordered on the Pomesanian tribal area. *H. Boockman*, *Ostpreußen und Westpreußen. (Deutsche Geschichte im Osten Europas)*. Berlin 1992, 79; *G. Hermanowski*, *Ostpreußen. Wegweiser durch ein unvergessenes Land*. Augsburg 1996, 235.

² *Petri de Dusburg*, *Cronica terre Prussie. Scriptores rerum Prussicarum I-V*. In: *Th. Hirsch, M. Toeppen, E. Strehlke* (Hgg.), Leipzig 1861-1874, (henceforth: SRP) I. 58.

³ *R. Philippi, C. P. Woelky, Au. Seraphim, M. Hein, E. Maschke, H. Koeppen, K. Conrad* (Hgg.), *Preußisches Urkundenbuch. Bde. I.1-VI.1. Königsberg–Marburg 1882-1986*, (henceforth: PUB) I. 1. (no. 105).

⁴ *H. Planitz*, *Deutsche Rechtsgeschichte. Köln–Graz 1971*, 142.

Order in Prussia, laid down the legal framework of administration in the territorial state that would be created later and by using a variety of legal sources determined the conditions of private and public law.⁵ The time of issue of this document is remarkable, for it was in this period that imperial princely privileges were committed to writing (1220, 1231) and the grandmaster, vindicating individual provincial overlordship – albeit the question was not at that time settled⁶ –, ruled about the legal conditions in the future Teutonic territory,⁷ invoking the spirit of the above documents and the contents of Emperor Frederick II's 1226 Bull of Rimini. The statutes in the letters patent issued for the two towns had become a kind of fundamental law in the territory of the Teutonic Order. Kulmian law meant *ius teutonicum* in Prussia, that is, the most favourable and highest legal status in contrast to the law of Prussians or Poles. *Kulmer Handfeste* is thus a declaration of intent on a scheme of settling the Knightly Order and on attracting settlers to Prussian lands by creating the incentive conditions to serve this purpose at a time when the conquest of territories inhabited by Prussian tribes had just started and its final outcome was not yet in sight.⁸ The letters patent came into being subsequent to the foundation of Thorn and Kulm (1231 and 1232), which allows us to reason that the Teutonic Order may have made some pledges concerning its main elements and settlement in the two towns may well have taken place rapidly⁹.

The original diploma is only known from a transcript of 1251, for the letters patent of 1233 was destroyed in the fire devastating the town of Kulm.¹⁰ The original letters patent was renewed on October 1, 1251 by Deutchmeister Eberhard von Seyne, the Prussian and Livonian deputy and representative of the Grandmaster (*praeceptor domus sancte marie Theutonicum per Alemanniam et vices generis magistri generalis per Lyvoniam et Prusciam*) in the town of

⁵ H. Kleinau, Untersuchungen über die Kulmer Handfeste, besonders ihre Stellung im Recht der deutschen Kolonisation. *Altpreußische Forschungen* 10 (1933) 233, 261; W. Ebel, Deutsches Recht im Osten. (Schriftenreihe des Göttinger Arbeitskreises Bd. 21.) Kitzingen–Mainz 1952, 19; G. Kisch, Die Kulmer Handfeste (Forschungen und Quellen zur Rechts- und Sozialgeschichte des Deutschordenslandes II.). Sigmaringen 1978; H. Grundmann, Wahlkönigtum. Territorialpolitik und Ostbewegung im 13. und 14. Jahrhundert. München 1970, 278.; J. Maltek, Das Kulmer Recht im Ordensland Preußen (1466-1525) und im Herzogtum Preußen (1525-1620). *Zeitschrift für Ostforschung* 32 (1983) 321.

⁶ In greater detail on this see: Pószán L., A Német Lovagrend története a 13. században. [*L. Pószán, The History of the Teutonic Order in the 13th century*], Debrecen 1996, 118-146.

⁷ H. Kleinau, Untersuchungen über die Kulmer Handfeste, op. cit. 232.

⁸ P. Erlen, Europäischer Landesausbau und mittelalterliche deutsche Ostsiedlung. Ein struktureller Vergleich zwischen Südwestfrankreich, den Niederlanden und dem Ordensland Preußen. (Historische und landeskundliche Ostmitteleuropa-Studien 9). Marburg 1992, 161.

⁹ H. Kleinau, Untersuchungen über die Kulmer Handfeste, op. cit. 232-234.

¹⁰ 1233/1251: *per incendium civitatis Culmensis amisso* — PUB I. 1. no. 252.

Kulm.¹¹ The old document was included in the new one, thus it has double *protocollum*, and *eschatocollum*. It is written at the end of the text that some articles had been left out and a few new ones had been inserted (*civiumque sepe predictorum consensu quedam in eo sunt mutata, articulis scilicet quibusdam exceptis et quibusdam interpositis, qui in privilegio non continebantur antiquo*).¹² Only sporadic mention is made in the 1251 issue of which articles had specifically been altered and been included in the text of the document dated back to 1233. According to Wilhelm von Brünneck: Articles 1 and 4 remained certainly unaltered, but his position is not backed up.¹³ Article 1 secured liberty to the towns of Thorn and Kulm, under which they were granted the right to actually elect a judge (magistrate) whose person was agreeable to both the citizens of the two towns and to the Teutonic Order (*Hinc est, quod eisdem civitatibus hanc indulsumus perpetualiter libertatem, ut earum cives eligant sibi in eisdem civitatibus singulos iudices annuatim, qui domui nostre et communitati civitatum competant earundem*).¹⁴ In this way the free election of the judge (magistrate) was in fact not completely free, because the Order of Knights reserved the right of consent, that is, no one could fill the post of magistrate without its consent.¹⁵ At the same time, it was common practice in medieval Europe, that the magistrate elect needed no further confirmation by any higher authority.¹⁶ The constraints concerning the election of a judge (magistrate) in the letters patent containing the most important conditions of settlement in the Prussian territories resulted in there being no mention made of electing a judge (magistrate) in several later foundation statutes of towns, but this office was donated with hereditary rights by the Teutonic Order.¹⁷ For example the citizens of the town of Deutsch-Eylan founded under Kulmian law (1333) requested, in the mid-14th century the competent comptroller of the Knightly Order to permit them to purchase the right of holding court and, in turn, electing their own magistrates.¹⁸ The *Kulmer Handfeste* laid down constraints not only

¹¹ *ibid.*

¹² *ibid.*

¹³ *W. von Brünneck, Zur Geschichte des Kulmer Oberhofes. Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Germanische Abteilung. Weimar 1913, 2.*

¹⁴ PUB I. 1. no. 252.

¹⁵ *H. Boockmann, Der Deutsche Orden. Zwölf Kapitel aus seiner Geschichte. München 1981, 127.*

¹⁶ *Hajnik I., A magyar bírósági szervezet és perjog az Árpád- és vegyes-házi királyok alatt. [I. Hajnik, The Organization of Jurisdiction under the Árpáds and Mixed Dynasties.] Budapest 1899, 85.*

¹⁷ *P. Erlen, Europäischer Landesausbau, op. cit. 163.*

¹⁸ *K. Abe, Die Komturei Osterode des Deutschen Ordens in Preussen 1341-1525. Köln-Berlin 1972, 74.*

to electing the magistrate but also to its jurisdiction. The judge did not have full-fledged independent jurisdiction, for in the case of serious crimes, such as manslaughter, bloodshed and the like, he could adjudicate only with the Order's approval (...*verumtamen de maioribus cupis, ut sunt homicidia, sanguinis effusio et hiis similia, iudex absque fratrum nostrorum assensu nil remittat*).¹⁹ He could pass sentences up to the value of 4 schillings, however, in cases exceeding this limit, his legally binding sentence could only be passed with the Order's approval (*ita ut quicquid de talibus iudex infra tribunal indulserit de III^{or} solidis videlicet et infra, id etiam ex parte domus nostre sit indultum*).²⁰ However, in several parts of medieval Europe, if a community was once endowed with municipal privileges the procedure mostly meant the transference of total civil and criminal jurisdiction except for the cases of ecclesiastical nature.²¹ But contrary cases were not uncommon either for it often occurred that it was specified in the borough's charter of privileges in what cases the judge had the right to pass sentences.²² According to the Kulmian letters patent, the revenue coming from minor fines for minor crimes and offences was in full the judge's due, while fines in excess of this were split 1/3-2/3 between the municipal magistrate and the Teutonic Order. (*Eisdemque iudicibus cessimus perpetualiter de parte tertia mulctarum iudicialium pro culpis maioribus pensatarum, penam minorum excessuum, que cotidiana dicitur, videlicet XII nummos et infra, eis totaliter concedendo*).²³ The same 2:1 proportion was applied between the towns of Basel, Zürich and Luzern on the one hand and their provincial overlords on the other, or in the province of Brandenburg.²⁴ In accordance with the stipulations of Article 4, jurisdiction had to be performed in pursuance of Magdeburgian law in a manner that a delinquent sentenced to pay a fine of 60 schillings in Magdeburg, had to pay only 30 schillings in Kulmian currency for the same offence or crime. All sentences had to be meted out in view of this proportion. (*Statuimus autem in eisdem civitatibus iura Megdeburgensia in omnibus sententiis in perpetuum observari, hoc indulto, ut cum reus aliquis Megdeburgh in LX^a solidis puniri debeat, hic in XXX^a solidis Culmensis moneta mulctetur, eodem modo in culpis aliis proportionaliter observato*).²⁵ In the state

¹⁹ PUB I. 1. no. 252.

²⁰ *ibid.*

²¹ I. Hajnik, *The Organization of Jurisdiction*, op. cit. 88.

²² Fügedi E., *Középkori magyar városprivilegiumok* [*E. Fügedi, Municipal Privileges in Medieval Hungary*]. In: *Idem, Kolduló barátok, polgárok, nemesek. Tanulmányok a magyar középkorról*. [Mendicant Friars, Commoners and Nobles, Studies on the Hungarian Middle Ages]. Budapest 1981m 284; W. Rösener, *Bauern im Mittelalter*. München 1987, 35.

²³ PUB I. 1. no. 252.

²⁴ H. Kleinau, *Untersuchungen über die Kulmer Handfeste*, op. cit. 242-244.

²⁵ PUB I. 1. no. 252.

of the Order of Knights to be established in the future half the amount of the penalties contained in the Magdeburgian law were to be meted out in sentencing practice.²⁶ The very same proportion was applied in Silesia, too, where sentences were also meted out on the basis of Magdeburgian law.²⁷ According to the Saxonian code of law, the *Sachsenspiegel* („Saxonian mirror”) committed to writing in Latin between 1220 and 1223 and then in German between 1224 and 1226, the fine was due to be paid within 6 weeks.²⁸ Magdeburgian law, especially in the field of criminal law, must have been closely linked to the *Sachsenspiegel*, and Saxonian law exercised great influence in the eastern territories of colonization.²⁹ It can, accordingly, be assumed that similar deadlines were used in the territories of the Teutonic Order. Under the Magdeburgian law, the municipal magistrate did not adjudicate all by himself, but jointly with elected assessors.³⁰ The very same format of adjudication can be found in the *Sachsenspiegel* as well.³¹ The 1233 Kulmian letters patent, however, makes no mention of adjudicating assessors. In a diploma issued in 1258 in relation to the town of Thorn, mention is, however, made of assessors working alongside the judge 7 years subsequent to the renewal of *Kulmer Handfeste*.³² As attested to the documents the assessorial system became widespread adjudication Prussia, too, in the course of the 13th century. The charter of privileges of the town of Rheden renewed in 1285 did for example clearly rule on investing the Schöffen into office that consuls should be elected to delegate assessors (*consules eligere ut scabinos statuere*).³³ The renewed charter of 1284 of privileges for the town of Braunsberg similarly permitted the election of assessors (*scabinus*).³⁴ The earliest entry into the *Liber memoriarum Colmensis civitatis*³⁵ told

²⁶ *W. von Brünneck*, Zur Geschichte des Kulmer Oberhofes, op. cit. 1.

²⁷ *J. Pfitzner*, Besiedlungs-, Verfassungs- und Verwaltungsgeschichte des Breslauer Bistumlandes I. Teil: Bis zum Beginne der böhmischen Herrschaft. (Prager Studien aus dem Gebiete der Geschichtswissenschaft 18.) Reichenberg i. B. 1926. 258.

²⁸ *E. von Reppow*, A Szász Tükör [*Sachsenspiegel*]. Ed. by *L. Blazovich*, *J. Schmidt*. Szeged 2005, (henceforth: *Sachsenspiegel*) II. 5. 2. (163.)

²⁹ *J. Pfitzner*, Besiedlungs-, Verfassungs- und Verwaltungsgeschichte, op. cit. 252; *J. Leuschner*, Deutschland im späten Mittelalter. (Deutsche Geschichte 3). Göttingen 1983, 90.

³⁰ *W. von Brünneck*, Zur Geschichte des Kulmer Oberhofes, op. cit. 3; *H. F. Schmid*, Das deutsche Recht in Polen. *A. Brackmann* (Hg.), Deutschland und Polen. Beiträgen zu ihren geschichtlichen Beziehungen. München–Berlin 1933. 74-76.

³¹ *Sachsenspiegel* III. 81. 1. (247), III. 25. 1. (214), III. 26. 3. (214), III. 26. 2. (214).

³² PUB I. 2. no. 41.

³³ PUB I. 2. no. 457.

³⁴ *J. Voigt* (Hg.), Codex diplomaticus Prussicus. Urkunden-Sammlung zur ältern Geschichte Preussens. Bde I-VI. Königsberg 1836-1861, (henceforth: CDP) II. no. 6.

about an 11-12-member assessorial college, which permits us to infer that assessorial adjudication had become widespread and common at that time. Therefore, in spite of the fact that the *Kulmer Handfeste* did not yet make mention of it, the legal institution of assessors and the institution of Schöffens had already been introduced by the last third of the 13th century, by way of the reception of Saxonian and Magdeburgian (and in part Silesian as well as Swabian) law into Prussian municipal jurisdiction. The appointment of Schöffens became a privilege of municipal councils.³⁶ There is some reference to the regulation of the legal proceedings and evidencing before court in Article 8 of the Kulmian letters patent which rules that the parties are required to muster witnesses in case of disputed property.³⁷

It was standard practice in medieval German colonization in the East that the parent town of the applied law, especially criminal law became a forum of appeals, too. A newly founded town in Slavic territories east of the Elbe that adopted the law of a German town, the parent town located beyond the borders became its forum of appeals. In this manner the Polish towns founded on the basis of Magdeburgian law had Magdeburg for a court of appeals.³⁸ Naturally, there have been exceptions to this practice: in Hungary, for example, all the municipalities – apart from the one Zsolna (Žilina) whose charter of privileges permitted legal cases to be moved up to Teschen – could only appeal to the sovereign (or a competent official of the crown, namely the chamberlain).³⁹ The practice prevailed in Prussia, too. As early as the beginning of the reign of the Order, the second part of Article 4 of the Kulmian letters patent of 1233 laid down that the town of Kulm would be the forum of appeals and not Magdeburg or any other German town: „But in case there is any doubt concerning the law or adjudication, enquiries are to be lodged to the municipal council of Kulm, for it is our desire that amongst all the towns to be founded between the Vistula, Ossa, and Drewenz rivers Kulm should be supreme.” (*Si vero aliquis du-*

³⁵ Liber memoriarum Colmensis civitatis. (Das Kulmer Gerichtsbuch 1330-1430). Bearb. C. Au. Lückcrath, Fr. Benninghoven, (Veröffentlichungen aus den Archiven Preussischer Kulturbesitz 44). Köln–Weimar–Wien 1999, (henceforth: Liber memoriarum Colmensis civitatis) no. 4.

³⁶ E. Steffenhagen, Deutsche Rechtsquellen in Preussen vom 13-16. Jahrhundert. Leipzig 1875, 96; H. Wermbter, Die Verfassung der Städte im Ordensland Preußen. Zeitschrift des Westpreußischen Geschichtsvereins (henceforth: ZWG) 13 (1884) 7-24.; P. Erlen, Europäischer Landesausbau, op. cit. 180-181.

³⁷ PUB I. 1. no. 252.

³⁸ Fügedi E., Középkori magyar városprivilegiumok, op. cit. 288; *Idem*, A befogadó magyar királyság [The Receptive Medieval Kingdom of Hungary]. In: *Idem*, Mendicant Friars, Commoners and Nobles, op. cit. 406; also his Városok kialakulása Magyarországon [The Emergence of Towns in Hungary]. In: *Idem*, Mendicant Friars, Commoners and Nobles, op. cit. 333; H. F. Schmid, Das deutsche Recht, op. cit. 74-76.

³⁹ E. Fügedi, A városok kialakulása, op. cit. 334.

*bietatis scrupulus de iure iudiciario vel de iuris iudicarii sententiis civitatibus emergerit in eisdem, idem articulus a Culmensis civitatis consulibus requiratur, quia eandem civitatem capitalem esse volumus ac digniorem inter alias iam constructas et, si que adhuc infra Wizlam, Ozzam et Driwantzam construuntur.)*⁴⁰ The Teutonic Order, bent on capturing provincial overlordship, had hardly set its foot on the banks of the Vistula river when it declared that it ultimately reserved the right to the highest legal power by designating Kulm as the highest forum of jurisdiction (and by retaining a say in the election of the magistrate and in adjudication). Among the records of the *Liber memoriarum Colmensis civitatis* one can read that the Grandmaster himself interfered in Kulmian adjudication.⁴¹ The supreme judicial authority of Kulm extended up to the last third of the 15th century, when its role was, now openly, taken over by the Grandmaster's court of law (Hofgericht).⁴² It is this Article 4 in the Kulmian letters patent addressing the issue of the court of appeals that first stated unequivocally that this diploma did not simply contain the privileges of two towns, but was rather intended to be a regulation of territorial force.

The *Kulmer Handfeste* ruled over lands granted to the towns of Kulm and Thorn and the proceeds from these lands. Kulm received land, the size of 300 Flemish Hufe⁴³ extending from the village fields of Ust, all the way down the course of the Vistula river as far as Lake Rense and from there on to the villages at Rude ad Lunawe. The town limits extended directly all the way to the road that led to the island of Virgin Mary, then on to the village of Grobone and from there on to the valley named Browina. The lands of Thorn extended from the borders of the Cujavian Bishopric containing lands along the banks of the Vistula river 1 mile in length and half a mile in width.⁴⁴ The demarcation of the limits of the two towns also meant the demarcation of the area under their respective jurisdictions.⁴⁵ The citizens of both towns were entitled to the proceeds from the woods, meadows, and lands in tillage, except for the islands in the river (Vistula) and to the beaver-catch.⁴⁶ Owing to the fact that the Vistula river was the most important navigable river, it had played a key role from the beginnings in acquiring the Order's territories and in its later communication, therefore the Teutonic Order kept it, not unlike overland roads, under its own

⁴⁰ PUB I. 1. no. 252.

⁴¹ *Liber memoriarum Colmensis civitatis*, no. 370.

⁴² *J. Mallek*, *Das Kulmer Recht im Ordensland*, op. cit. 325.

⁴³ On its magnitude see discussion below.

⁴⁴ PUB I.1. no. 252.

⁴⁵ *W. von Brünneck*, *Zur Geschichte des altpreußischen Jagd- und Fischereirechts*. Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Germanistische Abteilung. Weimar 1918, 90.

⁴⁶ PUB I. 1. no. 252.

control in all its sections, and the islands lent themselves to be natural strategic positions for control. Similarly the Order reserved the rights to the beaver-catch for itself, presumably because in 1233, at the beginning of the conquest when the original letters patent was issued, this way the only marketable cash-product of the Teutonic territories.⁴⁷ In medieval times, beaver-fur was one of the most precious furs. In 1222, Kazimir, the Duke of Opeln, donated the land of Ujester to the Bishop of Breslau in a manner that the free utilization of waters did not include beavers as fair game.⁴⁸ The main reason for reserving the rights for beaver catching was not the high market value of beaver-fur and the expected proceeds from its sale, but rather the manifestation of the overlord's territorial sovereignty and the declaration of the overlord's claim to territorial power.⁴⁹ It is interesting at the same time, that in relation to waters the Kulmian letters patent banned beaver-catching but did not ban catching otters, although the latter's skin was also regarded valuable. (From the point of view of fishermen the otter feeding on fish was a noxious animal and the Order may not have banned catching them for this reason.)

Apart from beaver catching an even more straightforward expression of the Order's claim to sovereign overlordship was related to fishing regulations. For, in medieval times, fishing was a privilege linked to the provincial overlord's sovereignty and power, therefore it was permitted only in possession of a letters patent granting permit under conditions specified in it. The Teutonic Order considered its provincial overlordship derived from the 1226 Bull of Rimini of Emperor Frederick II, in which the emperor ruled that the use of, that is, fishing in rivers and seas incurred taxes levied by the Order as it pleased and found fit, for the Prussian lands were the free-hold of the Knights free from all obligations and dues.⁵⁰ The Order of Knights laid down explicitly in the Kulmian letters patent that it possessed ownership rights of fishing waters. It granted in Article 12 permission to the citizens of Kulm and Thorn as well as the crusaders settling down by the Vistula river to fish, albeit only to a limited extent. Those who had a lake or a river suitable for fishing next to their estates were allowed to fish by using any kind of equipment to meet daily household needs, except for equipment used for large scale catches for commercial purposes, such as the *newod*, the large net. „However, exclusively for their own meals, they can freely fish except by means of large net, called *newod* *Si vero maior fuerit*,

⁴⁷ Pósan L., Halászati jog a középkori Poroszországban [L. Pósan, Fishing Rights in Medieval Prussia] (Collectio Iuridica Universitatis Debreceniensis II. Edited by L. Pósan). Debrecen 2002, 25.

⁴⁸ J. Pfitzner, Besiedlungs-, Verfassungs- und Verwaltungsgeschichte, op. cit. 290.

⁴⁹ W. von Brünneck, Zur Geschichte des altpreußischen Jagd- und Fischereirechts, op. cit. 90.

⁵⁰ PUB I. 1. no. 56.

quocumque instrumento in eo piscari voluerit ad commodum dumtaxat mense sue, preter rete, quod newod dicitur, habeat liberam facultatem).⁵¹ As attested by the donation diploma issued by the Duke of Glogan in 1253, fishing with nets was not permitted in Silsia either.⁵² The *Kulmer Handfeste* did, therefore, grant certain landholders or citizens only limited rights to fish. The limitations on the use of instruments or tools were not only meant to limit the size of the catches but limited the timespan of fishing because the large net, called *newod* was suitable for winter fishing under the iced-over water-bodies. Short of this piece of equipment fishing to meet household needs became impossible from the onset of winter.⁵³ Articles 2 and 3 of the letters patent granted unlimited fishing rights to the municipalities of Kulm and Thorn (but not their individual citizens) in the Vistula river and Lake Rense within their borders.⁵⁴ In the case of these waters the decision-making bodies of these towns could decide on their utilization. The bulk of the sweet-water fish sold at the town markets must have come from these municipal fishing grounds where fishermen from these towns carrying the magistrates' licence were allowed to pursue their trades. Several records in the *Liber memoriarum Colmensis civitatis* relate, for example, about Kulmian fishermen (*piscator, vischer, fischer*).⁵⁵ That only in a certain sector of a river was fishing permitted was an element transferred from Magdeburgian Law into the Kulmian letters patent.⁵⁶

Apart from fishing, the *Kulmer Handfeste* ruled on the question of hunting, too. According to the terms laid down in Article 14, the citizens of Kulm and Thorn were permitted to hunt games on their lands with some limitations. With the exception of wild boars, bears and deer (and the above-mentioned beaver) any other wild game was fair game, their front chunks were required to be delivered up to the Teutonic Order.⁵⁷ This kind of limited hunting rights was taken from southern German and Württembergian practice to Prussia with the difference that in the southern German territories no wild game was excepted.⁵⁸ Hunting rights were also limited in the case of contemporary settlement townships in Hungary.⁵⁹ The influence of contemporary southern German legal practice can be identified in the Kulmian letters patent limiting hunting rights to

⁵¹ PUB I. 1. no. 252.

⁵² J. Pfitzner, *Besiedlungs-, Verfassungs- und Verwaltungsgeschichte*, op. cit. 291.

⁵³ Pószán L., *Halászati jog a középkori Poroszországban*, op. cit. 24-25.

⁵⁴ PUB I. 1. no. 252.

⁵⁵ *Liber memoriarum Colmensis civitatis* nos. 368, 334b, 332, 423, 316a, 310a, 302a, 297a, 378a, 384a, 302b.

⁵⁶ W. von Brünneck, *Zur Geschichte des altpreußischen Jagd- und Fischereirechts*, op. cit. 92.

⁵⁷ PUB I. 1. no. 252.

⁵⁸ W. von Brünneck, *Zur Geschichte des altpreußischen Jagd- und Fischereirechts*, op. cit. 92.

⁵⁹ E. Fügedi, *Középkori magyar városprivilégiumok*, op. cit. 266.

certain kinds of games. For in the majority of German provinces big-game (bear, deer, wild boar) hunting became increasingly the overlord's privilege.⁶⁰ It is interesting at the same time that the letters patent did not extend the ban to the bison, the largest game in the region, unlike deer. Same as in the case of fishing, the Teutonic Order behaved as the undisputed owner of hunting rights very similarly to the German provincial princes. For only the possessors of provincial power in the Empire were in a position to donate rights linked to forests including hunting rights.⁶¹ The increasingly consistent enforcement of rights concerning forests and their utilization contributed from the 14th century onwards to the gradual strengthening of the provincial overlord's power in several German principalities.⁶²

In Article 6 of the Kulmian letters patent, the Teutonic Order pledged not to own any such property either in the town of Kulm or in Thorn that was not under the authority of the municipal magistrate. If, as a clerical organization or as a religious order, it should receive such property as an act of piety, its original function would be kept.⁶³ It undertook to leave the legal status of its newly acquired property unchanged, that is, within the limits of the municipality the provincial overlord's authority did not dispose of the stock of property that did not fall under municipal jurisdiction. This meant that houses, workshops, stores vacant sites, etc donated or bequeathed to the Knightly Order did incur tax dues to be paid to the municipality as before.⁶⁴ Since municipal quota taxes were levied on urban property, the citizens' self-interest dictated to have this tax distributed among as many proprietors as possible. If municipal sites came into the possession of such proprietors that for some reason, did not share the communal burden of the citizens of the town, heavier tax burden fell on an individual site.⁶⁵ In the case of both Kulm and Thorn erecting the Knights' fortress preceded the birth of the settlement of civilian commoners, therefore the Order also pledged to extend similar conditions over its existing fortified convents

⁶⁰ R. Schröder, *Lehrbuch der deutschen Rechtsgeschichte*. Berlin–Leipzig 1922, 583.

⁶¹ H. Thimme, *Forestis. Königsgut und Königsrecht nach den Forsturkunden vom 6. bis 12. Jahrhundert*. *Archiv für Urkundenforschung* 2 (1909) 101-154; Th. Zetz, *Beobachtungen zu Königstum und Forst im frühen Mittelalter*. In: W. Rösener (Hg.), *Jagd und höfische Kultur im Mittelalter*. Göttingen 1997, 95-122.; W. Rösener, *Der Wald als Wirtschaftsfaktor und Konfliktfeld in der Gesellschaft des Hoch- und Spätmittelalters*. *Zeitschrift für Agrargeschichte und Agrarsoziologie* 55 (2007) 20.

⁶² R. Kieß, *Die Rolle der Forsten im Aufbau des württembergischen Territoriums bis ins 16. Jahrhundert*. Stuttgart 1958; K.-H. Spieß, *Herrschaftliche Jagd und bäuerliche Bevölkerung im Mittelalter*. In: *Jagd und höfische Kultur*, op. cit. 231-254.

⁶³ PUB I. 1. no. 252.

⁶⁴ H. Boockmann, *Der Deutsche Orden*, op. cit. 127-128.

⁶⁵ Fügedi E., *Középkori magyar városprivilégiumok*, op. cit. 272.

(castles), as well.⁶⁶ Although this article of the diploma was an important declaration of municipal autonomy, its genuine prevalence was cast in doubt by several factors from the outset. The mere presence of a fortified convent of the Knights reduced the observance of municipal autonomy dependent on the grace of the provincial overlord. On the other hand, the Teutonic Order – as an ecclesiastical body – did not come under the secular jurisdiction of the towns in question.⁶⁷

River crossing-places, ferries and bridges that generated treasury revenues were all within the provincial overlord's claim in medieval times.⁶⁸ The Teutonic Order actually ruled on the issue of crossings over the Vistula river in the Kulmian letters patent. According to Article 5 of the renewed letters patent, the Order extended its authority over the ferries across the Vistula river together with the ferriage. The original diploma granted the right of having ferries to the towns of Kulm and Thorn and they were entitled to the ferriage, too. This is essentially the only article in the document where it is specifically spelt out what modifications had occurred relative to the original one. The letters patent renewed in 1251 permitted the two towns only to lease the right of operating ferries from the Order of Knights for an annually paid set sum of money. Control over the ferries was reserved for the Order and its members, its officers and servants were allowed to use the ferries free of charge. If the ferryman refused to help the knights of the Order, or any of its members cross the river free of charge, he would have to pay a fine of 4 schillings. This article also ruled that the rent to be paid for the ferries should be determined jointly by the members of the Order and the councillors and magistrates of the municipalities through consensual agreement.⁶⁹ This made it possible to adjust the amount of the lease to the actual value of traffic taking place at the given crossing place, that is, to its profitability. For example, 14th century data unequivocally show that the ferry at Thorn was far more profitable than the one at Kulm.⁷⁰

The Kulmian letters patent exempted the citizens of Kulm and Thorn from under all unjustified tax burden, billeting obligations or other unfair dues (Article 9).⁷¹ When in 1211 the Teutonic Order accepted the Hungarian King, Andrew II's donation of Burzenland, it was granted exemption from the obligation

⁶⁶ PUB I. 1. no. 252.

⁶⁷ *H. Boockmann*, *Der Deutsche Orden*, op. cit. 128.

⁶⁸ *E. Maschke*, *Die Brücke im Mittelalter*. *Historische Zeitschrift* 224 (1977) 268.

⁶⁹ PUB I. 1. no. 252.

⁷⁰ *J. Sarnowsky*, *Die Wirtschaftsführung des Deutschen Ordens in Preußen (1382-1454)*. Köln 1993, 206.

⁷¹ PUB I. 1. no. 252.

to billet the voivod of Transylvania.⁷² Only those were eligible to be billeted inside the municipalities who the magistrates permitted and the „just price” for the rendered services was duly paid.⁷³

Article 10 ruled on inheritance rights. The citizens of Kulm and Thorn as well as the crusaders and the settlers came into their donations and possessions by way of Flandrian right of succession, which enabled heirs of either sex to inherit.⁷⁴ Flandrian law did, however, recognize the right of succession of the wife in the case of the death of the husband while *Sachsenspiegel* or Magdeburgian law did not. In accordance with the Flandrian right of succession, one-third of the assets went to the widow if the father died and two-thirds went to the descendants regardless of sex. Division into three parts of the inherited assets had been transferred from Frankish common law to Flandrian law.⁷⁵ If a girl got married without the approval of her parents or relations, she lost her right to inherit. The practice of female inheritance had been an important part of Flandrian law since the 12th century.⁷⁶ In all likelihood, the *Kulmer Handfeste* ruled about the Flandrian right of succession, for the 1236 diploma of donating the castle of Quidin and the estates belonging to it contains the following formulations: their heirs of either sex and estate inherited by universal succession (*suis heredibus utrisque sexus ... jure perpetuo hereditarie possidenda*)⁷⁷ the *ius flamingicum* or *ius Flamingorum* also meant inheritance by will in the absence of heirs, furthermore it determined the rules concerning land use and tillage. It contained the basic principle of the previously received practice of settlement namely that the basis of taxation was the plot of land and the amount was adjusted to the size of the land, and there was no service obligation linked to personal dependence.⁷⁸ Consequently the individual plots of land may have changed hands without any impact on the dues linked to the plot of land, that is, Flandrian law like other so-called German ”settler” rights contained that of the free alienation of the plots.⁷⁹ The *Kulmer Handfeste* regulated the sale of prop-

⁷² F. Zimmermann, C. Werner (Hgg.), *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*. I. Hermannstadt 1892, (henceforth: UB) no. 19.

⁷³ Fügedi E., *Középkori magyar városprivilegiumok*, op. cit. 273-274.

⁷⁴ PUB I. 1. no. 252.

⁷⁵ J. Pfitzner, *Besiedlungs-, Verfassungs- und Verwaltungsgeschichte*, op. cit. 367-373.

⁷⁶ H. Kleinau, *Untersuchungen über die Kulmer Handfeste*, op. cit. 256.

⁷⁷ CDP I. no. 46.

⁷⁸ A. Körmendy, *Melioratio terrae. Vergleichende Untersuchungen über die Siedlungsbewegung im östlichen Mitteleuropa*, op. cit. 13-14. Jahrhundert. Poznań 1995, 83; Szűcs J., *Az utolsó Árpádok [J. Szűcs, The Last of the Árpáds]*. Budapest 1993, 35, 201-204; Solymosi L., *A földesúri járadékok új rendszere a 13. századi Magyarországon [L. Solymosi, Feudal System of Dues in 13th century Hungary]*. Budapest 1998, 7; R. Schröder, *Lehrbuch der deutschen Rechtsgeschichte*, op. cit. 485; Fügedi E., *Középkori magyar városprivilegiumok*, op. cit. 259, 270.

⁷⁹ A. Körmendy, *Melioratio terrae*, op. cit. 84.

erty in such a manner that it secured the control of the Teutonic Order over property turnover. Estates or fixed assets could only be sold with the approval of the order to similarly approved buyer. The very same article incorporated various obligations attached to the plots (*Ipsis etiam hanc contulimus libertatem, ut bona sua, que a domo nostra possident, vendendi talibus sane, qui terre ac domui nostre bene competant, habeant facultatem, ita ut hii, qui ea emerint, de manu fratrum suscipiant et domui nostre ad idem ius, idemque servicium teneantur, quod illi nobis exinde facere debuerunt, et nos ea ipsis porrigere sine ulla difficultate debemus*).⁸⁰ It turns out in the section next to this one, that the Order of Knights found it important that its consent be sought in relation to the sale of estates bound to military service and not in the case of rate-paying municipal citizens or peasants. In the case of some emergency, a maximum of 10 Hufe-size piece of land could be alienated (or the whole estate) but the remaining estate incurred the same military service obligations as before. The buyer was required to do light cavalry service according to the size of the purchased piece of land if he did not buy the whole estate. (*Licentiamus etiam, si forte aliquis antedictorum civium necessitatis causa allodium suum vel X mansos ad maius ab aliis bonis suis separare voluerit et vendere separatim, is idem ius, idemque servicium domui nostre debet facere de reliquo, quod prius de toto noscitur debuisse. Is vero, qui idem allodium vel X mansos emerit, debet ratione eiusdem allodii cum armatura, que plata vulgariter dicitur, et aliis levibus armis et uno equo ad arma talia competente domui nostre ad tale obsequium esse astrictus, quale inferius plenius describetur*).⁸¹ In order to prevent incidental over-concentration of land-holdings the next section ruled that individuals who had received personal donations from the Teutonic Order were not allowed to purchase another such entire fief.⁸²

In Article 23 of the letters patent, the Teutonic Order stipulated that the Flandrian unit of land-measure of Hufe must be applied at measuring out plots of land: „Furthermore we order that at measuring the size of plots the Flandrian measure should be observed.” (*Item quantitatem mansorum iuxta morem flamingicalem statuimus observari*).⁸³ Consequently, the Flandrian Hufe meant plot size and the so-called Kulmian or Prussian Hufe was identical with the Flandrian plot size.⁸⁴ Its exact dimensions are familiar from the hook *Geo-*

⁸⁰ PUB I. 1. no. 252.

⁸¹ *ibid.*

⁸² *ibid.*

⁸³ *ibid.*

⁸⁴ Pósan L., A paraszti birtokok mérete és szolgáltatási kötelezettségei a középkori Poroszországban. [*L. Pósan, The Size of Peasant Plots and their Obligations in Medieval Prussia*]. *Agrár-történeti Szemle* 46 (2004-2005) 26.

metria Culmensis whose unknown author compiled all measures in use in Prussia around year 1400 acting on the request of Grandmaster Konrad von Jungingen. According to this, the following measures were generally used for measuring length: rope, rod, ell, foot, palm/span, finger/inch.⁸⁵ These measures were also contained in the records of *Liber memoriarum Colmensis civitatis*.⁸⁶ Four fingers/inches added up to a palm/span four palms/spans added up to a foot and two feet equaled a Kulmian elle/ulna (*ell/yard*). 7 and a half ells/yards equaled a rod (*Rute*) and 10 rods came up to a rope (*seil/seyl*). An area of 3 ropes by 1 rope was an „acre“ (*Morgen/ingerum*) and 30 „acres“ came to 1 Hufe (*mansus*). The Kulmian (that is not Flandrian) Hufe was thus 300-rute-long and 10-rute-wide an area.⁸⁷ One Rute equaled 4.32 metres therefore 1 Hufe meant a land area of 43.2 metres by 1296 metres, that is 16.8 hectares.⁸⁸ Plot sizes by Flandrian measures were widespread in Silesia and Little Poland in the middle ages.⁸⁹ By instituting the plot size according to Flemish common law in Teutonic territories as the basic unit of land-size and of the payable dues, the Teutonic Order determined the system of land-use and the related rotation of crops at the same time. In the Flemish open-field system the individual Hufe did not form a compact unit, a contiguous area but a mansus generally consisted of three 10-acre-size-parts in a way that one part of the Hufe remained jointly used, undivided common land (*Allmende*) of the village, all deriving from the system of land-use.⁹⁰ The Hufe consisted of several parcels (*Gewende*) from the point of view of cultivation. The Flemish (and thus Kulmian or Prussian) Hufe did not comprise the building site and the yard or garden belonging to it. The latter were regarded as separate allowances and did not qualify as taxable assets.⁹¹

⁸⁵ H. Mendthal (Hg.), *Geometria Culmensis*, ein agronomischer Traktat aus der Zeit des Hochmeisters Conrad von Jungingen (1393-1407). Leipzig 1866, (henceforth: *Geometria Culmensis*) 20.

⁸⁶ *Liber memoriarum Colmensis civitatis*, nos. 30, 35, 184, 271.

⁸⁷ *Geometria Culmensis*, op. cit. 21-22.

⁸⁸ W. Kuhn, Flämische und fränkische Hufe als Leitformen der mittelalterlichen Ostsiedlung. Vergleichende Untersuchungen zur mittelalterlichen Ostsiedlung. Köln-Wien 1973, 12; H.-H. Wächter, Ostpreussische Domänenvorwerke im 16. und 17. Jahrhundert. Beihefte zum Jahrbuch der Albertus-Universität Königsberg/Pr., XIX. Würzburg 1958, 30; H. Lowmianski, Początki Polski, Z dziejów a łowian w I tysiącleciu u. e. I-III. Warszawa 1963-1967, III. 297-299; E. Tarvel, Der Haken. Die Grundlegen der Landnutzung und der Besteuerung in Estland, op. cit. 13-19. Jahrhundert. Tallin 1983, 36; G. Franz, Geschichte des deutschen Bauernstandes vom frühen Mittelalter bis zum 19. Jahrhundert (Deutsche Agrargeschichte IV). Stuttgart 1976, 113.

⁸⁹ W. Kuhn, Flämische und fränkische Hufe, op. cit. 10.

⁹⁰ *ibid.* 12, 19.

⁹¹ A. Methner, Die kulmische Handfeste in ihren Beziehungen zu Schlesien. Zeitschrift des Vereins für Geschichte Schlesiens 67 (1933) 42.

In relation to inheritance, plot size, the system of land-use, the Teutonic Order ruled as the sovereign possessor of provincial overlordship extending not only to the towns of Kulm and Thorn, but the entire territory under its rule. Article 13 of the letters patent permitted the citizens of the two towns to build mills on their lands if a river happened to flow across. If more than one mill were to be built on the river flowing by each additional mill was permitted on condition that a sum of money equalling one third of the building costs of the previous one was paid to the Order while one third of the income generated by the new one was regularly paid to the treasury.⁹² The right to work a mill was the provincial overlord's privilege in Europe which was usually donated in return for rate-payment, but the right to build a mill was generally reserved.⁹³ The Kulmian letters patent, however, made building a mill possible with the Order's permission. As proved by the Order's later diplomas concerning building mills, the Order made use of its privilege and only very rarely approved of an individual's building a mill on his own land and working it. In 13th-14th century Prussia, the knights exercised strict control over mills. In spite of the fact that the *Kulmer Handfeste* declared the right to building and working a mill it was nowhere *de facto* practice in the Teutonic State. The Order as provincial overlord reserved the right to build and work both water- and wind-mills to itself. At the same time, the calculation of dues to be paid for mills was changed, too. While the Kulmian letters patent required payment of a sum equal to one-third of the income of the mill as dues, later practice created a basis for a calculation guaranteeing steadier flow of revenue from a fiscal point of view: rate-payment was determined in accordance with the number of mill-wheels with no regard to income.⁹⁴ As provincial overlord, the Teutonic Order reserved for itself the disposal over waters (lakes, rivers) and the rights to their utilization including the monopoly of beaver-catching, salt-mining and mining for metal ores but not including iron-ore that anyone could mine for (Article 11). At the time of formulating the monopoly right of mining for metal ores, that is, at the time of the issuance of the Kulmian letters patent the bulk of Prussian lands was regarded unknown territory, therefore the Teutonic Order had no knowledge of the fact that in its future country mining for metal ores would be of no significance, for the Prussian lands did not have any metal ore deposits and there was no copper, silver or gold at all to be found.⁹⁵ Thus, at the time of its issuance, the Kulmian

⁹² PUB I. 1. no. 252.

⁹³ P. Erlen, *Europäischer Landesausbau*, op. cit. 205.

⁹⁴ H. Steffen, *Das ländliche Mühlwesen im Deutschordenslande*. *Zeitschrift des Westpreußischen Geschichtsvereins* 58 (1918) 74-75, 82-84.

⁹⁵ E. Maschke, *Die Kulmer Handfeste 1233*. *700 Jahre deutsches Recht im Weichsellande*. *Ostdeutsche Monatshefte* 14 (1934) 671.

letters patent laid out the privileges of the Order with foresight and with respect to gold-mining it would apply Silesian mineral law while in the case of silver deposits the mining laws of Freiburg (Meißen) were to have been used.⁹⁶

The obligations of the parties involved (and to be endowed in the future) were laid down in the letters patent. According to Article 17, those who possessed 40 Hufe or larger estates, were obliged to do military service in heavy armour mounted on a warhorse and muster up two further light cavalymen. Those with smaller than 40 Hufe estates were obliged to go to war as cavalymen bearing light arms and breast-plate against Prussians or any enemy attacking Kulmerland whenever the knights ordered them so. When, however, the Prussians would, in the future, be subdued the land-holders in the Kulmian territory would be exempted from the duty to participate in the war campaigns and only the defence of the province required their armed service⁹⁷ Out of the medieval German colonization territories, the obligation to participate in war-campaigns (*expeditiones*) was most typical of the Elbe-Saale region, while in Silesia only the defence of the province was to be shouldered by the knights settled in that locality. The Kulmian letters patent appears to have tried to alloy the two forms.⁹⁸ The land-owners resident in the Bishopric of Breslau by German right were, for example, exempted from the duty of going to war beyond the borders and if the Duke of Silesia went to war they were obliged to turn out with three men at arms to defend one of the ducal castles at their own expense until the Duke returned to the country. Here, therefore, the defence obligation did not become effective in case of an aggression coming from outside only but in all war campaigns.⁹⁹ Article 18 of *Kulmer Handfeste* laid down that all those who had received freely heritable lands from the Teutonic Order were obliged beyond military service to pay so-called „recognition dues” in acknowledgement of the overlord’s rule and jurisdiction of the Order: 1 Cologne Denar or 5 Kulmian Denars. as well as 2 marks’ weight of bee-wax. the land-holder meeting their military service obligations were assured of the Order’s protection and goodwill.¹⁰⁰ The payment of recognition dues was regarded to reflect the existing legal conditions and relationships and the fact that in Kulmerland and later in the whole of Prussia, the Teutonic Order did not donate fiefs but rather estates linked to service. For a noble vassal in Europe paid no regular dues to his

⁹⁶ PUB I. 1. no.252. — On Silesian mining rights see I. K. *Wutke*, Studien über die Entwicklung des Bergregals in Schlesien. Berlin 1896; E. R. *Zivier*, Geschichte des Bergregals in Schlesien. Kattowitz 1898.

⁹⁷ PUB I. 1. no. 252.

⁹⁸ H. *Kleinau*, Untersuchungen über die Kulmer Handfeste, op. cit. 255.

⁹⁹ J. *Pfitzner*, Besiedlungs-, Verfassungs- und Verwaltungsgeschichte, op. cit. 312.

¹⁰⁰ PUB I. 1. no. 252.

senior according to most feudal laws in Europe.¹⁰¹ The Order declared the conditional sale of a piece property or an estate dependent on its permission, but the Kulmer letters patent allowed their free sale, which again shows the non-feudal character of the donations. The elements of Saxonian legal practice which had exerted strong influence on *Kulmer Handfeste* and relate to feudal fiefs, do not contain a clause on recognition dues or free right of sale.¹⁰² Although in the list of witnesses to the letters patent the expression „feudales vero” does occur, but based on the formulation practice of later diplomas – it is not used in the sense of a „vassal”, but simply as a synonym for the ”endowed one”.

Article 19 ruled in relation to an overdue payment of recognition dues or any other financial obligation that a delay of 5 days entailed the payment of a fine of 10 Schillings and another 10 Schillings after another 15 days. After the third consecutive 15-day periods a total of 30 Schilling was to be paid. Together with that the Teutonic Order froze the assets of the party in default as mortgage that was freed only after settlement.¹⁰³ It was infrequent in 13th-century Europe that the rules of distraint or seizure were uniformly applied for a whole territory. From this point of view *Kulmer Handfeste* was an early instance.¹⁰⁴ In the case of overdue payments the moratorium of three times 15 days (six weeks plus 3 days), however, on the influence of the principle of the ”peace of God” it got into several municipal statutes.¹⁰⁵ Payment of the rates and the recognition dues were due on Saint Martin’s day (November 11) or within the subsequent 15 days.¹⁰⁶ Compared with the Teutonic Order’s regulations, the delay in rate-payments was much more strictly sanctioned in the settlement villages in the Elbe region. On the land-holdings of the convent of Ilsenburg, the rate was doubled one day following the deadline and tripled on the third day.¹⁰⁷

¹⁰¹ H. Boockmann, *Der Deutsche Orden*, op. cit. 125. – On Feudal Relations M. Bloch, *Feudal Society*. Budapest 2002, 165-258; H. Mitteis, *Lehnrecht und Staatsgewalt*. Untersuchungen zur mittelalterlichen Verfassungsgeschichte. Darmstadt 1958; K. Bosl, *Das ius ministerialium*. Dienstrecht und Lehnrecht im deutschen Mittelalter. Studien zum Mittelalterlichen Lehnwesen. (Vorträge und Forschungen 5). Lindau-Konstanz, 1960, 51-94; L. Ganshof, *Was ist das Lehnwesen?* Darmstadt 1961; E. Magnou-Nortier, *La féodalité en crise*. Propos sur „Fiefs and Vassals” de Susanas Reynolds. *Revue Historique* N° 600 (1996) 253-348.

¹⁰² *Sachsenspiegel* 255-327.

¹⁰³ PUB I. 1. no. 252.

¹⁰⁴ H. Kleinau, *Untersuchungen über die Kulmer Handfeste*, op. cit. 258.

¹⁰⁵ L. von Winterfeld, *Gottesfrieden und deutsche Stadtverfassung*. *Hansische Geschichtsblätter* 52 (1928) 15-16.

¹⁰⁶ PUB I. 1. no. 252.

¹⁰⁷ G. Schlenker, *Formen des bäuerlichen Widerstandes im mittleren Elbe- und Saalgebiet vom 12. bis 15. Jahrhundert*. *Die Befriedungspolitik der Landesherren*. *Zeitschrift für Geschichtswissenschaft* 42 (1994) 903.

According to a provision in Article 20, if one owed military service to the Order of Knights, but was absent from the campaign or expedition the magistrate was to provide a man at arms at the absentee individual's expense. If anyone should depart from Prussia without fulfilling his outstanding obligations, that is, no arrangements had been made to cover the costs of somebody else standing in for him when summoned to go to war, this fact had to be made public 3 times over 18 weeks (more than a quarter). For in this case, the costs of enlisting a soldier had to be paid by others – the towns, other land-holders, or the knights themselves, because the Order could not do without a single man at arms at the outset of the conquest. If the given person did not compensate for the damages, he had to pay a fine of 30 Schillings to the Order on top of the costs. On every single day for six weeks he was publically called upon to settle the fine and the damages, and if he did not comply with it for a full year, all his assets were distrained until payment was made.¹⁰⁸

Prior to the consolidation of Ecclesiastical conditions in Prussia (Pope Innocent IV ruled about four bishoprics to be established there only 10 years subsequent to the issuance of the Kulmian letters patent)¹⁰⁹ the Teutonic Order had regulated ecclesiastical matters in the Kulmian letters patent. According to the formulation of Article 7, the Teutonic Order reserved the right of patronage over churches and therewith the right of appointing the parish priest: „in these same churches we reserve the right of patronage in order to provide for suitable priests” (... *in eisdem ecclesiis ius patronatus nostre domui retinemus, eis in plebanis ydoneis provisuri*).¹¹⁰ The right of patronage could be taken over by someone else, only if the Order donated it by means of a personal letters patent and subsequent to the establishment of bishoprics (1243) this privilege was transferred to the bishops and their chapters.¹¹¹ Based on the patronage right, the Teutonic Order had been trying hard since the beginnings to appoint a clerical member of the order as parish priest, for in this manner it obtained direct influence on the community of parishioners. This was attributed great signifi-

¹⁰⁸ PUB I. 1. no. 252..

¹⁰⁹ PUB I. 1. 143, 144, 152. sz.-ok. – On the Prussian Church Organisation see *A. Radziński*, Die Kirche im Deutschordensland Preußen in den Jahren 1243-1525: Innere Struktur und Beziehungen zu den Landesherrn. In: *A. Patschovsky, Th. Wünsche* (Hgg.), Das Reich und Polen (Vorträge und Forschungen LIX). Ostfildern 2003; *A. Radziński*, Der Deutsche Orden und die Bischöfe und Domkapitel in Preußen. In: *Z. H. Nowak* (Hg.), Ritterorden und Kirche im Mittelalter (Ordines militares. Colloquia Torunensia Historica IX). Toruń 1997, 44-46; *M. Löwener*, Die Einrichtung von Verwaltungsstrukturen in Preußen durch den Deutschen Orden bis zur Mitte des 13. Jahrhunderts. Wiesbaden 1998, 100-108; *M. Dygo*, Studia nad początkami władztwa Zakonu Niemieckiego w Prusach 1226-1259. Warszawa 1992, 215-216.

¹¹⁰ PUB I. 1. no. 252.

¹¹¹ *M. Dygo*, Studia nad początkami, op. cit. 233-258.

cance especially in the towns where it obliged itself not to reserve pieces of property not under municipal jurisdiction.¹¹² The patronage right of the Teutonic Order had been recognized early on by the Bishop and Chapter of Płock, in his diploma of March 17, 1230, that is, prior to the foundation of Thorn and Kulm (1231, 1232).¹¹³ Numerous instances can be found in the lands ranging from the Elbe to the southern Carpathians of the German settlers choosing their own priests,¹¹⁴ but the Teutonic Order did not follow this practice in ecclesiastical policy, the principle of free election of priests.¹¹⁵ In the days of Archbishop Wichmann of Magdeburg, the Order took the settlement system in the mid-course Elbe region for a basis, which meant that the right of choosing the person of the parish priest passed to the colonizer.¹¹⁶ Pope Gregory IX's privilege of 1237, which permitted the Teutonic Order to appoint parish priests from among its priest members into churches under its patronage unambiguously sanctified the content of the Kulmian letters patent.¹¹⁷ The *Kulmer Handfeste* clearly determined the financial support of the parish churches: the churches in Kulm and Thorn were granted 4 Hufe of land respectively within the municipal limits and further 40 Hufe each in other parts of the province.¹¹⁸ The Magdeburgian example also had an important role in the section pertaining to providing for the parish churches, for in the Magdeburgian ecclesiastical province 4 Hufe land was allotted customarily to a parish priest, the amount mentioned in the Kulmian letters patent.¹¹⁹ The latter pledged further land-grants to the parishes in Kulm and Thorn albeit in areas lying further away from those towns. One of the witnesses to the *Kulmer Handfeste* Bernhard, the Bishop of Kammin, had granted 4 Hufe land to the parish church in his own town in 1225 and another 20 Hufe of cleared woodland that could be made arable.¹²⁰ In this man-

¹¹² H. Boockmann, *Der Deutsche Orden*, op. cit. 127.

¹¹³ PUB I. 1. nos. 77, 82.

¹¹⁴ Cf. A. Körmendy, *Melioratio terrae*, op. cit. 172-188.; L. Solymosi, *The New System of Feudal Dues*, op. cit. 7; G. Franz, *Geschichte des deutschen Bauernstandes*, op. cit. 106; Fügedi E., *Középkori magyar városprivilegiumok*, op. cit. 300; H. Helbing, L. Weinrich (Hgg.), *Urkunden und Quellen zur deutschen Ostsiedlung im Mittelalter I-II*. Darmstadt 1968-1970, 54, 58, 60, 62.

¹¹⁵ H. Kleinau, *Untersuchungen über die Kulmer Handfeste*, op. cit. 260.

¹¹⁶ G. Franz, *Geschichte des deutschen Bauernstandes*, op. cit. 114; H. F. Schmid, *Das Recht der Gründung und Ausstattung von Kirchen im kolonialen Teile der Magdeburger Kirchenprovinz während des Mittelalters*. Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonische Abteilung 13 (1924) 1-214; W. Rösener, *Bauern im Mittelalter* op. cit. 236; W. Hoppe, *Erzbischof Wichmann von Magdeburg*. H. Ludat (Hg.), *Die Mark Brandenburg, Wettin und Magdeburg*. Ausgewählte Aufsätze. Köln-Graz 1965, 15-16.

¹¹⁷ E. Strehlke (Hg.), *Tabulae Ordinis Theutonici*. Berlin 1869, (henceforth: *Tabulae*) no. 354.

¹¹⁸ PUB I. 1. no. 252.

¹¹⁹ H. Kleinau, *Untersuchungen über die Kulmer Handfeste*, op. cit. 260-261.

¹²⁰ *ibid.*, 261.

ner, the parish-priest himself got a stake in acquiring new fields, and, in fact, the Teutonic Order took over this example in 1233 when pledging 40 Hufe land-grants to Kulm and Thorn parishes respectively. The presence of Bishop Bernhard at signing the Kulmian diploma substantiates his role in the Order's use of his method in providing material resources for the parishes. Apart from the lands to be allowed to the parishes, the *Kulmer Handfeste* ruled on the tithe, too, the other important question of church financing. According to Article 21, one bushful of wheat and rye (*unus modius tritici et unus siliginis*) is to be paid as tithe to the bishop after each German ploughshare (*aratro Theutonicali*) subsequent to the creation of dioceses. The diploma specified the content capacity of a Kulmian, (that is Prussian) bushel that was commonly called „Scheffel” in order that it should have the same capacity as the bushel in Leslau (*in mensura Wladizlaviensi, que vulgari nomine 'schephel' dicitur, cui mensura Culmensis est adequata*). After the Polish plough called Haken the tithe was fixed to be 1 Scheffel: „*de polonicali aratro, quod hake dicitur, unus tritici in eadem mensura*”.¹²¹ While the payment of the overlord's dues was linked to Hufe land-size (*mansus/mansio*), the tithe payable to the church was linked to the ploughshare, that is the peasant husbandry unit which tended to be around 2-3 Hufe in the case of settlers.¹²² Land unit named Haken (*uncus*) „ploughshare” first cropped up in a contract concluded between the Teutonic Order and Prussian missionary Bishop, Christian in 1230.¹²³ The *Haken* meant a primitive plough without coulter as well as a unit of farming cultivated with this ploughshare. When the Teutonic Order determined the domains of the Polish (Slavic) population of the Kulmerland area in the Kulmian letters patent on the basis of Haken it meant agricultural technical equipment as well as a land-use system and farming methods. They meant by Haken the land-size unit one could cultivate with this type of ploughshare (and the attached yoke of draught animals).¹²⁴ Helmold's *Cronicle of Slavs* recorded as early as the 12th century how powerful a yoke of draught animals was actually needed for a Haken: „a Slavic ploughshare is in fact an area tilled with two oxen or a horse” (*slavicum vero aratrum par bovum aut unus conficit equus*)¹²⁵ The *uncus terrae* also meant such an abstract land-use area in the Polish territories as attested to by a diploma dated to 1228: „a size of a ploughshare out of good land” (*ad viginti ara-*

¹²¹ PUB I. 1. no. 252.

¹²² *Pósán L.*, A paraszti birtok mérete, op. cit. 34-37.

¹²³ PUB I. 1. no. 73.

¹²⁴ *Pósán L.*, A paraszti birtok mérete, op. cit. 38-39.; *W. Kuhn*, Der Haken in Altpreußen. Vergleichende Untersuchungen zur mittelalterlichen Ostsiedlung. Köln-Wien 1973, 148.

¹²⁵ *R. Buchner* (Hg.), Helmoldi presbyteri Bozoviensis cronica Slavorum. Ausgewählte Quellen zur deutschen Geschichte des Mittelalters. Berlin 1963, 12, 14.

tra magna de bona terra).¹²⁶ After a German ploughshare the tithe of one Scheffel of grain, after a Polish ploughshare one Scheffel of wheat was to be paid respectively, which meant a moderate obligation, for one Scheffel was the equivalent of 3.6 akó (=36 Stof), that is about 55 liters.¹²⁷ The tithe was higher in other colonization territories. In Silesia, for example, payments were due not after „ploughshare” (*Pflug*) but after plot (*Hufe*), 3-12 bushels of grain for each Hufe.¹²⁸ It was common practice in the bulk of German colonization areas for settlers to pay a fixed tithe and not a proportioned tithe related to the actual yield or progeny of livestock, etc. as was recorded in the *Sachsenspiegel*.¹²⁹ According to Article 21 of *Kulmer Handfeste* the fixed nature of the tithe was guaranteed by the Teutonic Order even in opposition to the would-be bishop.¹³⁰

The deed of grant also ruled on the issues of currency in Teutonic territories (Article 22). The right of coinage of the Teutonic Order was based from a legal point of view on Emperor Frederick II's 1226 Bull of Rimini.¹³¹ The *Kulmer Handfeste* decreed that „the currency, specifically that of Kulm should be valid all over the country, and the Denars be struck from genuine silver. The Denars were to be of standard value in a manner that 60 solidus should equal 1 Mark and the currency was to be renewed only once a year, and once renewed 12 new ones were to be exchanged for 14 old ones”¹³². (... *statuimus, ut moneta, Culmensis videlicet, sit per totam terram, et ut de puro et mundo argento denarii fabricentur. Ipso quoque denarii intanto valore perpetualiter perseverent, ut eorum LX solidi ponderent unam marcam et dicta moneta non nisi semel in singulis decenniis renovetur, et quociens renovata fuerit, XII novi nummi pro XIV veteribus cambiantur ...*)¹³³ This diploma defined the value of the Kulmian Denars relative to the currency of Cologne in a ratio of 5:1 (Article 18: *unum nummum Coloniensem, vel pro eo quinque Culmenses*).¹³⁴ As attested to the

¹²⁶ J. Bartoszewicz (Ed.), *Kodeks dyplomatyczny Polski*. Tom. III. (henceforth: KDP). Warszawa 1858, no. 11.

¹²⁷ *Liber memoriarum Colmensis civitatis* 18, 171, 273. sz-ok; *Pósán L.*, A Német Lovagrend pénzügypolitikája a kezdetektől a 14. század végéig. [*L. Pósán*, The Financial Policy of the Teutonic Order from the beginnings to the mid-14th century]. Debrecen 2000, 240.

¹²⁸ J. Pfitzner, *Besiedlungs-, Verfassungs- und Verwaltungsgeschichte*, op. cit. 68, 274.

¹²⁹ *Sachsenspiegel* II. 48, 4. 5. 6. 7. 8. 9. 10. 11. 12, II. 58, 2.

¹³⁰ PUB I. 1. no. 252.

¹³¹ PUB I. 1. no. 56.

¹³² PUB I. 1. no. 252.

¹³³ *ibid.*

¹³⁴ Cf. eg. PUB nos. I. 2. 138, 145, 148, 155. (1261), 348. (1276); CDP nos. I. 137. (1261), 158. (1268), 173. (1285); C. P. Woelky, H. Mendthal (Hgg.), *Neues preussisches Urkundenbuch* I-III. Leipzig 1891-1905, (henceforth: NPUB) nos. I. 93. (1268), 195. (1300), II. 233. (1322), 246, 248. (1327), 296. (1336), 307. (1338), 324. (1342), 337. (1343), 344. (1344), 386. (1350), 389. (1350), 433. (1355), 454. (1357), 472. (1357).

relatively abundant documental material at our disposal this ratio of value prevailed over the coming centuries in the medieval age.¹³⁵ The Teutonic Order modelled its coinage on the Denars of Cologne and adjusted its value to it and its exchange rate moved together with that of the currency of Cologne. According to the Kulmian letters patent, the Teutonic Order did not insist on the rates or recognition dues being paid in Prussian (Kulmian) Denars, but made payment possible in the Denars of Cologne while taking into view the agreed exchange rate. The statement in the diploma that „the currency specifically that of Kulm, shall be valid all over the country”¹³⁶ meant that it was the exclusive right of the Order to strike coins in Prussia. The *Kulmer Handfeste* calculated 60 solidus (Schilling) as 1 Mark and the magistrate’s register *Liber memoria-rum Culmensis civitatis* to be started 100 years later still recorded this rate of exchange.¹³⁷ In Cologne, at the same time, 12 solidus was the equivalent of 1 Mark. But *Sachsenspiegel* calculated 12 solidus as 1 mark.¹³⁸ Therefore the Teutonic Order’s coinage regulations differed from what was standard for Germany. This meant that in the mid-13th century it applied a currency Mark different from the Mark of Cologne amounting to 233.28 grammes.¹³⁹ The Teutonic Order founding a state by the Vistula river took the measures used by the indigenous Polish (Slav) population for its basis, so its Mark for coinage was by-and-large equal with the Polish Mark and weighed 190 grammes.¹⁴⁰ The Kulmian (Prussian) Mark was worth 13:16 relative to that of Cologne: 1 Prussian Mark was worth 13 lots of Cologne (6:5 ounces) (=189.250 grammes, that is, 190 grammes).¹⁴¹ The equivalence of the Marks used in Prussia and Poland is proved by a diploma that was renewed a few years subsequent to the *Kulmer Handfeste*. Among other things one can read in this diploma dated as of June 29, 1256 that silver was calculated in Samland Province in Eastern Prussia in Polish units of weight „one hundred Sambian Marks of silver in Polish weight

¹³⁵ E. Waschinski, Ein polnischer Numismatiker über das Münzwesen des Deutschen Ordens. *Zeitschrift für Ostforschung* 3 (1954) 67.

¹³⁶ PUB I. 1. no. 252.

¹³⁷ *Liber memoria-rum Culmensis civitatis* nos. 8, 28b, 36, 37, 242, 246, 253, 296, 385a, 409, 384b, 145, 246.

¹³⁸ *Sachsenspiegel* III. 45, 1

¹³⁹ H. Witthöft, Die Kölner Mark zur Hansezeit. In: M. North (Hg.), *Geldumlauf, Währungssysteme und Zahlungsverkehr in Nordwesteuropa 1300-1800. Beiträge zur Geldgeschichte der späten Hansezeit*. Köln-Wien 1989, 58.

¹⁴⁰ E. Waschinski, Ein polnischer Numismatiker, op. cit. 67; Marian Gumowski, *Handbuch der polnischen Numismatik*. Graz 1960, 21; H. Fengler, G. Gierow, W. Unger, *Lexikon der Numismatik*. Berlin 1976, 167. and 444.

¹⁴¹ E. Waschinski, *Die Münz- und Währungspolitik des Deutschen Ordens in Preußen, ihre historischen Probleme und seltenen Gepräge*. Göttingen 1952, 65.

units” (*centum marchas Zambirnsis argenti et Polonieri ponderis*).¹⁴² The 1:5 ratio in value between Cologne and Kulmian Denars could only be achieved at a 190-gramm Teutonic coinage weight if the parity and precious metal content of the Kulmian coins was much lower than that of the Cologne Denars. In the German territories alongside the graduation breakdown of mark-weight into lat-units (1 Mark=16 lats) the lat (lot) value was used to denote metal parity. Practically this meant the expression of precious metal content in mark weight fractions, that is, it meant the hallmark. One of the best coins in the 13th century, those of Cologne, were struck out of the highest quality silver, the 15-lat mark, by contemporary standards. One mark (16 lat) in silver contained 15 lat pure silver and 1 lat copper, that is, its parity was 937 ‰. In determining the parity of silver its fractions, the grän values, had also to be taken into consideration (1 lat=18 grän). The definition of the parity of silver by the scale of lat and grän took place as follows:¹⁴³

lat (Lot)	‰	grän (Grän)	‰
1	62,5	1	3,47222
2	125,0	2	6,94445
3	187,5	3	10,41668
4	250,0	4	13,88880
5	312,5	5	17,36114
6	375,0	6	20,83337
7	437,5	7	24,30550
8	500,0	8	27,77783
9	562,5	9	31,25006
10	625,0	10	34,72229
11	687,5	11	38,19452
12	750,0	12	42,66675
13	812,5	13	45,13898
14	875,0	14	48,61121
15	937,5	15	52,08344
16	1000	16	55,55567
		17	59,02790

One solidus in Cologne meant 12 Denars of 937‰ (15 lat) parity. In Prussia, however, as turns out from a diploma dated of September 5, 1274, 1 solidus was only equivalent of 6 Denars.¹⁴⁴ One Kulmian (Prussian) Denar’s average

¹⁴² NPUB I. no. 51.

¹⁴³ H. Fengler, G. Gierow, W. Unger, Lexikon, op. cit. 119.

¹⁴⁴ PUB I. 2. no. 323.

weight was 0.52 gramme which was approximately one-third of the weight of a Cologne Denar (1.460 grammes).¹⁴⁵ There were other examples for 1 solidus being worth only 6 Denars instead of 12 Denars elsewhere in contemporary Europe, moreover, by the second half of the 14th century Cologne rates were characterized by this exchange value.¹⁴⁶ The parity of the teutonic Denars was only half of that of the Cologne coins, that is it was 7.5 lat (7 lat 9 grän = 468,75‰).¹⁴⁷ According to the standard of coinage determined in the *Kulmer Handfeste*, about half of the content of the alloy of Denars was copper, thus the Teutonic Denars would rather have face-value and did not have substantial absolute value or precious metal content. They contained much less silver than their exchange value.¹⁴⁸ The relatively low silver content and long life in circulation sprang from the fact that there were no precious metal ore-deposits, therefore the raw-material for coinage had to be imported. The 1:2 parity and 1:3 weight ratio together resulted in a 1:6 ratio in value in the case of Cologne and Prussian Denars. The 1:5 value laid down in the Kulmian letters patent meant that the exchange rate determined by the Teutonic Order revaluated the Kulmian Denars by 20 % compared to the Cologne ones, while the Cologne money was devalued by 20 % relative to its real value.¹⁴⁹ It was common practice in medieval times that only the money of the holder of coinage rights was calculated at full face-value within a given territory and all other coins circulated at a certain loss of value on the basis of an exchange rate determined by the regulations of a country or a province.¹⁵⁰ In spite of the fact that the Kulmian letters patent set the exchange rate of Cologne and Kulmian Denars at the rate of 1:5, one can read in the Elbing letters patent that a Cologne Denar was

¹⁴⁵ Pósan L., A paraszti birtokok mérete, op. cit. 53 — The currency of the Dukes of Silesia was of nearly the same weight in the 13th century (0,54 gramm). On this see M. Gumowski, Handbuch der polnischen Numismatik, op. cit. 19. The average weight of denars was also 0.5 gramme in Lübeck from the mid-13th century to the mid-14th century. (J. Wilhelm, Der Wendische Münzverein. Braunschweig 1967, 209.). The Teutonic Denar was also 0.55 gramme weight similar to the Heller in Swabia considered the core territory of the Staufts (H. Fengler, G. Gierow, W. Unger, Lexikon, op. cit. 183). The weight of Tübingen and Straßburg Denar was also similar (0,4 és 0,5 grammes), see. B. Sprenger, Das Geld der Deutschen. Geldgeschichte Deutschlands von den Anfängen bis zur Gegenwart. Paderborn 1995, 71.

¹⁴⁶ M. Bittman, Kreditwirtschaft und Finanzierungsmethoden. Studien zu den wirtschaftlichen Verhältnissen des Adels im westlichen Bodenseeraum 1300-1500. Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte 99. Stuttgart 1991, 11.

¹⁴⁷ Pósan L., A Német Lovagrend pénzügypolitikája, op. cit. 53.

¹⁴⁸ Ernst Heimpel, Untersuchungen über den preußischen Pfennig im 13. und 14. Jahrhundert. Zeitschrift für Ostforschung 7. (1958) 235.

¹⁴⁹ L. Pósan, The Financial Policy of the Teutonic Order, op. cit. 53.

¹⁵⁰ Hóman B., Magyar pénztörténet 1000-1325 [B. Hóman, Hungarian Numismatic History 1000-1325]. Budapest 1916, 413-419.

worth 6 Prussian Denars: „In the town 6 copper Denars are given out of their own money for a Cologne Denar or for its worth” (*Tota civitas dabit Coloniensem denarium vel valorem eius ... deque singulis aeris sex denarios proprie monete...*).¹⁵¹ So the Teutonic Order permitted an exchange rate of 1:6 to prevail in the then most important port of Prussia and refrained from revaluating its own Denars by 20 %. The reason for this was that the Order of Knights got into a serious crisis: the war with Swantopolk, the Duke of Danzig (1242-1248) and the first Prussian uprising (1242-49) shattered its power.¹⁵² The knights were in need of all help that is why it granted the law of Lübeck to Elbing in 1246, which had been founded by settlers from Lübeck and accepted the exchange of Prussian money at its real value.¹⁵³ The revalued position of the Prussian Denars relative to the Cologne Denars is shown by the fact that contemporary markets considered Scottish and English Denars as of nearly the same value as the Cologne Denars,¹⁵⁴ and the settlement of trade accounts show that a Scottish Pound was equal to 2 Prussian Marks (*216 lb. Schottis summa 432 m. pr.*), that is, the exchange rate of Scottish and Prussian coins was 1:6.¹⁵⁵ In spite of the fact that Prussian Denars had a low silver content (468.75‰) the stipulation in the *Kulmer Handfeste* that „money shall be renewed only once in every 10 years” secured its stability. By doing this, the Teutonic Order gave up the practice of annual (or even more frequent) renewal of coins resulting in rapid devaluation even in the case of high precious metal-content Denars. For, in the case of annual (or more frequent) renewal, it was no secret that the new coins were worth their nominal value only at the moment of issuance and then they were continuously losing value until they reached the low exchange rate at withdrawal. The frequent exchange of money resulted in the rapid inflation of the currency. In the diocese of Merseburg, 1 Mark was worth 300 Denars at the start of the fiscal year in 1255, but by the end of it it was worth 360 Denars¹⁵⁶ that meant a devaluation of 20 %. In other parts of Poland the currency was re-

¹⁵¹ PUB I. 1. no. 181.

¹⁵² *Pószán L.*, A Német Lovagrend pénzügypolitikája, op. cit. 147-159.

¹⁵³ PUB I. 1. no. 181, see also *E. Carstenn*, Geschichte der Hansestadt Elbing. Hansische Geschichtsblätter 62 (1937); also *Idem*, Elbings Kampf um das Lübisches Recht. Hansische Geschichtsblätter 62 (1937); *G. Fink*, Lübeck und Elbing. Elbinger Jahrbuch 14 (1937); *A. Metner*, Die älteste Handschrift des Lübisches Rechts für Elbing. Elbinger Jahrbuch 14 (1937); *W. Neugebauer*, Die Gründung Elbings durch den Deutschen Orden und Lübecker Bürger 1237. Lübeck 1226. *O. Ahlers, A. Graßmann* (Hgg.), Reichsfreiheit und frühe Stadt. Lübeck 1976, 227.

¹⁵⁴ *B. Sprenger*, Das Geld der Deutschen, op. cit. 77; *H. Witthöft*, Die Kölner Mark zur Hansezeit, op. cit. 57.

¹⁵⁵ *C. Sattler* (Hg.), Die Handelsrechnungen des Deutschen Ordens. Leipzig 1887, (henceforth: SHR) 75.

¹⁵⁶ *C. Fr. von Posern-Klett*, Sachsen Münzen im Mittelalter. Teil I. Leipzig 1846, no. 51.

newed three times a year, the rate of inflation in the first half of the 13th century was even higher.¹⁵⁷ More stable currency could be achieved only by suspending frequent exchanges. The *Sachsenspiegel* also stated that new Denars could be struck only if "new lords come" that is, if there was a change in the person of the provincial overlord.¹⁵⁸ (This, however did not come to pass). In the 13th century the currency was renewed in every 4 years in Augsburg and Freiburg, for example.¹⁵⁹ In the bishopric of Cologne they gave up on the practice of exchanging money as early as the last third of the 12th century, which contributed to its long-term stability and its becoming a popular and much sought-after currency.¹⁶⁰ In fact, the Teutonic Order followed these examples when it ruled in the Kulmian letters patent that instead of the annual exchange of coins renewal was made mandatory only once in every 10 years. This was regarded a remarkably long circulation period in the 13th century.¹⁶¹ Most powers looked upon the issuance of money as a treasury revenue source and was therefore not interested in making it less frequent. In certain parts of Germany in the 13th century 12 new Denars were exchanged for 16 old ones, and 9 new ones for 12 old ones, elsewhere. The revenue generated by the exchange in both cases was 25 %.¹⁶² In Austria a 20 % treasury revenue flowed in from coin renewal.¹⁶³ According to the stipulations in the Kulmian letters patent 12 new Denars were to be paid for 14 old ones in the Teutonic territories,¹⁶⁴ that is, in 10 years the revenue generated by coin exchanges amounted to 14 %. In other words: the value of Prussian Denars declined by 14 % due exclusively to coin renewals. The *Kulmer Handfeste* set inflation at 1.4 %, which was orders of scale smaller than the annual rate of inflation of 20-25 % in other provinces and countries owing to annual exchanges.¹⁶⁵

¹⁵⁷ F. *Friedensburg*, Münzkunde und Geldgeschichte der Einzelstaaten des Mittelalters und der neueren Zeit. München–Berlin 1926, 72.

¹⁵⁸ *Sachsenspiegel* II. 26. 1.

¹⁵⁹ J. *Kulischer*, Allgemeine Wirtschaftsgeschichte des Mittelalters und der Neuzeit. Bd. I.: Das Mittelalter (Handbuch der mittelalterlichen und neueren Geschichte). München–Berlin 1928, 325.

¹⁶⁰ A. *Suhle*, Deutsche Münz- und Geldgeschichte von Anfängen bis zum 15. Jahrhundert. Berlin 1955, 117.

¹⁶¹ Pószán L., A Német Lovagrend pénzügypolitikája, op. cit. 58.

¹⁶² J. *Kulischer*, Allgemeine Wirtschaftsgeschichte, op. cit. 323; A. *Shule*, Deutsche Münz- und Geldgeschichte, op. cit. 117; H. *Fengler*, G. *Gierow*, W. *Unger*, Lexikon, op. cit. 297; M. *North*, Lexicon of Money, Budapest 1998, 99.

¹⁶³ A. *Luschin von Ebengreuth*, Allgemeine Münzkunde und Geldgeschichte des Mittelalters und der neueren Zeit. München–Berlin 1904, 222.

¹⁶⁴ PUB I. 1. no. 252.

¹⁶⁵ PUB I. 1. no. 252.

¹⁶⁵ Pószán L., A Német Lovagrend pénzügypolitikája, op. cit. 82.

The letters patent proves that the order of Knights set up its first mint in the town of Kulm. The second oldest mint was set up in Thorn. In Peter G. Thielen's view, Kulm remained a place of minting only until the end of the 13th century whereas Thorn became the most important place of minting in Prussia by the end of the mid-14th century.¹⁶⁶ This is contradicted by the fact that the records of the municipal court-cases and law-suits the *Liber memoriarum Culmensis civitatis* recorded includes a reference to *monetarios*, that is, minter.¹⁶⁷ This also meant that the actual striking of money was the job of municipal craftsmen, who worked with their own employees and equipment, in their own workshops and were remunerated for their services.¹⁶⁸ The minters received a certain sum after each mark of alloy struck into coins. The order's decrees of 1404 and 1407 pertaining to minting specifically determined that the minters' remuneration was 6 Denards.¹⁶⁹ However, the Kulmian letters patent of 1233 and 1251 do not contain any mention of this topic. It would not have been profitable to operate a mint on its own, or rent one in Prussia where money was renewed only once in every 10 years. Even in such territories where money exchange took place annually, coin striking workshops operated seasonally only.¹⁷⁰

The Denars of the Teutonic Order were only single-sided brakteates of 15-20 mm in diameter. The pattern on the front side (avers) appeared on the back-side (reverse), too, thus only one minting die had to be used.¹⁷¹ On the face of the coin one can usually see the cross of the Order, less often an arm bearing a standard or a knight holding the crest of the Order.¹⁷²

The final article of the *Kulmer Handfeste* exempted the citizens of Kulm and Thorn from customs duties, that is, it declared that there would be no internal customs frontiers within the territories under the Order's provincial overlord authority (*Absolvimus etiam totam terram predictam ab omni penitus theloniei exactione*).¹⁷³

The foundations of the provincial law of the Teutonic Order was embodied in the content of the 1233 Kulmian letters patent. Its letter and spirit was subsequently reflected in hundreds of village and town statutes and deeds of land-

¹⁶⁶ P. G. Thielen, Die Verwaltung des Ordensstaates Preußen vornehmlich im 15. Jahrhundert. Köln-Graz 1965, 111.

¹⁶⁷ Liber memoriarum Colmensis civitatis, no. 59.

¹⁶⁸ J. Sarnowsky, Die Wirtschaftsführung des Deutschen Ordens, op. cit. 230.

¹⁶⁹ O. Volckart, Die Münzpolitik im Ordensland und Herzogtum Preuen von 1370 bis 1550 (Deutsches Historisches Institut Warschau. Quellen und Studien 4). Wiesbaden 1996, 153.

¹⁷⁰ Hóman B., Magyar pénztörténet, op. cit. 471.

¹⁷¹ H. Danenberg, Grundzüge der Münzkunde. Leipzig 1912, 226.

¹⁷² E. Waschinski, Ein polnischer Numismatiker, op. cit. 70.

¹⁷³ PUB I. 1. no. 252.

grants. In the course of the middle ages 88 towns were granted privileges based on Kulmian law.¹⁷⁴ At the same time, the so-called Kulmian law universally accepted in Prussia differed in many respects from what can be found in *Kulmer Handfeste*.¹⁷⁵ Several of the general legal principles found in the letters patent underwent some modifications in the course of the daily practice of colonization. For example, the freedom of building and working mills did not anywhere become *de facto* practice in Prussia, the Teutonic Order reserving the right of working mills.¹⁷⁶ Similarly, the *Kulmer Handfeste* made no mention of the „free years” that the Order granted the settlers coming to Prussia, which, however, also became part and parcel of Kulmian law.¹⁷⁷ The Kulmian law, the determinant legal system in medieval Prussia, did not have universal validity, or was it enforced uniformly, that is, it did not have a written codified corpus. It prevailed through various norms embedded in legal texts (diplomas, municipal statutes, sentences, wills, etc.) that survived. In this manner it became common law confirmed by King Kazimir IV of Poland in 1485 in western Prussia over which Polish royal authority was extended subsequent to the second treaty of Thorn (1466).¹⁷⁸ Therefore Prussian Estates considered Kulmian law to be still in force as late as the 16th century long after the end of the Teutonic state.¹⁷⁹

¹⁷⁴ Z. Zdrójkowski, Prawo chełmińskie, powstanie, rozwój i rola dziejowa. In: M. Biskup (Ed.), Dzieje Chełmna i jego regionu. Toruń 1968, 507-508, 526.

¹⁷⁵ P. Erlen, Europäischer Landesausbau, op. cit. 164.

¹⁷⁶ H. Steffen, Das ländliche Mühlwesen, op. cit.

¹⁷⁷ Pósan L., A paraszti birtok mérete, op. cit. 28, cf. PUB I. 2. nos. 459, III. 36, 41, 298, 411.; NPUB II. no. 292.; Regesta historico-diplomatica Ordinis S. Mariae Theutonicorum 1198-1525. Pars II: Regesta Privilegiorum Ordinis S. Mariae Theutonicorum. Mit einem Anhang: Papst und Konzilsurkunden. II. bearb. E. Joachim, Hg. W. Hubatsch, Göttingen 1948, no. 944.

¹⁷⁸ K. Górski, M. Biskup (Eds.), Acta Stanów Prus Królewskich I. Toruń 1955, no. 200. (187, 188. §).

¹⁷⁹ J. Mallek, Das Kulmer Recht im Ordensland Preußen, op.cit. 323-328.