

A Tortuous Path to Reconciliation and Justice: Sigismund of Luxembourg as Arbiter in the Dispute between the Teutonic Knights and Poland (1412-1420)

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ZUSAMMENFASSUNG

Ein dorniger Weg zu Versöhnung und Gerechtigkeit.

Sigismund von Luxemburg als Schiedsrichter im Streit zwischen dem Deutschen Orden und Polen (1412-1420)

Das Schiedsverfahren galt im Mittelalter als ein wirkungsvolles Rechtsmittel zur Lösung internationaler Auseinandersetzungen. Dies gilt auch für einen Rechtsstreit, den König Sigismund von Luxemburg als Schiedsrichter zwischen dem Deutschen Orden und Polen-Litauen entscheiden sollte. Zenon Hubert Nowak zufolge gelang es ihm, das Schiedsverfahren für seine ambitionierte gesamteuropäische Politik effektiv auszunutzen. Nowak betrachtet dieses Schiedsverfahren als einen kontinuierlichen Prozess von 1412 bis 1420. In dem Umstand, dass die Verkündigung des Schiedsspruches immer wieder aufgeschoben wurde, sieht er ein taktisches Manöver Sigismunds, um Polen-Litauen und den Orden von sich abhängig zu machen.

Nach der mittelalterlichen Rechtslehre und -praxis verfügte ein Schiedsrichter zwar über weitreichende Befugnisse, durfte aber die in einem von beiden Streitparteien ausgesetzten sog. *compromissum* festgelegten Grenzen nicht überschreiten. Die zweijährige Frist bis zur Urteilsverkündigung, die letztendlich aus ungeklärten Gründen nicht erfolgte, endete im Sommer 1414. Offenbar zweifelte Sigismund am Erfolg des Schiedsverfahrens, denn schon lange vor dem Scheitern der Verhandlungen in Buda lud er beide Seiten zu dem bevorstehenden Konzil nach Konstanz ein. Dort aber wurde das Schiedsverfahren nicht fortgesetzt, wie Nowak meint, sondern die Streitparteien verhandelten miteinander über die Person des Schiedsrichters (den römischen König, den Papst, das Konzil, die Kurfürsten usw.) sowie über die Art der Schlichtung. Da die jeweiligen Unterhändler mehrfach wechselten, wurde in beiden Fragen kein Konsens erzielt. Lediglich der noch vor Beginn des Konzils geschlossene Waffenstillstand wurde wiederholt verlängert. Zur Ausstellung eines neuen *compromissum* kam es erst im Sommer 1419, nachdem sich Sigismund eindeutig auf die Seite Polens gestellt hatte und der Orden unter massivem diplomatischem Druck dazu gezwungen worden war, den römischen König als Schiedsrichter zu akzeptieren. Letztendlich war der Breslauer Schiedsspruch vom 6. Januar 1420 für Polen keineswegs günstig und markiert eine Wende in der Politik des römischen Königs gegenüber der polnisch-litauischen Union.

Die von Nowak erarbeiteten Grundzüge des Schiedsverfahrens sowie der Politik Sigismunds sind zwar immer noch zutreffend, bedürfen aber gewisser Modifikationen. Sigismund sah in einem Schiedsverfahren nur ein Hilfsmittel, mit dem er einerseits die Lehenshoheit des Reiches über den Deutschen Orden in Preußen durchsetzen und andererseits Polen-Litauen ein politisch-militärisches Bündnis gegen das Osmanische Reich aufzwin-

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gen wollte, das allerdings allein für ihn als römischen König günstig erschien. Die wechselnde Bedeutung des Schiedsverfahrens hing für König Sigismund nicht nur von den aktuellen gesellschaftspolitischen Entwicklungen im ersten Dezennium seiner römischen Regierung (Schisma, Konzil von Konstanz, Ausbruch der hussitischen Revolution) ab, sondern auch davon, ob dieses Verfahren wesentlich zur Umsetzung der beiden genannten Hauptziele beitrug oder nicht.

KEYWORDS: medieval arbitration, Sigismund of Luxembourg, arbiter, Teutonic Order, Poland, Council of Constance

The permanently tense relations between the Order of the Teutonic Knights in Prussia on the one hand, and Poland and Lithuania, or the Polish-Lithuanian Union, on the other hand are an indisputably characteristic feature of late medieval East and Northeast Europe. The restless development of the rhythmized, almost regular, military conflicts, truces and peace treaties formed not only the power relations on the northeast edge of Latin *christianitas*, but also left a distinctive trace in all of Western Christendom. The theme is so broad and multi-layered that it penetrates almost every area of historical research¹, not only the history of diplomacy², military science³ and politics.

¹ In recent decades, numerous monographs and studies looking at that conflictual relationship from the perspective of legal, administrative, philosophical, religious-ideological or constitutional history of collective memory have emerged. The essential multi-volume edition containing the protocols, testimony of the witnesses, arbitration awards, court findings, documents, tractates etc. from the 14th and 15th centuries is ADAM TYTUS DZIAŁYŃSKI, SIGISMUND CELICHOWSKI (eds.): *Lites ac res gestae inter Polonos ordinemque cruciferorum*, vol. 1-3, Supplementum, Posnaniae 1855-1880; IGNACY ZAKRZEWSKI (ed.): *Lites ac res gestae inter Polonos ordinemque cruciferorum*, vol. 1-2, 2nd edition, Poznań 1890-1892; JADWIGA KARWASIŃSKA (ed.): *Lites ac res gestae inter Polonos ordinemque cruciferorum*, vol. 3, 2nd edition, Warszawa 1935; HELENA CHŁOPOCKA (ed.): *Lites ac res gestae inter Polonos ordinemque cruciferorum*, vol. 1, 3rd edition, Wrocław 1970. Of the many volumes, however, only the last two meet the criteria for the publication of text-critical editions. It also applies to the recently published edition of the court files from the trial before the papal nuncio Antonius Zeno in 1422/23, SŁAMOWIR JÓŹWIĄK, ADAM SZWEDA et al. (eds.): *Lites ac res gestae inter Polonos ordinemque cruciferorum. Akta postępowania przed wysłannikiem papieskim Antonim Zeno z Mediolanu 1422-1423* [Records of the Proceedings Before the Papal Nuncio Antonius Zeno from Milano in 1422-1423], Toruń 2015. For the peace treaties, truces and arbitration awards, see ERICH WEISE (ed.): *Die Staatsverträge des Deutschen Ordens in Preußen im 15. Jahrhundert*, vol. 1 (1398-1437), 2nd edition, Marburg 1970, although this edition shows numerous shortcomings.

² For example, see HARTMUT BOOCKMANN: *Johannes Falkenberg, der deutsche Orden und die polnische Politik: Untersuchungen zur politischen Theorie des späteren Mittelalters*, Göttingen 1975; KLAUS NEITMANN: *Die Staatsverträge des Deutschen Ordens in Preußen 1230-1449: Studien zur Diplomatie eines spätmittelalterlichen deutschen Territorialstaates*, Wien 1986; ADAM SZWEDA: *Organizacja i technika dyplomacji polskiej w stosunkach z zakonem krzyżackim w Prusach w latach 1386-1454* [The Organization and Technique of Polish Diplomacy in Relations with the Teutonic Order in Prussia in the Years 1386-1454], Toruń 2009; WIESŁAW SIERADZAN (ed.): *Arguments and*

The disputes of the Teutonic Order State with its neighbours (Poland and Lithuania) are a rewarding theme for investigation of the methods of conflict resolution in the Middle Ages, when redress of rights mainly lay in self-help: response (*Fehde*), war, or referral to an ordinary court (*iudicium ordinarium*). However, other than those options, two other forms of resolving disputes developed during the period—mediation⁴ and arbitration, of which the latter increased in popularity in the Late Middle Ages, particularly in the area of ‘international’ conflicts.⁵ It is therefore no wonder that the aforementioned age-old conflict between the Order and Poland was also resolved before an

Counter-Arguments: The Political Thought of the 14th- and 15th Centuries during the Polish-Teutonic Order Trials and Disputes, Toruń 2012; ALMUT BUES, JANUSZ GRABOWSKI et al. (eds.): *Od Traktatu Kaliskiego do Pokoju Oliwskiego: Polsko-Krzyżacko-Pruskie stosunki dyplomatyczne w latach 1343-1660* [From the Treaty of Peace in Kalisz to Oliwa: Polish-Teutonic-Prussian Diplomatic Relations in the Years 1343-1660], Warszawa 2015.

- ³ SVEN EKDAHL: *Die Schlacht bei Tannenberg 1410: Quellenkritische Untersuchungen*. Vol. 1: Einführung und Quellenlage, Berlin 1982; SŁAWOMIR JÓŹWIĄK, KRZYSZTOF KWIATKOWSKI, ADAM SZWEDA, SOBIESŁAW SZYBKOWSKI: *Wojna Polski i Litwy z Zakonem Krzyżackim w latach 1409-1411* [Poland’s and Lithuania’s War with the Teutonic Order in the Years 1409-1411], Malbork 2010; about the recent historiography of the most significant battle see KRZYSZTOF KWIATKOWSKI: *Memoria continenter historiam denotat: Bitwa pod Grunwaldem/Tannenbergiem/Żalgirisem 1410 w najnowszych badaniach* [Memoria continenter historiam denotat: The Battle of Grunwald/Tannenberg/Żalgiris of 1410 in the Most Recent Research], Toruń 2015; STEFAN KWIATKOWSKI: *Der Deutsche Orden im Streit mit Polen-Litauen: Eine theologische Kontroverse über Krieg und Frieden auf dem Konzil von Konstanz 1414-1418*, Stuttgart 2000; WERNER PARAVICINI, RIMVYDAS PETRAUSKAS et al. (eds.): *Tannenberg – Grunwald – Żalgiris 1410: Krieg und Frieden im späten Mittelalter*, Wiesbaden 2012; MARIAN BISKUP: *Wojny Polski z Zakonem Krzyżackim 1308-1521* [The Wars between Poland and the Teutonic Order 1308-1521], Oświęcim 2015.
- ⁴ HERMANN KAMP: *Friedensstifter und Vermittler im Mittelalter*, Darmstadt 2001. Mediation never acquired the popularity of arbitration, which in many areas of late medieval Europe eclipsed even normal courts. This is true particularly for the Holy Roman Empire, whose sovereigns preferred to resolve disputes and conflicts in the role of arbitrator than before a court of justice. The development of arbitration did not, however, mean the end of mediation work; it rather shifted the focus of its interest, because the task of the mediator was to bring both sides of the dispute to acceptance of the arbitration, see *ibidem*, pp. 185-186.
- ⁵ ZENON HUBERT NOWAK: *International Arbitration in the Later Middle Ages*, in: *Quaestiones medii aevi novae* 4 (1999), pp. 69-85. For the basic terms connected with arbitration, see W[OLFGANG] SELLERT: *Schiedsgericht*, in: ADALBERT ERLER, EKKEHARD KAUFMANN (eds.): *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. 4, Berlin 1990, col. 1386-1393; J. WEITZEL: *Schiedsgericht*, in: *Lexikon des Mittelalters*. Vol. 7: *Planudes–Stadt (Rus’)*, München 1995, col. 1454-1455. Cf. the broader perspective of settling disputes in the Middle Ages with JOSEF ENGEL: *Zum Problem der Schlichtung von Streitigkeiten im Mittelalter*, in: *Rapports IV. Méthodologie et histoire contemporaine* (Comité International des Sciences Historiques, XII^e Congrès International des Sciences Historiques, Vienne 29 August – 5 Septembre 1965), Horn – Wien 1965, pp. 111-129.

arbitrator as well as through military campaigns, diplomatic negotiations, truces, peace treaties and court cases at the Roman Curia. According to the existing knowledge, there were three arbitrations: 1) In 1335, a joint arbitration award to King of Bohemia John of Luxembourg (1310-1346) and King of Hungary Charles Robert (1308-1342) was declared. On its basis, a preliminary peace treaty was prepared; it was not ratified, however, because of the citation of the Order to the Papal court.⁶ 2) In 1410, the arbitration award to King Wenceslas IV was to avoid a war between the disputing sides, but was in vain.⁷ 3) In 1412-1420, King Sigismund of Luxembourg conducted the longest arbitration, and that will be the focus of this paper.

Zenon Hubert Nowak captured the most important features and decisive moments of Sigismund's arbitration in his studies in the 1980s and since then, his conclusions have been accepted in historiography without objections.⁸ The arbitration as conceived by Sigismund was an effective instrument through which he implemented his political intentions and vision. Nowak thus places arbitration among the other power instruments such as alliance and coalition, which the pragmatic Luxembourg easily concluded and just as easily cancelled when it was in his interest.⁹

Nowak understands arbitration as one integral process—including the negotiation at the Council of Constance—which began in 1412 in Buda and was

⁶ ZENON HUBERT NOWAK: Waffenstillstände und Friedensverträge zwischen Polen und dem Deutschen Orden, in: JOHANNES FRIED (ed.): Träger und Instrumentarien des Friedens im hohen und späten Mittelalter, Sigmaringen 1996, pp. 391-403.

⁷ WEISE, Staatsverträge (as in footnote 1), no. 80, pp. 80-81; MARKIAN PELECH: Zu den politischen Zielen des Deutschen Ordens beim Schiedsspruch des Königs Wenzel von Böhmen 1410, in: Jahrbuch für die Geschichte Mittel- und Ostdeutschlands 38 (1989), pp. 177-187; ADAM SZWEDA: Wyrok sądu polubownego Wacława IV [The Arbitration Award of King Wenceslas IV], in: JÓŹWIAK/KWIATKOWSKI/SZWEDA/SZYBKOWSKI (as in footnote 3), pp. 177-187; MARTIN NODL: Sędzia polubowny—Wacław IV. Międzynarodowe aspekty politycznej rywalizacji monarchii polsko-litewskiej i Zakonu Krzyżackiego [The Arbitrator—Wenceslas IV. International Aspects of Political Rivalry between the Polish-Lithuanian Monarchy and the Teutonic Order], in: TOMASZ OSSOWSKI (ed.): Bitwa grunwaldzka w historii, tradycji i kulturze 1410–2010, Kielce 2010, pp. 21-32; about Sigismund's mediation work in 1410 see KRZYSZTOF KWIATKOWSKI: Zygmunt Luksemburski wobec konfliktu Królestwa Polski i Wielkiego Księstwa Litwy z zakonem niemieckim wiosną 1410 roku—kilka nowych uwag [Sigismund of Luxembourg and the conflict of the Polish Kingdom and the Grand Duchy of Lithuania with the Teutonic Order in the Spring of 1410—a few new remarks], in: Nowe Studia Grundwaldzkie 2 (2016), pp. 35-68.

⁸ ZENON HUBERT NOWAK: Internationale Schiedsprozesse als ein Werkzeug der Politik König Sigismunds in Ostmittel- und Nordeuropa 1411-1425, in: Blätter für deutsche Landesgeschichte 111 (1975), pp. 172-188; IDEM: Międzynarodowe procesy polubowne jako narzędzie polityki Zygmunta Luksemburskiego w północnej i środkowo-wschodniej Europie 1412-1424 [International Arbitration as a Political Instrument of Sigismund of Luxembourg in Northern and East-Central Europe in 1412-1424], Toruń 1981, pp. 13-47, 61-123.

⁹ NOWAK, Międzynarodowe (as in footnote 8), p. 123.

completed with the declaration of the arbitration award on 6 January 1420 in Wrocław. Nevertheless, the Polish historian neglects some obvious facts that can shed a slightly different light upon the matter. First, negotiations broke down in the summer of 1414 in Buda because an arbitration award, which was to be announced within a set two-year period, did not in fact take place. Therefore, it is necessary to ask why a disruption of the arbitration process actually occurred and why it took a long five years (1419) for Sigismund to assume the role of arbiter once again. What role did the council of Constance play in this context and why could this process not be resumed there? There are also some general issues which perhaps cannot be solved with complete satisfaction now; however, it is meaningful to seek plausible answers. What did the King of the Romans really want to achieve through arbitration? Was it the only means by which he could accomplish his goals, or would others have been even more effective?

1 Arbitration in the Middle Ages

Before we turn our attention to these questions, it is necessary to briefly mention the basic aspects of arbitration according to medieval legal theory and practice.¹⁰ Their source was Roman (Digesta, tit. 4, *De receptis*)¹¹ and later also canon law (Liber extra, tit. 43, *De arbitriis*)¹² with the interpretation of relevant passages from the pens of university glossators and commentators. The handbooks of procedural law (*ordines iudicarii*) also had a fundamental influence on the overall form of arbitration; the greatest influence of this kind was achieved by *Speculum iudiciale* by Guilelmus Durantis (ca. 1230-1296), and collections of the forms of Italian public notaries, whose models of contracts and arbitration awards were used even in other lands.¹³

During the 12th and 13th centuries, medieval glossators and commentators worked on two types of arbitration which differed in their labelling of the arbitrating judge as *arbiter* or as *arbitrator*. An *arbiter* was selected by the parties in the dispute to recognize its content correctly. The arbiter proceeded according to the Code of Procedure and issued the awards according to the law. His decision, against which it was not possible to lodge an appeal to *virum bonum*, was to be accepted by the parties of the dispute without regard to whether the award was just or not. On the contrary, the role of the *arbitrator*, labelled also as *amicabilis compositor*, was essentially not to decide the dis-

¹⁰ RAFAL WOJCIECHOWSKI: Arbitraż w doktrynie prawnej średniowiecza [Arbitration in the Legal Doctrine of the Middle Ages], Wrocław 2010.

¹¹ THEODOR MOMMSEN (ed.): Digesta Iustiniani Augusti, vol. 1, Berolini 1870, pp. 149-160.

¹² AEMILIUS FRIEDBERG (ed.): Corpus iuris canonici. Pars 2: Decretalium collectiones, Graz 1959, col. 230-238.

¹³ WOJCIECHOWSKI (as in footnote 10), pp. 29-62.

pute but to establish peace between the sides. His award was not labelled as an *arbitrium*, but *amicabilis compositio*, and he himself was not bound to observe the Code of Procedure. The possibility to lodge an appeal against his decision is also an important element. The difference between *arbiter* and *arbitrator* hence lay in the corresponding approach, either according to law (*via iuris*) or justice (*via aequitatis*), and the possibility to lodge an appeal against the decision of an *arbitrator*, a possibility that was proscribed for an award by an *arbiter*.¹⁴

In this context, it may seem somewhat surprising that in documents from the 13th century we most frequently encounter the formulation ‘arbiter, arbitrator seu amicabilis compositor’. We owe its spread over all of Latin Europe to the popular formularies of notarial instruments. This generally used formulation had a very practical significance because on the one hand, it met all the requirements of the legal theoreticians and on the other hand, it was suitable for all involved in the arbitration. The arbitral judge thus received the maximal level of freedom in selecting the method of decision-making and running the entire case. He could apply the law, but he could also proceed according to justice and use all of the extrajudicial routes to establish a settlement between the disputing parties. For them, the quoted formulation was also advantageous because in the event that one of them was not satisfied with the award of the arbitral judge, he could lodge an appeal against it; it was sufficient for the word *arbitrator* to appear in the arbitration contract.¹⁵

The basis of an arbitration case was an arbitration contract between the two disputing parties (*compromissum*) containing certain indispensable juridical

¹⁴ Ibidem, p. 77, where the work of Durantis is quoted: ‘arbiter est, quem partes eligunt ad cognoscendum de questione, vel lite [...]; et debet iuris ordinem servare [...] et statur eius sententia, aequa sit, sive iniqua. Nec ab eo appellatur, nec ad arbitrium viri reducitur [...] Arbitrator vero est amicabilis compositor. Nec sumitur super re litigiosa, vel ut cognoscat: sed ut pacificet [...] Et hoc non dicitur arbitrium. Nec tenetur iuris ordinem observare; nec statur eius sententia, si sit iniqua; sed reducitur ad arbitrium boni viri.’ [Emphasis in original.] The corresponding terms in the documents in German were for the arbitration judge *schiedmann*, or in the plural *teidingsleute*, *korrichter*, *schiedliuten* and so on. He decided according to justice (*nach der sune*, resp. *frundschaft*), or according to right (*nach rechte*), see SELLETT (as in footnote 5), col. 1387.

¹⁵ WOJCIECHOWSKI (as in footnote 10), p. 80, where the pattern of an arbitration contract is quoted from the work *Speculum iudiciale*. Cf. KARL S. BADER: Arbiter arbitrator seu amicabilis compositor: Zur Verbreitung einer Kanonistischen Formel in Gebieten nördlich der Alpen, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung 46 (1960), pp. 239-276, and KARL-HEINZ ZIEGLER: Arbiter, arbitrator und amicabilis compositor, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung 84 (1967), pp. 376-381. In the documents in German, the word *compromissum* was replaced with the term *vorwillunge*, *anlaß*, *hintergang*, *tädigung* or *wilkore*, where it could also sometimes mean the arbitrator’s decision, see SELLETT (as in footnote 5), col. 1387.

formulations.¹⁶ The importance of the contract lay in the fact that it emerged from the free will of both disputing parties, who had agreed on the person or persons of the arbitration judge or judges, and had precisely defined the subject of the dispute that the selected arbiter was to resolve and thereby also his rights and obligations in this resolution. In other words, the material, procedural, legal and chronological boundaries in which the arbiter could work were set out in the *compromissum*. His authority ended once the definitive award (*sententia diffinitiva*) had been awarded unless otherwise stipulated in the *compromissum*. The person in question usually accepted the role of arbiter with the issuance of a so-called *receptum*.

2 Arbitration to the Council of Constance

In one of the provisions of the first Peace of Toruń (Thorn) between Grand Master Heinrich von Plauen and King of Poland Władysław II Jagiełło, it is possible to find the appointment of six judges by each contract partner. These judges were to resolve *per viam iuris et amicitie*¹⁷ the rest of the issues not included in the peace treaty, such as border frontiers and the jurisdiction of certain castles so that the perpetual peace between the parties would not be in any way disturbed in the future.¹⁸ If the arbiters did not reach an agreement, these cases were to be submitted to the pope as the superarbiter.¹⁹ The arbitration procedure took place on 8 September 1411 in Murzynno (Order territory) and nearby Grabie (Polish territory); it however foundered on the unyielding positions of the representatives of both parties.²⁰ The real cause of the fiasco was the differing interpretation of the provisions of the Peace of Toruń which the representatives of the Order, unlike the Polish side, understood as a final arrangement for all current disagreements and conflicts, meaning they would no longer be in dispute.²¹

It arises from the later mutual accusations that a point of dispute was also the choice of arbiter. During the negotiations in Buda in 1412, the Poles accused the Order representatives in Murzynno of not wanting to decide on the disputable issues at all, but only insisting on putting the whole affair in the hands of the pope. The other party countered that the Polish arbiters could not

¹⁶ WOJCIECHOWSKI (as in footnote 10), pp. 97-108.

¹⁷ This formulation corresponds to the two types of arbitration described above: *via iuris* (*arbiter*) and *via amicitie* (*arbitrator*).

¹⁸ The peace treaty was concluded on 1 February 1411, see WEISE, *Staatsverträge* (as in footnote 1), no. 82-85, pp. 82-90; cf. NEITMANN (as in footnote 2), pp. 162-165.

¹⁹ WEISE, *Staatsverträge* (as in footnote 1), no. 83, p. 87.

²⁰ On the negotiations in Murzynno, see ADAM SZWEDA: *Po Wielkiej Wojnie: Zjazdy polsko-krzyżackie w 1411 roku* [After the Great War: Polish and Teutonic Knights Congresses in 1411], in: JANUSZ TRUPINDA (ed.): *Kancelaria wielkich mistrzów i polska kancelaria królewska w XV wieku*, Malbork 2006, pp. 267-298.

²¹ WEISE, *Staatsverträge* (as in footnote 1), no. 83, p. 86.

be brought to a just agreement and did not even want to pass the issue to the hands of the pope or the Roman Empire.²² Sigismund was clearly not expected to be the arbiter originally. The King of the Romans and King of Hungary, as an existing ally of the Order, had to become a co-signatory of a peace treaty, to which the Grand Master had bound himself in one of the points (paragraph 17).²³ At the September negotiations, the representatives of the Order defended themselves by claiming that they had met this point by sending a ceremonial delegation led by the archbishop of Riga to King Sigismund and had informed him on the form and content of the concluded peace.²⁴ Although the King of the Romans had not joined the Peace of Toruń, which he thoroughly rejected from the beginning, he gradually concluded his own peace, or alliance, treaties with both parties.

The proposal, which Supreme Marshall Michael Kuchmeister had brought to Buda, was not acceptable for King Sigismund because it envisaged protecting the Teutonic Order and declaring war on the Polish king. The Grand Master of the Order Heinrich von Plauen was to pay the king 300,000 ducats in gratitude. There was no mention of the role of Sigismund as an arbiter in the Order proposal. In his concept dated 4 January 1412, however, the King of the Romans made a different proposition. He promised to protect the Order, which was a component of the Holy Roman Empire and a defensive shield for all of Christendom, but at the same time to ensure peace between it and the Polish-Lithuanian Union in the arbitration ('sulle wir des iczgenanten ordens czu glych und Rechte hirinne mechtig syn').²⁵ Only in the event of Władysław II Jagiełło and Vytautas the Great rejecting Sigismund's plan and attacking Order territory would he then contribute to the aid of the Order in person. For that alliance, however, he requested a higher fee—375,000 ducats.²⁶

The alliance treaty with the Polish king and Lithuanian grand duke from 15 March 1412 surprisingly does not mention the Order and the role of Sigismund as an arbiter.²⁷ The route to drawing up the actual *compromissum*,

²² ZAKRZEWSKI, Lites 2 (as in footnote 1), pp. 57, 67.

²³ WEISE, Staatsverträge (as in footnote 1), no. 83, p. 88.

²⁴ On the not well-known delegation, see SZWEDA, Po Wielkiej Wojnie (as in footnote 20), p. 287.

²⁵ Zakrzewski, Lites 2 (as in footnote 1), no. 1, pp. 34.

²⁶ For the Order's proposal of the contract, see WEISE, Staatsverträge (as in footnote 1), no. 86, pp. 90-92. For Sigismund's proposal, see *ibidem*, no. 87, pp. 92-93 (extract), and the whole text of ZAKRZEWSKI, Lites 2 (as in footnote 1), no. 1, pp. 33-35. Weise, based on the preserved text of the contract in the contemporary copy in Geheimes Staatsarchiv Preußischer Kulturbesitz, Berlin, XX. Hauptabteilung, Ordensbriefarchiv (in the following: OBA), no. 1642, believes that the ratification of the alliance treaty did not occur, but another preserved in the imperial registers, Haus-, Hof- und Staatsarchiv, Wien (in the following: HHStA), Reichsregister, Band E, fol. 18^v, casts doubt on this claim. Cf. NOWAK, Międzynarodowe (as in footnote 8), pp. 27-28.

²⁷ WEISE, Staatsverträge (as in footnote 1), no. 90, pp. 94-95.

which both parties would accept as decisive, was hence not an easy task. Ten days later, Sigismund promised in Košice that the Order would be prompted by this step and possibly even forced to accept the king's award that was going to be announced in Buda on 22 May ('in festo Pentecostes') of that year, although the Teutonic Knights resisted this.²⁸ The Polish king agreed and accepted Sigismund as arbiter; nevertheless, the date of the announcement of his award was set with a deadline of 15 days beginning from Pentecost (from 22 May to 5 June).²⁹

The announcement of the arbiter's award did not happen within the announced deadline because the necessary *compromissum* was drawn up by the Grand Master only on 18 May³⁰, and by the Polish king on 24 June³¹. Its text in both variations is identical in its essential points and forms the basis of the arbitration procedure. King Sigismund was selected by both parties 'in arbitrium, arbitratorem, iudicem et amicabilem compositorem'.³² The extent of his authority was very broad and included all of the disputed issues between the Order and the Polish-Lithuanian Union. The Polish side, however, stipulated from this range of issues that the Order's financial obligations to him did not allow King Sigismund to decide on those issues.

Otherwise, the method of governing the procedure was left entirely to the will of the arbiter who could run it either according to procedural law or even regardless of it. The only limit was a two-year deadline, during which the King of the Romans would have to announce his definitive award. Setting a deadline was important because after its expiration the *compromissum* lost its validity and the arbiter his authority.³³ King Sigismund was therefore to make decisions on issues that did not require special investigation as early as the summer of 1412 in Buda, and for the other disputed issues, he was granted the aforementioned two-year period. During that time, he could announce a definitive award or even partial awards. Similarly, he had the authority to overhaul, correct or interpret his award if some doubts or uncertainties surfaced.³⁴ However, both sides renounced any corrective means towards the announced award, and therefore the right of appeal or so-called *reductio ad arbitrium boni viri*. They also committed themselves to accepting fines from the arbiter whenever one of them decided to disobey or act against King Sigismund's award.

²⁸ ZAKRZEWSKI, Lites 2 (as in footnote 1), no. 6, p. 39; WILHELM ALTMANN (ed.): Regesta Imperii XI. Die Urkunden Kaiser Sigmunds 1410-1437, reprint of the edition Innsbruck 1896-1897, Hildesheim 1968 (in the following: RI XI), no. 202.

²⁹ ZAKRZEWSKI, Lites 2 (as in footnote 1), no. 7, pp. 39-40.

³⁰ Ibidem, no. 11, pp. 42-44.

³¹ Ibidem, no. 16, pp. 49-51.

³² Ibidem, p. 49.

³³ The two-year deadline was then to expire according to the daily data of the *compromissum* on 18 May or 24 June 1414.

³⁴ Ibidem, no. 16, pp. 50-51.

The first phase of the arbitration procedure took place in the shadow of a grand congress of sovereigns, ecclesiastical dignitaries and nobility convened in the summer of 1412 in Buda.³⁵ Submission and discussion of the relevant documents, procurations and petition articles to King Sigismund (from June to August) were intertwined with the organization of chivalric tournaments and celebratory feasts. The king, however, refused to deal with all of the individual documents and on 24 August announced as the ‘arbiter, arbitrator, iudex et amicabilis compositor’ a preliminary (partial) arbitration award, where he typically chose the dual method of decision-making according to law or justice (‘viam arbitratoris et amicabilis compositoris assumentes’).³⁶ The content was on the one hand an award on several specific points including monetary sanctions for not respecting them, and on the other hand, a list of petition articles, which needed first to be investigated so as to decide whether they were already resolved or not, and thus invalidated, by the First Peace of Toruń.³⁷ Other disputed points or uncertainties were to be investigated by delegated subarbiters.

The granting of surprisingly extensive authority to the archbishop of Esztergom János Kanizsai and two Hungarian barons—Péter Perényi, the former count (*župan*) of Székely, and Imre Perényi, the secret chancellor³⁸—from 17 September was probably only a proposal that in the end was not put into practice³⁹ because nothing else is known on the activities of the named persons.⁴⁰

³⁵ The Buda congress of 1412 has not yet been thoroughly studied as a separate topic. Of the narrative sources, it is necessary to draw attention to KRZYSZTOF BACZKOWSKI et al. (eds.): *Joannis Dlugossii Annales seu cronicae incliti regni Poloniae: Liber X et XI 1406-1412*, Varsaviae 1997, pp. 201-203. Cf. JÖRG K. HOENSCH: *Kaiser Sigismund: Herrscher an der Schwelle zur Neuzeit 1368-1437*, München 1996, pp. 162-167. Identification of the participants of the meeting based on the Viennese manuscript was attempted by MORITZ WERTNER: *Die Ofener Gäste von 1412*, in: *Jahrbuch der K. K. heraldischen Gesellschaft ‘Adler’ NF 17 (1907)*, pp. 170-181.

³⁶ The original of the arbitration award has not been preserved; see the copy in the imperial registries in HHStA, Reichsregister, Band E, fol. 33^v-35^v (I ignore the later numerous copies); ZAKRZEWSKI, *Lites 2* (as in footnote 1), no. 18, pp. 52-69; ALTMANN, *RI XI* (as in footnote 28), no. 303.

³⁷ ZAKRZEWSKI, *Lites 2* (as in footnote 1), no. 18, p. 57.

³⁸ The Perényi were elevated to the state of barons by King Sigismund, see ELEMÉR MÁLYUSZ: *Kaiser Sigismund in Ungarn 1387-1437*, Budapest 1990, pp. 101-102, 290-291. Both the archbishop and the secret chancellor are listed as witnesses on the August decision of the superarbiter, see ZAKRZEWSKI, *Lites 2* (as in footnote 1), no. 18, p. 69.

³⁹ It would be indicated by its preservation in the manuscript *Liber formulariorum*, in: *Bibliotheca apostolica vaticana*, Vatican, Sign. Cod. Palat. Lat. 701, fol. 185^f-186^v, cited according to the digital copy DF 287745, URL: <https://archives.hungaricana.hu/en/charters/view/93451/?pg=22&bbox=-2030%2C-4002%2C4904%2C221> (07.12.2016), containing (not only) Sigismund’s political correspondence from 1400 to 1420. Mainly concepts served the scribes as the pattern according to HERMANN HEIMPEL: *Aus der Kanzlei Kaiser Sigismunds (Über den Cod. Pal. Lat. 701 der Vatikanischen Bibliothek)*, in: *Archiv für Urkundenforschung 12 (1931)*, pp. 111-180, here p. 121. This

King Sigismund gave somewhat narrower authority to the doctor of both laws (canon and civil) Benedict of Makra whom he appointed subarbiter on 1 October of the same year.⁴¹

Makra's work was to include three areas: the relevant points of the August award, which had already been decided upon by Sigismund, were to be executed in the presence of witnesses; evidentiary material relevant to new issues was to be collected; and as regards the question of frontiers and newly built castles and fortresses, the subarbiter Benedict had the authority to decide on the dispute after the agreement of both sides directly on-site, while in other cases, he had to hand over the evidentiary material to the king.

From the autumn of 1412 until spring of the next year, Sigismund's delegate, who was bound to working for the good of the king in everything and serving him faithfully⁴², travelled over 1,000 (!) kilometres on Lithuanian, Polish and Order territory, questioned hundreds of witnesses and tirelessly led tens of negotiations. The evidentiary procedures, at the end of which the protocol was carefully assembled and tens of folia were created, did not, however, lead immediately to the definitive arbitration award. The first obstacle was the actual choice of subarbiter: the Teutonic Order refused to acknowledge him as such, and therefore refused to acknowledge his results and conclusions, for reason of his supposed partiality. Despite that, Benedict of Makra formally completed his activity with the publication of his decision on 12 June 1413 in Kraków, in which he appealed to both sides to maintain the *status quo* particularly in terms of the course of the frontiers while awaiting the definitive award from King Sigismund.⁴³

proposal is surprisingly not mentioned in the literature related to Sigismund's arbitration, cf. NOWAK, *Międzynarodowe* (as in footnote. 9).

⁴⁰ Their competences were according to the preserved procurations truly extensive including revision of the individual provisions of the August Buda award and even the possibility to issue an entirely new *compromissum*; see *Liber formulariorum* (as in footnote 39), fol. 186r.

⁴¹ ZAKRZEWSKI, *Lites 2* (as in footnote 1), no. 20, pp. 70-71: 'magna nobilis et egregii viri Benedicti de Macra in utroque iure licenciati dominique de Czuch [...] predictum Benedictum [...] iudicem delegatum, subarbitratorem ac commissarium [...] constituimus'. On his activity in the services of King Sigismund, see WIESŁAW SIERADZAN: *Misja Benedykta Makraia w latach 1412-1413: Z dziejów pokojowych metod rozwiązywania konfliktów międzypaństwowych w Europie Środkowo-Wschodniej w późnym średniowieczu* [The Mission of Benedict of Makra in the Years 1412-1413: The History of Peaceful Means of Resolving International Conflicts in Central and Eastern Europe in the Late Middle Ages], Malbork 2009, and IDEM: *Benedek (Benedict) Makrai as a Subarbiter in the Conflict between the Teutonic Order and its Neighbour Countries in 1412-1413*, in: IDEM, *Arguments and Counter-Arguments* (as in footnote 2), pp. 157-168. The common use of his name in scholarship 'Makrai' is actually Hungarian and means 'of Makra', so the correct form of it should be 'Benedict of Makra'.

⁴² ZAKRZEWSKI, *Lites 2* (as in footnote 1), no. 20, p. 71.

⁴³ The protocol of Benedict of Makra including the related documents has been published *ibidem*, no. 32, pp. 88-351.

Approximately at the same time (11 to 18 May), the representatives of the Order appeared before the king, who was then staying in Udine, to explain their material and formal objections to the approach of the royal subarbiter.⁴⁴ The Grand Master, whose dissenting opinion can also be found in his letters to Sigismund, was aware that he was stepping out on thin ice because by criticising the subarbiter, he was putting the authority of the king himself as the arbiter in doubt.⁴⁵ The Order procurators therefore repeatedly assured the king that the Grand Master and the entire Order was prepared to accept Sigismund's definitive arbitration award. However, their request that another or other subarbiters be sent instead of Benedict was not granted by King Sigismund with the explanation that he must first hear the report of the named jurist and then decide on the correctness of his activity. The king assured the envoy of his favour of the Grand Master and his Order, but at the same time, he did not want to damage relations with the other side. He further promised to straighten out the mistakes if it was shown that the subarbiter had surpassed the authority entrusted by the king in any way. In the end, Sigismund's obliging proposal that also the Elector Palatine could join in the resolution of the dispute⁴⁶ fell on deaf ears, as did the attempt of the Grand Master's envoys to change the king's position through the intercession of his courtiers.⁴⁷

⁴⁴ SIERADZAN, Misja (as in footnote 41), pp. 169-178, prints the legation of the Order representatives for Grand Master, of which the text is preserved in the Order Archive; cf. ERICH JOACHIM, WALTHER HUBATSCH (eds.): *Regesta Historico-Diplomatica Ordinis S. Mariae Theutonicorum 1198-1525. Pars I: Index Tabularii Ordinis S. Mariae Theutonicorum. Regesten zum Ordensbriefsarchiv. Vol. 1: 1198-1454*, Göttingen 1948, no. 1935, p. 118. The edition of the report contains significant orthographic errors (see further). However, I did not have the original source available.

⁴⁵ This can be proved by his letter to Sigismund from 17 March 1413 in which on the one hand he labelled the approach of the royal subarbiter as harmful for all of Christendom, and on the other hand there is an assurance that the criticism is in no way aimed at the king. The Grand Master apparently would not have actually complained if the damages caused by the activities of the named jurist had not been so significant. He therefore called on the king to hear the sent Order delegation in order to diffuse any of the king's doubts, see ZAKRZEWSKI, *Lites 2* (as in footnote 1), no. 75, p. 475. Restraint in criticism of the subarbiter was also recommended by the Order's general procurator in Rome, according to whom only the King of the Romans had the right to judge the activity of the subarbiter, whom he himself appointed. Supposedly, the Order in this dissenting position puts itself in a poor light before the whole Christian world, see HANS KOEPPEN (ed.): *Die Berichte der Generalprokuratoren des Deutschen Ordens an der Kurie. Vol. 2: Peter von Wormditt (1403-1419)*, Göttingen 1960, no. 82, p. 175.

⁴⁶ See SIERADZAN, Misja (as in footnote 41), p. 174.

⁴⁷ One of them—the bishop of Trent—thus explained why he could do nothing in this affair: 'Sunder ich pyn meynes heren Koniges hofegesinde das mir nicht usserlicher czemet czu den sachen czu tuende wen her ist geneyget czu dem anderen teylen etc.', see *ibidem*, p. 177.

Although the King of the Romans was busy in Italy with affairs connected with the preparation of a general council⁴⁸, he did not lose sight of the fact that the deadline of the definitive award set two years earlier in the *compromissum*—either 18 May or 24 June 1414—was approaching. Since he could not announce it in person, he entrusted this task to the archbishop of Esztergom János Kanizsai and the Hungarian palatine Miklós Garai. They were granted such extensive authorities that they could freely choose not only on any point from Sigismund's Buda award from August 1412, but also on the content of the evidentiary material assembled by Benedict of Makra.⁴⁹ King Sigismund explained his absence in Hungary both in this power of attorney and in the summons from 15 January 1414⁵⁰, in which both parties were called on to send their representatives on 10 April to Buda. The urgent need for reform of the church and the empire led the king all the way to Italy and other provinces because God himself had entrusted him with care for their wellbeing along with the rank of King of the Romans.⁵¹

The summons was late arriving in Marienburg for mysterious reasons (it did not arrive until the middle of March)⁵² and so the original date of the discussion was threatened. The representatives of the Order did not arrive in Buda until the beginning of May, whereas the envoys of the King of Poland

⁴⁸ WALTER BRANDMÜLLER: *Das Konzil von Konstanz 1414-1418*. Vol. 1: Bis zur Abreise Sigismunds nach Narbonne, 2nd edition, Paderborn 1999; vol. 2: Bis zum Konzilsende, Paderborn 1998, here vol. 1, pp. 115-126.

⁴⁹ *Liber formulariorum* (as in footnote 39), fol. 209v-212r; HEIMPEL (as in footnote 39), no. 48, p. 162.

⁵⁰ EDUARDUS RACZYŃSKI (ed.): *Codex diplomaticus Lithuaniae, Vratislaviae 1845*, pp. 175-178; ALTMANN, RI XI (as in footnote 28), no. 870. The invitation was already directed to another Grand Master, Michael Kuchmeister, who at the beginning of 1414 replaced Heinrich von Plauen, unseated by the members of the Order who were dissatisfied with his policy up to then, see WILHELM NÖBEL: *Michael Kuchmeister: Hochmeister des Deutschen Ordens*, Bad Godesberg 1969, pp. 59-73. See recently also a concise article about the Grand Master by BERNHART JÄHNIG: *Michael Kuchmeister*, in: UDO ARNOLD (ed.): *Die Hochmeister des Deutschen Ordens 1190-2012*, 2nd edition, Weimar 2014, pp. 122-126.

⁵¹ *Liber formulariorum* (as in footnote 39), fol. 210r. Cf. RACZYŃSKI (as in footnote 50), p. 176.

⁵² It is not clear what or who caused the delay. The Grand Master in a letter from 23 March 1414 complains to the archbishop of Esztergom and the Hungarian palatine that the summons was purposefully delayed in Kraków and not delivered to Marienburg until the middle of March, see KARWASIŃSKA, *Lites* (as in footnote 1), *Additamentum*, no. I, pp. 221-222; SEBASTIAN KUBON, JÜRGEN SARNOWSKY et al. (eds.): *Regesten zu den Briefregistern des Deutschen Ordens II: die Ordensfolianten 8, 9 und Zusatzmaterial. Mit einem Anhang: Die Abschriften aus den Briefregistern des Folianten APG 300, R/LI, 74*, Göttingen 2014, no. 10, pp. 79-80. The Grand Master's reasoning is not very convincing because on the same day he sent a similar version to King Sigismund with a different justification for the late dispatch of his representatives to Buda: on 22 April with the set deadline of the bilateral conversations with the Polish king and Lithuanian grand duke, see *ibidem*, no. 11, p. 80.

and Grand Duke of Lithuania had already been staying there since Easter. The discussions before the delegated subarbiters from 12 May to 13 June foundered on two disputed points.⁵³ The first was the question of extending the deadline for announcing the award of arbiter. As the procurators of the Order pointed out, the *compromissum* had not been issued by both parties on the same day—the Grand Master had issued the relevant document on 18 May 1412 whereas the King of Poland had only issued it on 24 June of the same year. They therefore requested that also the Order's 'compromissum compromisso domini regis Polonie sit conforme in tempore et in data'.⁵⁴ In one letter intended for both subarbiters, Grand Master Michael Kuchmeister (1414-1422) mentions a proposal to extend the deadline to 25 July or even 25 December with the condition that King Władysław II Jagiełło also joins his consent.⁵⁵ King Sigismund likely suggested these deadlines, feeding the hope in the Grand Master that by that time he would have arrived in person and announced the arbitration award.⁵⁶ Neither of these things happened because the Polish representative Andrzej Łaskarz, provost of Włocławek⁵⁷, categorically rejected any extension (even until 24 June).⁵⁸

The dispute regarding the extension of the deadline was undoubtedly related to another obstacle which stood in the path to an agreement. The Poles apparently did not want to delay the announcement of the award because the protocol of Benedict of Makra resulted in their favour. The Order delegation requested the provision of a copy of the mentioned protocol, which the Polish side again rejected resolutely with the justification that the Teutonic Knights through their open boycott of the activity of the jurist and his award had lost the right to obtain that protocol. It was seen otherwise by the subarbiters

⁵³ At the request of King of Poland Władysław II, King Sigismund on 12 July 1415 had a copy made from the protocol (the original has not been preserved) of the arbitration process led in May and June 1414 in Buda. For the edition of the protocol, see KARWASIŃSKA, Lites (as in footnote 1).

⁵⁴ Ibidem, p. 54.

⁵⁵ KUBON/SARNOWSKY (as in footnote 52), no. 20, pp. 84-85.

⁵⁶ The proposal was brought to the Grand Master by some 'Peter de Brizewicz' who is with the greatest likelihood Peter of Berzevice, count (*župan*) of Spiš, whom King Sigismund had elevated to baron, see MÁLYUSZ (as in footnote 38), p. 291. Sigismund's plan to come in person by 25 July if the two parties did not agree is mentioned by the Grand Master in another of his letters from 7 May 1414, see KUBON/SARNOWSKY (as in footnote 52), no. 22, p. 86.

⁵⁷ For information about this person see PAWEŁ DEMBIŃSKI, TOMASZ GIDASZEWSKI et al. (eds.): Andrzej Łaskarz: Dyplomata, duchowny 1362-1426 [Andrzej Łaskarz: Diplomat, Priest 1362-1426], Konin 2015. The family name 'Łaskarz' is commonly used in the scholarship, although the proper name is 'Łaskarzyc', see TOMASZ GIDASZEWSKI: Andrzej Łaskarz z Gosławic. Pomiędzy Gosławicami, Poznaniem a Rzymem [Andrzej Łaskarz of Gosławice. Between Gosławice, Poznań and Rome], ibidem, pp. 17-40, here p. 17.

⁵⁸ For his argumentation, see KARWASIŃSKA, Lites (as in footnote 1), pp. 54-58.

János Kanizsai and Miklós Garai and therefore they arranged the transfer of said document to the Order delegation.⁵⁹

It is no wonder that in such an atmosphere the arbitration award was not announced in the end. The official reason for the interruption of the discussions on 13 June 1414 was the illness of the archbishop of Esztergom, without whom it was not possible to formally complete the entire case.⁶⁰ Not announcing the arbitration award in the set deadline, however, meant that the validity of the authority of the arbiter and the entire arbitration procedure would practically have to be begun again and with a newly drafted *compro-missum*.

In the subsequent correspondence between Jagiełło and Sigismund, both sovereigns return to the causes of the foundering of the case in Buda. In a letter sent on 28 July from the military camp on the Polish-Prussian frontier, the Polish king recapitulates the unsuccessful bilateral conversations with the Order and the rising tension which finally led to the declaration of war.⁶¹ The great hopes which Jagiełło had apparently placed in the Buda award had dissipated because of the illness of the archbishop of Esztergom, and so the King of Poland, although not only for this reason, could not do otherwise than defend his dominium with sword in hand.⁶² King Sigismund in his response to Władysław II Jagiełło openly says that the real reason was not the illness of the Hungarian prelate, but the unwillingness of the Polish representatives to agree with an extension of the deadline of the announcement of the arbitration award.⁶³ The self-stylization of the sovereigns in vying for who was endeavouring more for a just peace is typical *inter alia* for both letters. Sigismund in particular blamed the Polish king that precisely at the time he himself was working intensively on a reconciliation in the church and all of Christendom, Władysław II Jagiełło was destroying these attempts with his aggressive policy towards the Order, instead of all the Christian rulers uniformly rising against the attacks of the pagans.⁶⁴

King Sigismund also presented this vision, which he had still not managed to implement, in a letter to King of England Henry V. The perpetual peace

⁵⁹ Ibidem, pp. 58–64.

⁶⁰ Ibidem, p. 111. Cf. NOWAK, Międzynarodowe (as in footnote 8), p. 46. The necessity of the presence of the archbishop of Esztergom in the delivery of the arbitration award is discussed in the conclusion of the power of attorney received from King Sigismund, see Liber formulariorum (as in footnote 39), fol. 212r.

⁶¹ KARWASIŃSKA, Lites (as in footnote 1), Additamentum, no. III, pp. 224–227. On the so-called ‘Hunger War’ of 1414 see BISKUP (as in footnote 3), pp. 112–129. For more information on the two congresses between the Order and Poland in the spring of 1414, intended to briefly avert the threat of war, see SZWEDA, Organizacja (as in footnote 2), pp. 381–382.

⁶² KARWASIŃSKA, Lites (as in footnote 1), Additamentum, no. III, p. 225.

⁶³ For Sigismund’s undated document issued in Koblenz, see ibidem, no. IV, pp. 227–231, here p. 229.

⁶⁴ Ibidem, pp. 229–230.

(‘perpetua amicitia’) between the two parties was to be the prerequisite of the joint battle against infidels and pagan nations, particularly as the Teutonic Order as a component of the Holy Roman Empire had already been the defensive shield and bulwark against the attacks of the infidel pagans (‘quasi clipeus et murus defensionis contra insultus infidelium’) for long years. However, the current dispute prevented Sigismund even from going to Germany to be crowned as the King of the Romans.⁶⁵

All of the participants perhaps sensed that the arbitration procedure in Buda would end in failure because each of them worked on an alternative resolution to the problem before the foundering of the discussions actually occurred. Whereas the Grand Master and the Polish king were endeavouring to get Pope John XXIII on their sides⁶⁶ while simultaneously preparing for war, King Sigismund placed his hopes in a future council to which he had already summoned both parties at the beginning of 1414.⁶⁷ However, these efforts still could not avert a war. After several months of devastating raids into enemy territory without leading an open battle, the two parties concluded

⁶⁵ HEINRICH FINKE (ed.): *Acta concilii Constanciensis*, vol. 1, Münster i. W. 1896, pp. 88-92. The formulation of the shield and bulwark of Christianity in relation to the Teutonic Order was ubiquitous in Sigismund’s correspondence and propaganda according to PAUL SRODECKI: *Antemurale Christianitatis: Zur Genese der Bollwerksrhetorik im östlichen Mitteleuropa an der Schwelle vom Mittelalter zur Frühen Neuzeit*, Husum 2015, pp. 118-122.

⁶⁶ The Order of the Teutonic Knights (just like Poland) claimed obedience to the popes of Pisa, see KOEPPEN (as in footnote 45), vol. 2, no. 43, pp. 105-106. On 15 January 1414, the Order procurator informed the Grand Master of the discussions in Lodi and the date and place of the prepared council (*ibidem*, no. 87, pp. 184-188). He then called repeatedly (and for a long time in vain) on Grand Master Michael Kuchmeister to send the pope an announcement of his election with the relevant gifts for the pope and college of cardinals as was the custom with his predecessors (*ibidem*, no. 89, p. 190; no. 92, pp. 194-197; no. 94, pp. 198-201). The procurator Peter von Wormditt attempted to make the Grand Master aware that the existence and nonexistence of the Order was contingent on positive relations with the pope and cardinals. He did not even hesitate to warn the former Grand Master Heinrich von Plauen of the power of the pope to cancel all of the Order’s privileges in a single day, or threaten the fate of the Templars (*ibidem*, no. 84, p. 182). The favour of the pope and cardinals towards the Order, on which the procurator wrote to Michael Kuchmeister (*ibidem*, no. 93, p. 198), was rather formally courteous because otherwise John XXIII would have procrastinated with dispatching a fast emissary who would have diverted the disputing parties from a military conflict (see the letter of the procurator from 2 July 1414, *ibidem*, no. 103, pp. 212-214).

⁶⁷ The earliest mention of Sigismund’s invitation to the council can be found in the letter from 14 March 1414, in which the king congratulates Michael Kuchmeister on his election as the Grand Master of the Order, see W. ALTMANN: *Urkundliche Beiträge zur Geschichte Kaiser Sigmunds*, in: *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 18 (1897), 4, pp. 592-593, here p. 592. According to BRANDMÜLLER (as in footnote 48), vol. 1, p. 126, King Sigismund did not send the invitation to the Grand Master until 4 September.

a two-year truce in the presence of the papal legate Guillaume of Challant, bishop of Lausanne (7 October 1414).⁶⁸ He indisputably defended the interests of the Papal See and so the content of the truce and particularly the model of the anticipated arbitration was the result of a compromise which could have already been agreed upon between the King of the Romans and Pope John XXIII at the meeting in Lodi. That would explain why King Sigismund was only one of the possible options as arbiter.⁶⁹

The truce concluded at Castle Brodnica (Strasburg i. Westpr.) obliged the Grand Master and King of Poland to send their representatives to the council. There, they would then accept the *amicabilem compositionem* reconciliated by the pope and the King of the Romans, together or separately, or any ecclesiastical prelate or secular prince; in any case, both parties would first have to agree on the person.⁷⁰ Nowak believes that the arbitration that was interrupted in Buda continued in Constance.⁷¹ However, he does not fully appreciate that despite the fact that the content of the truce and the procurators that the delegations received from the Grand Master or the Polish king had many of the elements of a *compromissum*, a fundamental aspect was lacking—the name or names of the arbitration judge/s. Moreover, the two procurators differed in a substantial detail. Władysław II Jagiełło granted his delegates power of attorney for the arbitration procedure only based on a reconciliation or justice (*amicabilis compositio*), not law (*per viam iuris*), whereas the Grand Master granted authority for both possibilities.⁷²

⁶⁸ The papal legate was sent on 15 July 1414, but he was purposefully delayed in Kraków and did not arrive in Prussia until after the end of the military operations, see KOEPPEN (as in footnote 45), vol. 2, no. 105, p. 215, footnote 4; BISKUP (as in footnote 3), p. 127.

⁶⁹ However, it is only a hypothesis because the sources are very meagre on the meeting in Lodi, cf. BRANDMÜLLER (as in footnote 48), vol. 1, pp. 49-66.

⁷⁰ WEISE, Staatsverträge (as in footnote 1), no. 105, pp. 107-109, here p. 108: 'patrem dominum nostrum papam et [...] principem dominum Sigismundum regem Romanorum aut alterum ipsorum vel sacrum concilium aut etiam per quoscumque alios principes spirituales vel seculares, in quem vel in quos partes convenient'.

⁷¹ NOWAK, Międzynarodowe (as in footnote 8), pp. 61-80.

⁷² The Grand Master created a procurator for his delegation on 17 October 1414 in which he granted power of attorney 'to prosequendum dictum negotium inviolabilis unionis ac concordiae, foederisque, pacis perpetuae, per viam iuris vel amicabilem compositionis', see FRIEDRICH GEORG VON BUNGE (ed.): Liv-, Esth- und Curländisches Urkundenbuch nebst Regesten, vol. 6, Riga 1867, no. 3001, col. 389-392; KOEPPEN (as in footnote 45), vol. 2, no. 110, pp. 222-223. The Polish delegation also obtained a procuratorship from King Władysław II Jagiełło 'ad compromittendum' and for the election of the pope, King of the Romans or whichever ecclesiastical prelate or secular prince 'in arbitratorem vel arbitratorem ac amicabilem compositorem vel amicabiles compositores', see ANATOL LEWICKI (ed.): Codex epistolaris saeculi decimi quinti, vol. 2, Kraków 1891, no. 56, pp. 64-67. The Polish authorization (9 November 1414), unlike the Order's, contains more details concerning the competences of the envoys regarding the individual parts of the arbitration procedure.

3 Seeking an Arbiter at the Council of Constance

The Brodnica reconciliation and the dispatch of their entrusted representatives to the Council of Constance thus opened new possibilities of resolving the long-standing conflict for both sides. While arbitration was still in play, the unresolved questions around the person of the arbiter and the different extent of the authority of the two delegations caused the delay of the whole process, which actually could not even begin in this way. The agreed two-year period was not sufficient and so the truce had to be extended three times during the council; otherwise, there would have been a renewal of war and the efforts for a reconciliation would have again fallen flat.⁷³

Still, before the appointment of the envoys, the procurator Peter Wormditt recommended to the Grand Master that he yield the dispute to the pope, not the secular princes. Moreover, he recommended that all of the necessary materials against the Polish party be handed over in writing to the papal legate Guillaume of Challant who was to travel to the council, apparently soon after signing the Brodnica truce.⁷⁴

The natural leader of the Order delegation, Johann von Wallenrode, Archbishop of Riga, however, did not intend to follow the procurator's recommendation.⁷⁵ In the greeting speeches, the archbishop turned to both the pope and the King of the Romans with the impassioned plea to defend the Order of the Teutonic Knights who were suffering severely under the attacks of the infidels, attributing the role of the arbiter particularly to the king. He compared him to Caesar, before whom the powerful city of Rome was humbled and whom the city begged for peace. Therefore, the Order of the Teutonic Knights was also humbled before King Sigismund.⁷⁶ As a result, they asked him to judge with regard to the needs of the Empire and not delegate the deci-

⁷³ The truces were always extended for a year. It occurred for the first time in the spring of 1416 (until 13 July 1417; WEISE, *Staatsverträge* (as in footnote 1), no. 113-115, pp. 114-116), then a year later on 14 May 1417 (*ibidem*, no. 122, p. 120), and for a third time on 26 April 1418 (to 13 July 1419; see *ibidem*, no. 129, pp. 127-128), when the discussions at the Council of Constance came to an end; for more, see NEITMANN, *Staatsverträge* (as in footnote 2), pp. 161-171, which mentions only the first and third extension of the truce; BISKUP (as in footnote 3), pp. 129-131. The literature on the individual questions which were resolved on the part of Poland and the Order at the Council cannot be listed here. The best synopsis is provided by BOECKMANN (as in footnote 2), although his central theme is the dispute on a Satire by the Dominican John Falkenberg.

⁷⁴ See the reports of the procurator from 18 July 1414 (KOEPPEN (as in footnote 45), vol. 2, no. 105, pp. 215-216) and from 16 August of the same year (*ibidem*, no. 107, pp. 217-220, here pp. 218-219).

⁷⁵ For information on his person, see BERNHART JÄHNIG: *Johann von Wallenrode O.T.: Erzbischof von Riga, Königlich Rat, Deutschordensdiplomant und Bischof von Lüttich im Zeitalter des Schismas und des Konstanzer Konzils (um 1370-1419)*, Bonn-Bad Godesberg 1970.

⁷⁶ FINKE (as in footnote 65), vol. 2, 1923, p. 392.

sion to another person so that the peace concluded in this way did not remain merely on paper but was truly implemented.⁷⁷ It is not possible to say clearly from the preserved sources whether in this he meant the role of arbiter or a normal judge who would assess the argument from royal authority. In any case, the Order, according to the archbishop, did not remember the current course of the arbitration in the best light because its outcome, whatever it was, did not lead to an end of the attacks on the territory of the Order.⁷⁸

According to an anonymous memorandum, the public reading of which before the pope and king is disputable⁷⁹, the Teutonic Order always agreed with the proposed method of the arbitration. However, it supposedly did not help, because either the selected arbiters did not act as arbiters but rather as advocates of their own party ('non arbitri inter partes, sed parcium essent advocati'⁸⁰), or the Polish party refused to transfer the argument to the hands of the pope. The Order was then forced to agree with the person of the King of the Romans as the arbiter with the hope that perhaps, thanks to him, the desired peace would be achieved. In a prepared anonymous speech, a representative of the Order was to turn to the pope, the King of the Romans, the cardinals, prelates and the entire council to take into their protection the severely tested Order of the Teutonic Knights. After describing all of the injustices and war horrors, he indicated in it the fact that the land under the rule of the Order was endowed with many privileges and stood under the wing of the Holy Roman Empire ('*terram [...], quam sacrum imperium sub alis sue protectionis gloriosius defensavit*'). The warning postscript that it would not be recorded in future annals and chronicles that the end of the Order occurred under the times of the addressed pope and the King of the Romans shows what the Order (understandably) most feared.⁸¹

The Polish delegation also presented greeting speeches before the pope and king. They were given by Andrzej Łaskarz, the elected bishop of Poznań (*electus Posnaniensis*), who compared King Sigismund to Emperor Constantine the Great by reason of his undertaking of a similarly elevated task—to bring peace to the Church again. However, according to Łaskarz, also the peripheral parts of the Christian oecumene, particularly the Polish kingdom and Lithuania, had to be included in it. What is noteworthy is the different

⁷⁷ Ibidem, p. 393.

⁷⁸ Ibidem, p. 392.

⁷⁹ ERICH Weise (ed.): *Die Staatsschriften des Deutschen Ordens in Preußen im 15. Jahrhundert. Erster Band: Die Traktate vor dem Konstanzer Konzil 1414-1418 über das Recht des Deutschen Ordens am Lande Preußen*, Göttingen 1970, pp. 65-111. Cf. BOOCKMANN (as in footnote 2), pp. 217-218, footnote 135, who presents compelling arguments as to why the memorandum in question, although it was prepared, was not in fact delivered. On the other hand, he did not notice that the conclusion of the memorandum is strikingly coincident with both of the greeting speeches by Johann von Wallenrode, cf. FINKE (as in footnote 65), vol. 2, pp. 392-393.

⁸⁰ WEISE, *Staatsschriften* (as in footnote 79), p. 94.

⁸¹ Ibidem, p. 110.

tone in comparison with the humble, almost servile, speech of Johann von Wallenrode, because the Bishop-Elect of Poznań offered the King of the Romans the Polish delegates as colleagues in the peace-making process.⁸² The representatives of Władysław II Jagiełło acquired favour also with Pope John XXIII who had three bulls created for the Polish king and Lithuanian grand duke. However, after the pope's flight from Constance and his dethronement, their effect was minimal.⁸³

If we leave aside the propaganda war, then almost nothing happened in the first months of 1415 during the procedure of issuing the arbitration because other affairs were a priority for King Sigismund.⁸⁴ When the king allowed the representatives of both parties to appear before him, there is nothing to indicate that the discussions had the character of an arbitration procedure. On the other hand, the King of the Romans assured the two sides in various ways of his favour, but he did not hurry very much with the resolution of the dispute.⁸⁵

⁸² The text of his speeches was issued by Hermann VON DER HARDT (ed.): *Magnum oecumenicum Constantiense concilium de universali ecclesie reformatione, unione et fide*, vol. 2, *Francofurti* 1679, col. 170-175 (before King Sigismund) and col. 177-183 (before Pope John XXIII). Cf. NOWAK, *Międzynarodowe* (as in footnote 8), p. 64.

⁸³ The privileges of the Order concerning Lithuania and Rus' were cancelled by papal bulls, see LEWICKI (as in footnote 72), no. 57, pp. 67-69; Jagiełło and Vytautas the Great were appointed general vicars for Novgorod and Pskov (*ibidem*, no. 58, pp. 69-71) and the Polish king was allowed to use half of the ecclesiastical tax for defence from the Tatars (*ibidem*, no. 59, pp. 71-72). Cf. BOOCKMANN (as in footnote 2), pp. 199-201, and NOWAK, *Międzynarodowe* (as in footnote 8), p. 65.

⁸⁴ For more information on the role of King Sigismund at the Council of Constance, see ODILO ENGELS: *Der Reichsgedanke auf dem Konstanzer Konzil*, in: *Historisches Jahrbuch* 86 (1966), pp. 80-106; ANSGAR FRENKEN: *Der König und sein Konzil—Sigmund auf der Konstanzer Kirchenversammlung: Macht und Einfluss des römischen Königs im Spiegel institutioneller Rahmenbedingungen und personeller Konstellationen*, in: *Annuaire Historiae Conciliorum* 36 (2004), pp. 177-242. Cf. MARTIN KINTZINGER: *Das Konzil konstruieren: König Sigismund und die internationale Kommunikation*, in: GABRIELA SIGNORI, BIRGIT STUDT (eds.): *Das Konstanzer Konzil als europäisches Ereignis: Begegnungen, Medien und Rituale, Ostfildern* 2014, pp. 219-254, which points to the different evaluations of Sigismund's activity at the council in the works of BRANDMÜLLER (as in footnote 48), vol. 1-2, who underestimates it, and HOENSCH (as in footnote 35), who elevates it.

⁸⁵ Already on 19 November 1414 King Sigismund confirmed all of the privileges of the Order, but it was at the request of German master Konrad von Egloffstein because the confirmation related to German and Italian territories, see HHStA, *Reichsregister*, Band E, fol. 109r; ALTMANN, *RI XI* (as in footnote 28), no. 1321. In a letter from April 1415, the king explains to the Grand Master why such a delay took place in the affair, although his representative was repeatedly invited, and assures him that as soon as he achieves a unity with the cardinals present and the 'nations', nothing will stand in the way of discussing the dispute in question. He only asks that the Grand Master not recall his representatives from Constance yet, see ALTMANN, *Urkundliche* (as in footnote 67), no. 6, pp. 594-595. King Sigismund then calmed the Polish party with the confirmation on 20 April 1415 of the alliance contract with King Władysław II Jagieł-

The first discussion did not take place until 7 April, at which time only the Order could present briefly its articles of petition, mainly containing damages to people, property and the land caused by the army of Władysław II Jagiełło. The Polish representative was not received.⁸⁶ A similar meeting took place in June, but the sources are silent as to its content.⁸⁷ Similarly, we also do not know anything specific about the activity of the commission which King Sigismund established on 11 May of the same year besides its composition, the fact that Cardinal Francesco Zabarella was appointed its head, and that it was to work ‘ad tractandum concordiam’.⁸⁸

The fundamental discussion on the dispute between the Order and the Polish-Lithuanian Union did not take place until 13 to 15 July (Saturday to Monday) 1415, shortly before Sigismund’s departure from Constance for Aragon. The discussion, on which we have quite detailed information thanks to the report of the Order procurator, took place before the main committee of the council in the presence of a deputation of the four ‘nations’ (‘omnes deputati quatuor nacionum’).⁸⁹ It is necessary to pay close attention to the course of the discussion and even the negligible details, because they clearly reveal Sigismund’s relation to the possible arbitration and his role as arbiter in the context of his current policy and the challenges he would face in the future.

The King of the Romans only had the programme speech on the council planned for 13 July; in this, he set out the four main points of his policy: resolution of the church schism, peace between France and England, peace be-

to concluded in 1412 in Stará Ľubovňa (Ólubló, Lubowla), see ALTMANN, RI XI (as in footnote 28), no. 1631. Cf. NOWAK, Międzynarodowe (as in footnote 8), pp. 65-66.

⁸⁶ KOEPPEN (as in footnote 45), vol. 2, no. 117, pp. 234-235.

⁸⁷ Ibidem, no. 120, pp. 250.

⁸⁸ FINKE (as in footnote 65), vol. 2, pp. 241-242. From these few indications, it is possible to judge that the commission was favourably inclined to the Polish party. The head of the commission used to be a teacher of Paweł Włodkowic (Paulus Wladimiri) and Andrzej Łaskarz, two significant canonists and members of the Polish delegation. Moreover, the intentions of the commission—‘ad tractandum concordiam’—entirely fit with the extent of the competence of the representatives of the Polish king, see NOWAK, Międzynarodowe (as in footnote 8), p. 68.

⁸⁹ The text is very suggestive and rich in various details, despite the fact that in its interpretation we must not forget that its author wanted to emphasize how the Order’s delegation and particularly the Order procurator Peter Wormditt managed to ‘score’ with Sigismund and acquire with him favour for the Grand Master and his Order. The main strategist of the Order delegation was, however, Archbishop Johann von Wallenrode, who knew in which way to acquire the king’s sympathy for the Order, see JÄHNIG (as in footnote 75), p. 91. The report of the procurator was issued by ANTONI PROCHASKA (ed.): *Codex epistolaris Vitoldi magni ducis Lithuanie 1376-1430*, Kraków 1882, no. 641, pp. 322-325, and KOEPPEN (as in footnote 45), vol. 2, no. 121, pp. 251-256, who shortens certain passages with his own paraphrase. Cf. OTTOKAR ISRAEL: *Das Verhältnis des Hochmeisters des Deutschen Ordens zum Reich im 15. Jahrhundert*, Marburg a. d. Lahn 1952, pp. 20-22; BOECKMANN (as in footnote 2), pp. 202-205; NOWAK, Międzynarodowe (as in footnote 8), pp. 69-71; BRANDMÜLLER (as in footnote 48), vol. 2, pp. 153-154.

tween Poland and the Order, and a crusade to Jerusalem.⁹⁰ Regarding the thorny issue, he asked the council fathers to enjoin both the Grand Master and the Polish king to maintain the Brodnica truce under the threat of ecclesiastical sanctions during his absence.⁹¹ With that, Sigismund considered the problem temporarily resolved, but after his speech Andrzej Łaskarz requested to speak and asked the king to implement one of the points from the Buda award from 24 August 1412 concerning the Włocławek church. The Order procurator Wormditt responded to that deftly and proposed that in that case the entire Buda award be implemented and not only a certain part of it for which the Order supposedly constantly endeavoured. At the same time, he openly accused the Polish representatives of, in fact, not wanting to obey the Buda award, whose validity due to unfinished the process last year was anyway questionable, just as they did not want to respect the Peace of Toruń. The procurator therefore called on the king to ask the Polish delegation if they were willing to be subject to the Buda award and if they recognized the King of the Romans and the Holy Roman Empire ‘vor eren obirsten’. After this ambiguous and tricky question, the other representatives of the two parties were summoned to the discussion (until then there had only been a deputation of the four ‘nations’), among whom a lively debate began. However, after a moment, the Poles proudly proclaimed that they were not subjects of the empire (‘das reich nicht irkennen’), since their ‘konig von Polan sei ein freier konig’.⁹²

After this uncontrolled exchange of opinions, both parties were sent away apparently at the direction of Sigismund. After a certain time, the representatives of the Order were called back; King Sigismund reproached them for insincerity in relation to the two universal authorities—the pope and emperor. The Order supposedly did not want its dispute to be judged according to law because when the Order was called before the emperor, it argued that it was immediately subject to the pope and on the contrary, when it was invited to the papal court it claimed that the Order belonged to the Empire. Sigismund cut off the effort of the representatives of the Order to explain their position in some way with a clear challenge to state clearly and openly whether they were willing to be subject to the court of the Holy Church, the Holy Council and the Empire. The delegates were permitted a short consultation, after which the king was given the following response: The Order was and is always obedient to the Holy Church and Holy Roman Empire, and therefore unreservedly and in all matters submits to the court of these three institutions. The present emissaries of the Order received power of attorney for an arbitration procedure both according to law (‘in dem rechte’) and according to reconciliation (‘in der fruntschaft’). This answer apparently appealed to King

⁹⁰ VON DER HARDT (as in footnote 82), col. 482-483; ALTMANN, RI XI (as in footnote 28), no. 1828a.

⁹¹ KOEPPEN (as in footnote 45), vol. 2, no. 121, p. 252.

⁹² PROCHASKA (as in footnote 89), no. 641, p. 323.

Sigismund greatly and all of those present raised their hands in a sign of joy and gratitude to God.⁹³

The Polish delegates then took the place of the representatives of the Order before Sigismund. They proclaimed that their authority was limited only to an extension of the Brodnica truce, not to an arbitration procedure according to law ('die sache in kein recht setzen [...] sy sich nicht gebin wuldin in ein recht'), otherwise a great injustice would happen to them ('in ein groes ungelimp qwomen und [...] idirman een unrecht gab').⁹⁴ The Polish representatives were then again replaced by the Order's deputies, whom King Sigismund praised for their position, through which the Order won a great dispute.⁹⁵ Moreover, all of those present understood that the whole affair appeared differently than the Polish party had thus far described it and therefore they promised aid to the Teutonic Order.

The next day, on Sunday 14 July, the Polish delegates rather surprisingly announced at the plenary assembly that they were handing over their dispute in all of its affairs exclusively to the royal majesty. If the disputing parties did not have sufficient authority for an arbitration procedure according to law ('czu gehen in ein recht'⁹⁶), they were to send a delegation home. It was decided that both sides would exchange their powers of attorney and if any defects in it were discovered, the request for their removal would be submitted to the Polish king or the Grand Master. The Polish delegation then admitted that their authority, unlike that of the Order representatives, was restricted to a mode of arbitration following *amicabilis compositio*. For this reason, both parties agreed in the name of their principals to an alternative solution: an obligation to observe the Brodnica truce would be declared at the plenary session of the council under the threat of an interdict.⁹⁷ It was planned for the very next day—the Monday. However, the Polish delegation revised its position overnight. In the council's sanctions they saw a danger of shame being imposed on the Polish king or Lithuanian grand duke if there was some provocation on the Prussian-Polish frontier. In the morning, just before the beginning of the session, the Polish representatives shared their negative position with the King of the Romans and some prelates.

Still, the same evening, the king and a deputation of the four 'nations' met with both parties and asked them a fundamental question: which kind of *compromissum* they wanted and what role Sigismund should play in the arbitration procedure ('in welcher weys sy den anlas an en setzen welden'). The Poles responded first; they wanted to list in the *compromissum* specific terri-

⁹³ KOEPPEN (as in footnote 45), vol. 2, no. 121, pp. 253-254.

⁹⁴ PROCHASKA (as in footnote 89), no. 641, p. 324.

⁹⁵ KOEPPEN (as in footnote 45), vol. 2, no. 121, p. 254: ‚habe der König gesagt: ir habeth eine tat gethan, die euch bessir ist und notczer, denne das yr eynen mechtigin grosen streyt hettet gewonnen‘.

⁹⁶ PROCHASKA (as in footnote 89), no. 641, p. 324.

⁹⁷ KOEPPEN (as in footnote 45), vol. 2, no. 121, p. 255.

tories—namely Pomorania, the lands of Chełm and Michałów—, and other issues. The representatives of the Order did not agree and proposed that the subject of the dispute be formulated generally in the *compromissum* ('in die gemeyne und nicht in specie'). They presented two reasons for that. The Order owned valid privileges to the listed territories, as confirmed by the Peace of Toruń and the Buda award. They could not renounce these provisions because their *compromissum* could include only the disputed, as-yet unresolved issues. If any award or truce contradicted the law ('mit rechte breche'), the Order could not accept such provisions. Because of the dissenting position of Poland, the Order representatives present were apparently counselled that they take their dispute to the Council of Constance ('sy riten dem orden, das her anrufe das heilige concilium umbe eyn recht').⁹⁸

At first sight, it might seem surprising that King Sigismund did not particularly seek to play the role of the arbitration judge. If you consider the uncertainties around the content of the *compromissum* and the differing opinions of the two delegations regarding the method by which the arbiter should judge—*per viam iuris* or as *amicabilis compositor*—it is not, however, very astonishing. The King of the Romans tried to use the situation to force the Order into a feudal sovereignty of the Empire, but his main requirement was for both sides to observe the concluded truce. During his absence, the council was to be its guarantee; however, the Polish party did not agree with it in the end, and so Sigismund himself had to resolve the prolongation of the truce during his diplomatic mission around Western Europe.

The position of the Order representatives was at that time perhaps more appealing for Sigismund, as arises from his letter to the Grand Master written shortly after those intensive discussions and just before his departure from Constance. In it, the king promises that he will act on the authorization of the representatives of the Order and as judge, will proceed 'in fruntlikeite und im rechten', but also for the good of the Order ('zu irem besten vorwenden wollen, als verre wir mit got und eren mogen').⁹⁹ Sigismund's promises to the Order, however, practically collided with the persistent rejection by the Polish party of the arbitration procedure *per viam iuris*, although in the case of petitions for damage, the Poles did not hesitate to label the King of the Romans as a normal judge. They did this for pragmatic reasons because Sigismund of Luxembourg as *rex et imperator Romanus et iudex ordinarius* could far more effectively force (*efficere*) the Order to fulfil its obligations to the Polish-Lithuanian Union.¹⁰⁰

With the departure of Sigismund of Luxembourg from Constance on 18 July 1415, the whole case which was to be the subject of arbitration, broke

⁹⁸ Ibidem, p. 256.

⁹⁹ Letter to the Grand Master from 16 July 1415, see LEWICKI (as in footnote 72), no. 60, pp. 72-73; ALTMANN, RI XI (as in footnote 28), no. 1836.

¹⁰⁰ DZIAŁYŃSKI, Lites (as in footnote 1), vol. 3, p. 64; NOWAK, Międzynarodowe (as in footnote 8), pp. 67-68.

down into two parts both in terms of content and personnel as some of the representatives of the Grand Master, or the Polish king, left with the king and some stayed in Constance. Whereas Sigismund was principally responsible for resolving the issue of the Brodnica truce extension¹⁰¹, the Polish envoys, who stayed at the council, tried to shift the case to the level of doctrinal dispute—the treatises and articles of accusation presented by the rector of the University of Kraków Paweł Włodkowic (Paulus Wladimiri), presenting the successful Christianization of Samogitia (or *Žemaitija*) and bringing a lawsuit against the Satire by Dominican John Falkenberg. These affairs dominated the debate until the end of the council. The Poles intended to call the very essence of the existence of the Order of the Teutonic Knights into question.¹⁰² In Constance, the King of the Romans was represented by Elector of the Palatinate Louis III (as the *vogt* and *beschirmer* of the council) who, however, it seems never engaged in the resolution of the dispute.¹⁰³

It was not clear who the arbiter would be and how an arbitration procedure would be conducted even at the time when King Sigismund arrived back in Constance on 27 January 1417. During the king's absence, public opinion at the council leaned towards the Polish party. Their arguments were intensified, for instance, by the delegation of Samogitian neophytes, which attested to the success of the Polish mission among the pagans¹⁰⁴, the unwillingness of the Order to turn over three villages to the Polish according to the Parisian truce, and the foundering of the bilateral talks on procedural questions which were to have taken place in October 1416 at Castle Veluona on the River Memel between the Grand Master and Polish king.¹⁰⁵ Sigismund of Luxembourg was, moreover, chagrined that the Order rejected the feudal sovereignty of the Empire. The delegation, which had been sent in the spring of 1416 to the

¹⁰¹ Sigismund made a document of the agreement of both parties on the prolongation of the truce on 6 April 1416 in Paris which took place supposedly thanks to his intervention and instigation, as well as that King of France Charles VI the Mad ('ex nostra iuteruencione et induccione studiosa et eciam carissimi fratris nostri serenissimi principis Karoli regis Francorum'). The original has been preserved in Kraków, Muzeum Narodowe, Biblioteka XX. Czartoryskich, Zbiór Dokumentów Pergaminowych [National Museum in Kraków, The Princes Czartoryski Library, Parchment Deeds], sign. no. 316; the copy in the imperial registers HHStA, Reichsregister, Band E, fol. 203r; ALTMANN, RI XI (as in footnote 28), no. 1951.

¹⁰² All of these facts had minimal impact on the question of who would be the arbiter in this dispute, cf. BOOCKMANN (as in footnote 2), pp. 216-296.

¹⁰³ Sigismund's appointment deed from 22 June 1415, see HHStA, Reichsregister, Band E, fol. 181v-182r, and ALTMANN, RI XI (as in footnote 28), no. 1771, does not much surpass the general formulation and does not list the areas or themes which the elector of the palatinate should deal with.

¹⁰⁴ BOOCKMANN (as in footnote 2), pp. 205-208.

¹⁰⁵ *Ibidem*, p. 210. On the unrealized bilateral conversations, see SZWEDA, Organizacja (as in footnote 2), pp. 385-386.

Grand Master in Marienburg, brought a negative response to this question.¹⁰⁶ At the same time, Sigismund of Luxembourg had conditioned his engagement on their side in the dispute on a positive position of the Order on this question, or the clear statement of the Grand Master on whether the Order belonged only to the Empire or not. If the Order did not want to be subject only to the Empire, King Sigismund would be 'forced' to send aid to the Polish king. The response of the delegation on this clear threat was diplomatically simple: the Order is subject both to the Church and the Empire ('*der orde sei beide under der kirchen und och under deme reiche*').¹⁰⁷ It is therefore understandable that the delegation of the Order decided to contrive a way of transferring the resolution of their cause from the competence of the King of the Romans into the hands of the council. On the contrary, the envoys of the Polish king seemed to agree with the present activity of King Sigismund in the affair.¹⁰⁸ A certain disenchantment with the position of Sigismund arises from the ironic comment of one of the members of the Order delegation (Caspar Schuwenpflug) that if the King of the Romans helped the Polish king as he had so far helped the Order, the Grand Master had nothing to fear.¹⁰⁹

¹⁰⁶ The delegation in the composition of Archbishop Johann von Wallenrode and Frederick VI, Burgrave of Nuremberg and Margrave of Brandenburg, arrived in Marienburg on 6 April 1416 and presented the Grand Master with the three requests of the King of the Romans, among which the first dealt with precisely the feudal sovereignty of the Empire, the second the redemption of Spiš from the Polish pledge and transfer to Sigismund, and the third the handover of the Neumark ('New March') to the King of the Romans without the necessity to pay the pledge amount. The Grand Master after a consultation with the master of the Livonian Order and the other members of his council responded that the Order had never been in feudal subjection to the Empire and it had never been requested of them. He also answered the second request negatively with a reference to the insufficient financial possibilities of the Order. The Grand Master was willing to fulfil the third request only under certain conditions: if it meant a guarantee of peace, the frontiers of the Order territory and the validity of the privileges, see the letter of the Grand Master to the procurator Wormditt from 22 April 1416 in PROCHASKA (as in footnote 89), no. 667, pp. 342-343; KUBON/SARNOWSKY (as in footnote 52), no. 197, pp. 177-178; KOEPPEN (as in footnote 45), vol. 2, no. 157, pp. 323-324. Further see JÄHNIG (as in footnote 75), p. 95; ERICH BRANDENBURG: *König Sigmund und Kurfürst Friedrich I. von Brandenburg*, Berlin 1891, pp. 50-51. NÖBEL (as in footnote 50), surprisingly does not mention the relevant discussion before the Grand Master at all.

¹⁰⁷ KOEPPEN (as in footnote 45), vol. 2, no. 202, pp. 394-397.

¹⁰⁸ See the letter from the canon of Warmia Caspar Schuwenpflug to the Grand Master from March 1417 in ISRAEL (as in footnote 89), no. 14, p. 91; KOEPPEN (as in footnote 45), vol. 2, no. 202, pp. 394-397.

¹⁰⁹ ISRAEL (as in footnote 89), no. 14, p. 91: 'so durfet ir [the Grand Master] euch keines vor im besorgen, wen er [King Sigismund] dem konige [the King of Poland] also viel als euch denne mag zuhulfe komen'. For information on the activity of the canon of Warmia Caspar Schuwenpflug see TERESA BORAWSKA: *Kaspar Schuwenpflug i jego rola w procesach polsko-krzyżackich w pierwszej połowie XV wieku* [Caspar Schu-

In the spring of 1417 plenipotentiaries of the Order led by Archbishop Wallenrode presented to the council four methods of resolving the dispute between the Grand Master and the Polish king: 1) based on the Brodnica truce *composicio amicabile*, which would be announced by the pope, the council and the King of the Romans or another spiritual prelate or secular prince; 2) *via compromissi de alto et basso* (German *hindergang*) through the council and the King of the Romans, whereby the future pope along with the king should guarantee the implementation of the agreement; 3) *via iuris* whether before the council, before the future pope, before the Empire, before the King of the Romans or before any competent judge; 4) investigation by a deputation of the College of Cardinals and the 'nations' as to whether the submitted possibilities were feasible, or the proposal of other possibilities, but under the condition of the extension of the Brodnica truce.¹¹⁰

However, it was necessary to urgently resolve the extension of the truce, managed by the issuance of Sigismund's document of 14 May 1417.¹¹¹ In connection with that, King Sigismund accepted the role of mediator which, at that time of ongoing ceasefire, consisted of guiding both sides towards a perpetual peace. Both sides agreed on Sigismund as 'in amicabilem pacis et concordie [...] tractatorem mediatoremque' who was to proceed 'per viam et comodum amicabile concordie'.¹¹² The Latin formulations are not presented here as an end in themselves, but they are to draw attention to the fact that both sides agreed on King Sigismund as the mediator, not as the arbiter (arbitration judge).¹¹³ It was no emergency solution substituting the real arbitration procedure, but in fact a first step towards it. However, the person of the arbi-

wenpflug and His Role in the Polish-Teutonic Trials in the First Half of the 15th Century], in: *Zapiski Historyczne* 79 (2014), 2, pp. 7-28.

¹¹⁰ For all four proposed methods of resolving the dispute, see *Kopialbuch von Urkunden über die mit Polen entstanden Streitigkeiten und deren Verhandlung am Konstanzer Konzil*, in: *Deutschordenszentralarchiv in Wien* (in the following: DOZA), Handschriften, sign. 142, pp. 82-84. Further, see KOEPPEN (as in footnote 45), vol. 2, no. 204, pp. 398-399, footnote 1. Already on 15 March 1417, Archbishop Johann von Wallenrode presented two routes to the Grand Master from which the Order had to choose: 'enczwar ir werdet des gancz bii unserm hern dem könige oder bii dem zukünftigen babst und dem heiligen concilio bleiben', see KOEPPEN (as in footnote 45), vol. 2, no. 201, p. 394. Cf. PAUL NIEBOROWSKI: *Der Deutsche Orden und Polen in der Zeit des größten Konfliktes*, Breslau 1924, pp. 207-214.

¹¹¹ The truce was extended until 13 July 1418, see LEWICKI (as in footnote 72), no. 72, pp. 84-86.

¹¹² For the undated letter of Sigismund preserved in a copy, see *ibidem*, no. 73, pp. 86-88. It can be dated according to the reference mentioned in the text to the extension of the truce on 14 May 1417.

¹¹³ The arbitration judges are often labelled variously, most often as *arbiter*, *arbitrator* or *amicabilis compositor*, sometimes also as *ordinator*, *diffinitor*, *laudator* or *cognitor*, but never as *tractator* or *mediator*, cf. WOJCIECHOWSKI (as in footnote 10), p. 80.

ter or the method of the process had not yet been definitively decided upon by this.¹¹⁴

In the summer, the representatives of the Order were able to convince King Sigismund that the proposals presented at the council and the 'national' *gremias* were not an insult to his royal honour ('wydder seyne gnode'). He agreed with this interpretation and revealed his intention to establish a just peace ('reddelichen frede') between the Order and Poland along with the next pope.¹¹⁵ The warm reception of the Order's proposals by the cardinals and the 'nations' boosted the representatives so much that they decided to request that the future pope would forbid the Polish king from attacking Order territory.¹¹⁶ After the election of Cardinal Odo Colonna as Pope Martin V on 11 November 1417, he was presented with an amended three-point proposal which was different from the spring and summer proposals, albeit only slightly.¹¹⁷

In the first point, it was proposed that six representatives would be chosen from each party to reach an agreement 'per vias amicabile compositionis aut iusticie'.¹¹⁸ Otherwise, the pope as *superarbiter* would have to make a final decision based on the Peace of Toruń and his confirmation in the Buda arbitration award of Sigismund of Luxembourg. If that did not appeal to the Polish party, the Order proposed to draft a new *compromissum* in which the pope and the King of the Romans would be the arbiters and which would resolve all the disputable and as yet unclarified issues, including the course of the frontiers. The third point of the proposal contained an arbitration procedure *per viam iuris* guided by the pope, the King of the Romans or any other proper judge. In the conclusion, the representatives of the Order proclaimed that they were willing to accept any method of resolution that Pope Martin V might propose.¹¹⁹ It is clear from the presented proposal that the Order delegation had excluded the council from their consideration and placed emphasis on the pope and King of the Romans while the main word was to go to the supreme pontiff.

The Polish delegation rejected all of the proposals from the Order representatives and insisted that they would only accept a decision made by the King of the Romans.¹²⁰ He, however, still had to cooperate more with the pope, to whom he sent his own concept (*underweisung*) of the resolution of

¹¹⁴ See footnote 4. Cf. NOWAK, *Międzynarodowe* (as in footnote 8), p. 77.

¹¹⁵ KOEPPEN (as in footnote 45), vol. 2, no. 210, p. 414.

¹¹⁶ *Ibidem*, no. 211, p. 416.

¹¹⁷ The proposals were presented to the pope on 27 November 1417, see *ibidem*, no. 232, p. 448, Note 1.

¹¹⁸ DOZA, *Handschriften* (as in footnote 110), sign. 142, p. 94.

¹¹⁹ *Ibidem*.

¹²⁰ While the preserved written justification is not dated, it can be estimated according to the factual context that it was created after the three-point proposal presented to Martin V, see *ibidem*, pp. 95-100. Cf. NIEBOROWSKI (as in footnote 110), p. 214, which is mistakenly dated May 1417.

the whole affair.¹²¹ According to Martin V, its implementation would be too burdensome for the Order. The Poles were to present their own position to the pope in writing and on its basis, he was to decide whether it was possible to bring the two parties ‘yn fruntlichkeit’. Otherwise, the pope was to decide according to law (‘an eyn recht’).¹²²

It is necessary to include in this temporal and factual context Sigismund’s repeated granting of authority, which has been neglected in the literature until now, to Benedict of Makra, who was (again?) appointed subarbiter in the relevant dispute by a deed from 24 January 1418.¹²³ In the appointment document, the original authorization from 1 October 1412 is confirmed and inserted. The doctor of both laws received power of attorney to realize the points listed ‘in certis articulis et sententiis’, but we do not find out anything else from this appointment, only Sigismund’s general justification that he had to make this appointment because of being too busy with other affairs concerning the Empire.¹²⁴ The sources are silent on the activities of Benedict, but a large question mark hangs over the very fact that King Sigismund was still considered (at least by himself) the arbiter or arbitrator, although the validity of the original *compromissum* had expired in the summer of 1414 after the unsuccessful discussion in Buda and a new *compromissum* had not yet been issued. That happened only after travelling along a quite tortuous path.

In the middle of February 1418 the ceremonial delegation of the Polish king and Lithuanian grand duke arrived in Constance. The most significant figure of the group was the Metropolitan of Kiev Gregory Tsamblak.¹²⁵ His delegation brought a new authorization to Constance for the Polish representatives at the council who could draft a *compromissum* based on which Pope Martin V and King of the Romans Sigismund Luxembourg would become

¹²¹ No more detail is known on the content of Sigismund’s proposal.

¹²² See the letter from the Commander of Mewe (Gniew) to the Grand Master from 3 January 1418 in KOEPPEN (as in footnote 45), vol. 2, no. 233, pp. 449-450.

¹²³ HHStA, Reichsregister, Band F, fol. 91r; ALTMANN, RI XI (as in footnote 28), no. 2844.

¹²⁴ HHStA, Reichsregister, Band F, fol. 91r.

¹²⁵ NOWAK, Międzynarodowe (as in footnote 8), p. 78, presents the mistaken month (March) as the arrival of the metropolitan in Constance. Cf. BOOCKMANN (as in footnote 2), pp. 215-216, and GERHARD PODSKALSKY, MICHEL MERVAUD: L’intervention de Grigorij Camblak, métropolitane de Kiev, au concile de Constance (février 1418), in: *Revue des Études Slaves* 70 (1998), 2, pp. 289-297 (see the earlier bibliography there); MURIEL HEPPELL: New Light on the Visit of Grigori Camblak to the Council of Constance, in: *Studies in Church History* 13 (1976), pp. 223-229, and IDEM: *The Ecclesiastical Career of Gregory Camblak*, London 1979, pp. 81-100. It is altogether typical that the union attempts harmonized only with the policy of King Sigismund, and not that of Pope Martin V. The letters of Władysław II Jagiełło to the council and the pope on his efforts to return the schismatic Christians to the womb of the church, cf. LEWICKI (as in footnote 72), no. 77, pp. 92-93, and no. 81, pp. 98-100, encountered a positive response only with the King of the Romans, see *ibidem*, no. 88, pp. 108-109.

‘arbitratores et amicabile compositores’.¹²⁶ The validity of the relevant *compromissum* was limited only to the period of the joint stay of the two arbiters in Constance. The Order immediately raised a protest that the ‘state’ appurtenance of Pomerania as well as the lands of Chełm and Michałów would be resolved in the arbitration. Otherwise, though, it was prepared to subject itself to the arbitration award which would be handed down according to law, whether at the will of the pope or the King of the Romans (‘welden wir gerne vor eyn recht vor im, adir vor dem konig’).¹²⁷

According to Caspar Schuwenpflug, in March the pope came to the opinion that the Polish side, just like the representatives of the Order, desired peace. This was supposedly hindered, according to Martin V, only by a single unnamed person. He might have meant by that King Sigismund upon whose cooperation he was, however dependent, willy-nilly.¹²⁸ On 13 May 1418 Pope Martin V in the presence of the King of the Romans confirmed the extension of the Brodnica truce until 13 July 1419. The Order was to meet some of the demands already by 13 July of the same year under the threat of financial sanctions. From the perspective of the still unstarted arbitration, it was important that the conditions of the truce would not have an influence on the former and future provisions of Martin V and Sigismund.¹²⁹

The Council of Constance came to its conclusion and the disputing sides not only did not receive an arbitration award but had not even agreed on the person of the arbiter, although in the last weeks of the council discussions, it seemed that both sides might agree with a pair of arbiters—the pope and King of the Romans. A drafting of the *compromissum* did not occur. The disappointment of the Polish delegation was expressed by the archbishop of Gniezno when he declared that all of the credentials the Polish delegation had received from King Jagiełło and Grand Duke Vytautas the Great were invalid. The mentioned sovereigns apparently preferred to select another prince as the arbiter. Sigismund of Luxembourg argued with the archbishop, but it is not known with which arguments.¹³⁰

4 The Tortuous Path to the Wrocław Arbitration Award

Even though at the conclusion of the council Poland and the Order had come somewhat closer to answering the question of the arbiter/s (the pope and the King of the Romans), the events of the following months swept this idea

¹²⁶ LEWICKI (as in footnote 72), no. 84, pp. 102-105.

¹²⁷ KOEPPEN (as in footnote 45), vol. 2, no. 239, pp. 460-461.

¹²⁸ The name of the person who impeded peace was to be shared with the Grand Master orally through the courier of the letter, see *ibidem*, no. 241, pp. 463-464.

¹²⁹ WEISE, *Staatsverträge* (as in footnote 1), no. 129-130, pp. 127-128.

¹³⁰ From the letter from the procurator Wormditt to the Grand Master from 15 April 1418, see KOEPPEN (as in footnote 45), vol. 2, no. 249, p. 475.

aside.¹³¹ Jagiełło endeavoured for a great triple coalition against the Order (Polish-Lithuanian Union, Union of Kalmaris and King Sigismund of Luxembourg), whereas the King of the Romans continued to press the Grand Master to recognize the feudal sovereignty of the Empire. In this situation, the Order understandably tried to have the pope lead the arbitration, while Poland insisted on King Sigismund.¹³²

In the bilateral discussions at Veliuona from 13 to 22 October 1418, the question of the person of the arbiter was widely discussed, but without a satisfactory result.¹³³ According to the interpretation of the Order, the immediate subordination of the Order to the Papal See, the disrespect of the earlier arbitral awards of Sigismund by the Polish party and the still valid provision of the Peace of Toruń with the pope, who was 'beider parteie obirste richter'¹³⁴, as superarbiter spoke for the appointment of the pope as arbiter. Despite that, the Order negotiators presented several possibilities for the composition of the arbitration commission (e. g. the pope and cardinals, King Sigismund and the electors etc.) as a goodwill gesture and alternative. It apparently irked the King of the Romans that the Order would dictate to him with whom he was to form the team of arbiters. He himself would seemingly have chosen the Margrave of Brandenburg and the Duke of Saxony. Sigismund wrote to the bishop of Wrocław that the King of Poland Władysław II Jagiełło had addressed 'him als einem Romischen konig' with the plea of negotiating the reconciliation precisely because Jagiełło believed that the Order was subject to him and the Holy Roman Empire.¹³⁵

In this political stalemate in which the Grand Master and the Order had gotten themselves, Michael Kuchmeister managed, also thanks to appeals to the Electors Palatine, to force Pope Martin V to send his legates as mediators of a reconciliation between the parties. On 6 February 1419, the Bishop of

¹³¹ For more details about subsequent events up to the announcement of the Wrocław arbitration award see NOWAK, *Międzynarodowe* (as in footnote 8), pp. 81-96.

¹³² In the autumn of 1418, the mayor of Neumark wrote to the Grand Master that at the planned congress of the Polish king, Sigismund of Luxemburg and other Christian princes, Eric VII of Pomerania should not be missing among them. It dealt with the transfer of the Order of the Teutonic Knights from Prussia to the islands of Cypress and Rhodes, see JOACHIM/HUBATSCH (as in footnote 44), no. 2807, p. 176. From one letter from Sigismund's courtier to the Grand Master from 7 September 1418, it is apparent that the king did not doubt the feudal affiliation of the Order to the Empire, unless the Grand Master proved otherwise, see ISRAEL (as in footnote 89), no. 15, p. 91.

¹³³ For the Order's proposals for the arbitration, see WEISE, *Staatsverträge* (as in footnote 1), no. 131, pp. 128-133; PROCHASKA (as in footnote 89), no. 799, pp. 421-422. For more, see SZWEDA, *Organizacja* (as in footnote 2), pp. 388-389. For the reaction of Sigismund, who was then at an imperial diet in Passau, see JOACHIM/HUBATSCH (as in footnote 44), no. 2887, p. 181; cf. NOWAK, *Międzynarodowe* (as in footnote 8), pp. 82-83.

¹³⁴ WEISE, *Staatsverträge* (as in footnote 1), no. 131, p. 132.

¹³⁵ ISRAEL (as in footnote 89), no. 16, p. 92.

Spoleto Jacob de Camplo and the Bishop of Lugano Ferdinand Palaccios set out for Poland where from 5 until 12 May they led discussions at which also the representatives of the Polish king were present for formal reasons. These discussions, however, presented the Order with the maximum demands for territorial concessions. The negotiations were closed with the issuance of the so-called *litterae testimoniales* by both papal legates in which the legal demands and privileges of the Order were confirmed. This understandably aroused great indignation on the Polish side.¹³⁶

Meanwhile, conversations were taking place between the King of Poland and the King of the Romans in Košice. Both papal legates and a representative of the Order (the commander of Toruń) also attended in the end. Władysław II Jagiełło very soon (8 May) wrote out the *compromissum*, based on which King Sigismund was to announce the award by 29 September.¹³⁷ He accepted the role of arbiter and in the so-called *receptum* from 18 May he bound himself to force the Order to consent to his person as the arbitration judge. Moreover, he promised that if he himself did not announce the arbitration award by the set deadline, he would send the Polish king and Lithuanian grand duke military aid against the Order.¹³⁸ Sigismund sent his delegation (Duke of Opava Přemek and *Hofmeister*, i. e. master of court, Ludwig von Öttingen) to Marienburg with these documents and instructions, but without a positive response.¹³⁹ King Sigismund attempted to ease the fears of the Grand Master with his intent to announce the arbitration award along with the Margrave of Brandenburg, Duke of Saxony, Margrave of Meissen and Archbishop of Cologne.¹⁴⁰ Yet, it did not lead to a change in the position of the

¹³⁶ The Grand Master was informed by the Order procurator on 23 January 1419 of the papal decision to send legates, see KOEPPEN (as in footnote 45), vol. 2, no. 303, p. 584. For the papal authorization, see HANS BELLÉE: Polen und die römische Kurie in den Jahren 1414-1424, Berlin—Leipzig 1913, no. 4, pp. 50-53. For the *litterae testimoniales* see MATHIAS DOGIEL (ed.): Codex diplomaticus regni Poloniae et magni ducatus Lituaniae, vol. 4, Vilnae 1764, no. 87, pp. 97-100. For references to other sources, see SZWEDA, Organizacja (as in footnote 2), pp. 389-390.

¹³⁷ DOGIEL (as in footnote 136), pp. 102-103; WEISE, Staatsverträge (as in footnote 1), no. 137, p. 137.

¹³⁸ BUNGE (as in footnote 72), no. 2319, pp. 476-477; ALTMANN, RI XI (as in footnote 28), no. 3868; WEISE, Staatsverträge (as in footnote 1), no. 138, pp. 137-138. Sigismund also had a *receptum* prepared for the Order but without the clause on the military aid to Poland and Lithuania, see HHStA, Reichsregister, Band G, fol. 45v.

¹³⁹ Sigismund informed the Grand Master of the plan to send a delegation in a letter from 17 May 1419, see ALTMANN, RI XI (as in footnote 28), no. 3867; JOACHIM/HUBATSCH (as in footnote 44), no. 2966. For the authorization documents, see ALTMANN, RI XI (as in footnote 28), no. 3869, 3872; JOACHIM/HUBATSCH (as in footnote 44), no. 2967-2968, p. 186.

¹⁴⁰ See the report of the commander of Toruń, which arrived in Košice on 22 May, in ISRAEL (as in footnote 89), no. 20, p. 95, and PROCHASKA (as in footnote 89), no. 835, pp. 447-449.

Order, so Sigismund again threatened a military attack against the Order at Poland's side.

On 11 June 1419, the royal envoys reached the Grand Master and presented him with the originals of the documents regarding the acceptance of the King of the Romans as the arbiter.¹⁴¹ King Sigismund was clearly disappointed with the position of the Grand Master and the Order towards his person, and expressed as much in a letter to an unidentified prince (elector?).¹⁴² At the same time, he complained to the pope about the behaviour of his two legates and requested their dismissal.¹⁴³ Sigismund's public support for the Polish king and the promise of military aid against the Order provoked a critical response from some electors who labelled such conduct not only as unfair and illegal, but also as contrary to the faith, Christianity and the pope. The electors complained that the King of the Romans, called to be the defender of the church ('der heiligen kirche vogt'), should not act that way.¹⁴⁴ It is noteworthy that the Polish envoys tried using a similar argument in Wrocław to force Sigismund to announce a favourable award for the Polish party (see below).

The King of the Romans, in fact, did not want to act militarily against the Order, only to develop diplomatic pressure on it to agree to his person in the role of the arbiter.¹⁴⁵ Therefore, Sigismund, anxious about the military preparations and shifts of the armies to the Prussian-Polish frontiers, sent another delegation to Prussia, this time composed of the archbishop of Milan Bartolomeo della Capra and two Englishmen—Carmelite Thomas of Walden and the knight Hartung van Clux.¹⁴⁶ In the end, it was possible to avoid war be-

¹⁴¹ On the course of the delegation, see the letter from the Grand Master to the Order procurator from 26 June 1419 in KOEPPEN (as in footnote 45), vol. 2, no. 319, pp. 614-615, and the report of the royal envoys to Sigismund from 13 June 1419 in OBA, no. 2977; JOACHIM/HUBATSCH (as in footnote 44), no. 2977, p. 187.

¹⁴² ALTMANN, RI XI (as in footnote 28), no. 3882.

¹⁴³ *Ibidem*, no. 3883.

¹⁴⁴ ISRAEL (as in footnote 89), no. 21, pp. 96-97: 'nicht allein wider gleich und recht, sunder auch wider den glauben und die ganzen cristenheit, den stul von Rome'.

¹⁴⁵ Sometime in summer or autumn 1419 some Order representatives in Rome were criticized by one of Sigismund's courtiers—Johann von Borsnitz, bishop of Lebus—for their opposition to the king as arbiter. He swore that he had already seen a written arbitration award which unambiguously should have been favourable to the Order, see HANS KOEPPEN (ed.): *Die Berichte der Generalprokuratoren des Deutschen Ordens an der Kurie. Vol. 3/1: Johann Tiergart (1419-1423)*, Göttingen 1966, no. 2, p. 53: The bishop 'sprach, swerende uff seiner brust, her hette itczunt das gescreben orteil und awsproch geseen, den der konig wolde gegeben haben in der sachen czwischen deme polonischen konige und dem orden, und were dem orden wert 100 000 gulden, das ist itczunt gescheen were'. One cannot even exclude that Sigismund had already prepared another award in favour of Poland and Lithuania just in case the changing political situation would have required it.

¹⁴⁶ KRZYSZTOF BACZKOWSKI et al. (eds.): *Joannis Dlugossii Annales seu cronicæ incliti regni Poloniae. Liber 11: 1413-1430*, Varsaviae 2000, pp. 100-101; THEODOR HIRSCH,

cause to the credit of this delegation and thanks to the papal legates the two parties concluded, or extended the truce until 13 July 1420 by which the condition required by the Grand Master and the Order was fulfilled so that they were ready to give their consent with the arbitration procedure.¹⁴⁷ Under pressure and the threat of a military attack, Grand Master Michal Kűchmeister thus consented to Sigismund as the arbiter and on 19 July 1419 he had the relevant *compromissum* written out.¹⁴⁸

Sigismund originally wanted to announce the arbitration award on 28 September, but dramatic events in the Kingdom of Bohemia after the death of his brother Wenceslas IV and the alarming reports from the Hungarian-Turkish frontier forced him to move the announcement of the award to 6 January 1420.¹⁴⁹ Władysław II Jagiełło, who met Sigismund in Nowy Sącz on 8 September, greatly disliked this. The King of Poland finally agreed to the modified deadline under the condition that the arbitration procedure begin immediately. The Polish party, although the Order representatives were absent, hence presented Sigismund with evidentiary material, the petition articles and the testimony of witnesses. In addition, the protocol of Benedict of Makra, the minutes from the Buda procedure led by the archbishop of Esztergom and the Hungarian palatine, and the award of the papal delegation from 1339, with which the Polish party doubted the validity of the later peace contracts and agreements between the Order and the Kingdom of Poland, were exhibited.¹⁵⁰

After the end of the discussions in Nowy Sącz, King Sigismund departed for Oradea, accompanied by the Polish delegation (among them Paweł Włodkowic). Under the authorisation of Władysław II Jagiełło, the Polish delegation was assigned to continue the arbitration procedure. At the same time the

MAX TÖPPEN et al. (eds.): Johann von Posilge, nebst Fortsetzung, in: *Scriptores rerum Prussicarum*, vol. 3, Leipzig 1866, pp. 79-388, here p. 383. For more details about Hartung von Clux see FRIEDRICH BERNWARD FAHLBUSCH: Hartung von Klux: Ritter König Heinrichs V.—Rat Kaiser Sigmunds, in: IDEM, PETER JOHANEK (eds.): *Studia Luxemburgensia: Festschrift Heinz Stoob zum 70. Geburtstag*, Warendorf 1989, pp. 353-403.

¹⁴⁷ See the notary instrument from 19 July 1419 on the conclusion of a truce—WEISE, *Staatsverträge* (as in footnote 1), no. 133, pp. 135-136—and ratification by both parties from 26 (the King of Poland and Grand Duke of Lithuania, *ibidem*, no. 135, p. 137), or 30 July (Grand Master, *ibidem*, no. 136, p. 137).

¹⁴⁸ *Ibidem*, no. 140, pp. 139-140. Further, see NÖBEL (as in footnote 50), pp. 109-111.

¹⁴⁹ JAKOB CARO (ed.): *Liber cancellariae Stanislai Ciołek: Ein Formelbuch der polnischen Königskanzlei aus der Zeit der hussitischen Bewegung*, vol. 2, in: *Archiv für österreichische Geschichte* 52 (1875), pp. 1-273, here no. 64, pp. 117-119. The letter from Sigismund to the Grand Master on the shift of the deadline is dated 30 August 1419 in Buda, see DIETRICH KERLER (ed.): *Deutsche Reichstagsakten*, vol. 7, München 1878, no. 272, p. 398; ALTMANN, RI XI (as in footnote 28), no. 3914. The Grand Master expressed consent with the new deadline on 24 September (*ibidem*, no. 273, p. 398). The King of Poland did the same on 29 September (*ibidem*, no. 274, p. 398).

¹⁵⁰ *Długossii Annales XI* (as in footnote 146), p. 104; NOWAK, *Międzynarodowe* (as in footnote 8), p. 88.

invitations to the imperial diet in Wrocław were being sent, where the Prussian-Polish arbitration as well as the problem of growing rebellion in Bohemia were to be discussed.¹⁵¹ Sigismund Luxembourg arrived in the Silesian metropolis in the late evening of 5 January 1420, the day before the set date for announcing the award; this seems to have fundamentally influenced the future discussion. The next day, the king proposed to the Polish delegation to reschedule the announcement of the award for reason of his late arrival but the Polish party rejected the request. The King of the Romans obviously did not want to antagonize one of the parties, as they would then be dissatisfied with his decision after the announcement of the award.¹⁵²

They therefore proceeded to examine the evidence presented by the Order representatives. Paweł Włodkowic in the name of the Polish delegation also kept reminding them to investigate the Polish evidence, in particular the statement of the papal legates from 1339. King Sigismund dismissed this protest because of the lack of time and with the justification that he was well acquainted with the Polish arguments. The evidentiary procedure on the part of the Order had a formal-legal character. The most important privileges issued by the pope and emperor (from the perspective of the Order), including the Peace of Toruń (1411) and Buda award (1412), were presented. The Polish protest was now directed at the acceptance of transumptus instead of the originals as evidentiary material.¹⁵³

The repeated protests of the Poles did not hinder King Sigismund from proceeding to the announcement of the definitive award containing 15 points. In essence, the King of the Romans confirmed the *status quo* in that the relations of peaceful coexistence were to continue as stipulated by the provisions of the Peace of Toruń. He then bound both sides to a certain mutual financial payment of damages and the return of prisoners. As superarbiter, he left him-

¹⁵¹ KERLER (as in footnote 149), no. 266, pp. 393-394; ALTMANN, RI XI (as in footnote 28), no. 3923-3926.

¹⁵² Z. H. NOWAK: Materiały źródłowe do sprawy wyroku wrocławskiego Zygmunta Luksemburskiego w procesie polsko-krzyżackim [Sources to the Arbitration Award by Sigismund Luxembourg Announced in Wrocław in the Dispute between Poland and the Teutonic Order], in: Zapiski Historyczne 41 (1976), 3, pp. 149-165, here no. 1, p. 155; for a reprint with a translation in German see IDEM: Przyczynki źródłowe do historii Zakonu Krzyżackiego w Prusach / Quellenbeiträge zur Geschichte des Deutschen Ordens in Preussen, Toruń 2011, pp. 75-101, here no. 1, pp. 85-88.

¹⁵³ NOWAK, Międzynarodowe (as in footnote 8), pp. 98-100. According to Nowak, Paweł Włodkowic could present the introductory text to the *allegaciones* despite the king's protest. In it King Sigismund was referred to as the emperor and defender of the church as well as arbiter ('tamquam imperator et compromissarius'), so that with his imperial authority he was merely obliged to the earlier award of the papal legates from 1339, see *ibidem*, p. 99.

self the authority to make the final decisions in all of the unclear questions which could arise in connection with the award.¹⁵⁴

The Polish delegation submitted a formal protest against the Wrocław arbitration award, which was announced in the presence of the papal legates, electors, representatives of the imperial cities, Silesian dukes, Sigismund's courtiers and the representatives of both parties to the dispute, still in Wrocław. It was, however, dismissed because from the procedural-legal perspective the authority of the superarbiter had expired with the announcement of the definitive award ('sententiam diffinitivam'). King Sigismund was willing to change his decision only in the case of a new *compromissum* on which both sides had agreed.¹⁵⁵ In Wrocław, the Polish representatives did not succeed with the protest and so King Władysław II Jagiełło, albeit against his will, began grudgingly to put some points of the Wrocław arbitration award into effect. Despite that, the Polish side submitted an appeal during the summer of 1420 to the papal court ('reductio ad arbitrium boni viri').¹⁵⁶

The so-called Roman procedure, which was led by the papal legate Antonius Zeno¹⁵⁷, in the end did not lead to a revision of the Wrocław arbitration award thanks to Sigismund's deft diplomacy. The King of the Romans argued that his award was announced in accordance with law (*de iure*) and moreover that he did not do so according to his own consideration but at that of the counsel and the recommendation of the papal legates present then in Wrocław. According to his words, Sigismund was and continued to be ready to accept counsel from the pope, cardinals or any other Catholic priest, if it could be proved to him that he had not acted according to law. According to his words, the problem lay mainly on both sides of the dispute, because one asked for too much and the other did not want to concede almost anything. How was one to find an amicable resolution with which both parties would be satisfied in such a case?¹⁵⁸ Although Sigismund of Luxembourg thus ended his role as the arbiter, the efforts to revise the Wrocław arbitration award kept

¹⁵⁴ WEISE, Staatsverträge (as in footnote 1), no. 141, pp. 140-144; NOWAK, Międzynarodowe (as in footnote 8), pp. 100-101.

¹⁵⁵ In the letter to Grand Duke Vytautas from 10 May 1420 Sigismund justifies his actions by stating that in announcing the award he had only one interest—*equitatem* and *iustitiam*. He could only change or amend his award 'ex novo consensu parcium', see PROCHASKA (as in footnote 89), no. 869, p. 474.

¹⁵⁶ NOWAK, Międzynarodowe (as in footnote 8), p. 102. On the appeal and subsequent so-called Roman case, see STANISŁAW ZAJĄCZKOWSKI: Studya nad procesami Polski i Litwy z Zakonem Krzyżackim w latach 1420-1423 [Studies on Trials between Poland-Lithuania and the Teutonic Order in the Years 1420-1423], in: Ateneum Wileńskie 12 (1937), pp. 282-403.

¹⁵⁷ JÓZWIĄK/SZWEDA (as in footnote 1).

¹⁵⁸ See the relation of the Order procurator Johann Tiergart in KOEPPEN (as in footnote 45), vol. 3/1, no. 39, p. 113.

him constantly busy; he resented this because he understood them as an insult to his honour and doubting of his authority as the King of the Romans.¹⁵⁹

5 Closing Remarks

According to the thus far valid conception of Nowak, Sigismund of Luxembourg conceived of arbitration as an effective instrument of his policy, the characteristic feature of which was supposedly the intentional delay of the definitive award while simultaneously assuring both sides of his obliging position. The King of the Romans wanted to acquire thus one of the parties to the dispute for his political plans according to the current circumstances. In other words, King Sigismund effectively managed to utilize the instruments provided to him by canon and civil law at that time for his political aims.

In a more careful view of the formal course of the arbitration procedure, it is possible to make our assessment somewhat more precise. Arbitration was not an instrument with unlimited possibilities, although the arbiter, or arbitrator, had very broad authority and did not have to observe the procedural rules of an ordinary judge. Certain boundaries were stipulated in the *compromissum*: the agreement of the disputing parties on the person and extent of the activity of the arbiter. Particularly the deadline for the announcement of the award and the unpredictable reactions of the parties to the announcement of the award, although bound to its observance, could sometime cause—and indeed did cause—fatal problems.

From the beginning, King Sigismund, who pressed both parties to accept him as the arbiter, might have placed certain hopes in the arbitration; however, these soon proved to be illusory. Over time, the feeling must have swelled in him that a real reconciliation between the Teutonic Order and the Polish-Lithuanian Union would not be easy, if possible at all. On the other hand, the removal of the causes of the perpetual wars and unrest on the south-eastern edges of Western Christianity was in his interest, particularly in the time approaching the Council of Constance. The dismissive reaction of the Grand Master to the mission of Benedict of Makra forced the king (in cooperation with the pope?) to transfer the dispute to the soil of the council where he might have expected a peaceful and mainly lasting resolution of the long-standing dispute. What is typical for Sigismund's relation to the actual arbitration is the fact that he sent out the invitation to council before his delegated judges in Buda in June 1414 to both parties before the collapse of the arbitration procedure.

¹⁵⁹ See the two letters from Sigismund to Pope Martin V. One of the two (perhaps from the beginning of 1421) has not been preserved, but the procurator of the Order gave testimony on it at the Curia on 2 February 1421 (KOEPPEN (as in footnote 45), vol. 3/1, no. 55, p. 146). The second letter dates from 5 February 1422 (ALTMANN, RI XI (as in footnote 28), no. 4720).

The authority of the envoys who came to Constance, and the subsequent discussions and negotiations during the council on the person of the arbiter and the method of governing the arbitration revealed the limited influence of the King of the Romans in the resolution of these questions. The drafting of the new *compromissum* in the summer of 1419 could occur only thanks to the strengthening of the alliance ties between Sigismund and the Polish king on the one hand and the enormous diplomatic and military pressure on the Order on the other hand. The Polish delegation tried at all costs for the arbitration award favourable to them to be announced by King Sigismund as soon as possible, whereas he wanted to postpone the date of its announcement again.

Arbitration was not by far the most powerful political instrument in the hands of the King of the Romans. It, however, became a crutch for cementing the alliance contract with mutual obligations and commitments in the case of Poland, or forcing feudal sovereignty on the Teutonic Order in Prussia. Through these political means, the king acquired far more than through announcing the arbitration award. The Polish-Lithuanian Union as a political-military ally of the King of the Romans and Hungary was a cornerstone of Sigismund's anti-Turkish policy and so it is no wonder that precisely in the autumn of 1419 he publically expressed his support to Władysław II Jagiełło. If the Order of Teutonic Knights had accepted the feudal sovereignty of the Empire, King Sigismund could have very easily, with the title of feudal lord, removed the source of tension in the Baltic, e. g. by moving the Order to the Mediterranean or anywhere else where it could realize its mission in the battle against the *infideles*.

Sigismund's policy was characterised by following several aims and implementing several plans at the same time and the case of this arbitration was no different. It is not possible to remove the feeling that the arbitration procedure became a double-edged sword for him because through it, Sigismund of Luxembourg acquired and also lost an ally, and his reputation as *advocatus et defensor ecclesie* (the defender of the church) shone at times but was dented at others.

Translated by Sean Miller