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ADJUDICATION OF DISPUTES IN THE ICELANDIC COMMONWEALTH

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1. INTRODUCTION

The Medieval Iceland of the era of the Icelandic Commonwealth (ca. 930–1264)[1] is a relatively well-documented pre-state society based on the chieftaincy model, which featured a developed legislative and judicial apparatus but no organized executive system.[2]

Iceland was settled in the time of the Viking Age which, based on extensive source material, is now considered a period of increased violence, chaos and lawlessness.[3] However, on this uninhabited island, located in the far north of the Atlantic Ocean, the "land taking" (*landnám*) was relatively peaceful.[4] The diverse

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1 "Free Commonwealth", a free translation of the Icelandic *Þjóðveldið*, is one of the several terms present in the literature to define the system of government of medieval Iceland. It is an anachronism. The Icelanders themselves simply called it "our law" (*var lög*). For a discussion on naming conventions applying to Medieval Iceland and the ensuing problems, see S. Nordal, *Icelandic Culture*, Ithaca 1990, p. 76 and K. Hastrup, *Culture and History in Medieval Iceland. An Anthropological Analysis of Structure and Change*, Oxford 1985, p. 249.

2 For a general description of the legal and political system of the Free Commonwealth, see J.L. Byock, *Governmental Order in Early Medieval Iceland*, Viator: Medieval and Renaissance Studies 17, 1986, pp. 19–34. For a discussion on the development of medieval Icelandic institutions, see B.Þ. Runolfsson Solvason, *Institutional Evolution in the Icelandic Commonwealth*, Constitutional Political Economy Vol. 4, No. 1, 1993, pp. 97–125.

3 For a general discussion on the Viking Age, see the works compiled in S. Brink, N. Price (eds), *The Viking World*, London 2008.

4 For more information about the settlement of Iceland, see K.P. Smith, *Landnám: The Settlement of Iceland in Archaeological and Historical Perspective*, World Archaeology Vol. 26, No. 3, 1995, pp. 319–347.

ethnic origin of the settlers,[5] the absence of a unified legal culture[6] and competition for scarce resources[7] inevitably led to a number of tensions and conflicts occurring in a relatively short period of time, which needed to be addressed in a formalised manner. Spontaneous public assemblies, called *þing*, became the forum for settling these disputes. These assemblies were initiated by local chieftains (*goðar*, singular *goði*) who were recruited from among the leadership of the settlement expeditions and held a *primus inter pares* position among the colonists.[8] At the period of the colonisation of Iceland (ca. 870–ca. 930), these assemblies most likely did not have a strictly formalised nature. However, in the first decades of the 10th century, a centralised assembly structure began to emerge, comprising 13 local assemblies (*héraðsþing*) and one General Assembly (*Alþingi*) with the associated Law Council (*lögrétta*).[9]

According to the extant sources, each Icelandic local assembly was led by three *goðar*, and the obligation to attend its meetings was incumbent on all affiliated householders (*bændr*, singular *bóndi*).[10] The chieftains convening at the same assembly were called *samþingisgoðar* (literally, "the *goðar* of the same *þing*") and, together with their householder followers attending an assembly (*þingmenn*), formed what was known as "the assembly triad" (*þriðjungr*). The meetings of the General Assembly were obligatorily attended by all *goðar*. Furthermore, each of them was legally obliged to appear in the assembly site (*Þingvellir*), with at least one-ninth of their *þingmenn*.

Icelandic assemblies were largely judicial in nature.[11] Each local assembly had a court (*dómar*, singular *dómr*) attached. The courts adjudicated disputes

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[5] For a more extensive explanation of the ethnicity of the settlers, see P. Urbańczyk, *Ethnic Aspects of the Settlement of Iceland*, Collegium Medieavale 15, 2002, pp. 155–165; and O. Vésteinsson, *Ethnicity and Class in Settlement-Period Iceland*, [in:] J. Sheehan, D.Ó. Corráin (eds), *The Viking Age: Ireland and the West. Papers from the Proceedings of the Fifteenth Viking Congress*, Dublin 2010, pp. 494–510.

[6] For a discussion on the legal traditions of the home regions of major Icelandic settlers, see S. Brink, *Law and Legal Customs in Viking Age Scandinavia*, [in:] J. Jesch (ed.), *Scandinavians from the Vendel Period to the Tenth Century*, San Marino 2002, pp. 87–117; *idem*, *Law and Society: Polities and Legal Customs in Viking Scandinavia*, [in:] S. Brink, N. Price (eds), *The Viking*, *supra* n. 3, pp. 23–31; G. Sandvik, J.V. Sigurðsson, *Laws*, [in:] R. McTurk (ed.), *A Companion to Old Norse-Icelandic Literature*, Oxford 2005, pp. 223–244.

[7] Þ. Eggertsson, *Sources of Risk, Institutions for Survival, and a Game Against Nature in Premodern Iceland*, Explorations in Economic History 35, 1998, pp. 1–30.

[8] For more information about the status and authority of the Icelandic chieftains, see J.V. Sigurðsson, *Chieftains and Power in the Icelandic Commowealth*, Odense 1999, *passim*; and the remarks in O. Vésteinsson, *Review: Jón Viðar Sigurðsson: Chieftains and Power in the Icelandic Commonwealth*, Saga Book 26, 2002, pp. 128–131.

[9] For a discussion on public assemblies, see G. Karlsson, *Iceland's 1100 Years. History of a Marginal Society*, London 2000, pp. 20–27; and J. Jóhannesson, *Íslendinga Saga. A History of the Old Icelandic Commonwealth*, Manitoba 2006, pp. 35–83.

[10] For a discussion on the social structure of the Free Commonwealth and the relationship between the householders and the chieftains, see W. Gogłoza, *Anarchistyczne wizje bezpaństwowego ładu społeczno-politycznego średniowiecznej Islandii – zarys krytyki*, Krakowskie Studia z Historii Państwa i Prawa Vol. 10, No. 2, 2017, pp. 241–261.

[11] M. Ułas, *Rola thingów w prawie karnym średniowiecznej Skandynawii na przykładzie Norwegii i Islandii*, [in:] M. Mikuła (ed.), *Culpa et poena. Z dziejów prawa karnego*, Kraków 2009, pp. 57–62 and the literature referred to therein.

that involved violations of then-applicable legal norms. The official structure of the Icelandic judiciary consisted of 13 courts associated with the springtime local assemblies (*sóknarþing*) and five courts linked to the *Alþingi*: four Quarter Courts (*fjórðungsdómar*) and the "Fifth Court" (*fimtardómr*).[12] The *sóknarþing* operated as courts of the first instance for minor cases punishable by a fine, the *fjórðungsdómar* heard appeals against decisions of the *sóknarþing* and served as the first instance courts for offences punishable by outlawry,[13] whereas the *fimtardómr* operated as the court of appeal in respect of decisions of the Quarter Courts, and also the court of the first instance in several types of cases exhaustively enumerated in law (e.g. bribing jurors, giving false testimony and assisting individuals sentenced to full outlawry).

Each assembly court was composed of 36 jurors appointed ad hoc by *goðar* from among their *þingmenn*. According to the Old Icelandic sources, *fimtardómr* were the courts of fact, which decided whether or not the accused party was guilty of the imputed transgression. The law itself determined the type and severity of the penalty for a given violation. Despite being composed of non-professional judges, these courts operated in a strictly formalised manner. They had a specific geographical, subject-matter and functional jurisdiction and followed a very complex procedure. This paper attempts to reconstruct this procedure on the basis of the preserved 13th-century private lawbooks of the Icelandic Commonwealth, called *Grágás*.[14]

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[12] Moreover, the Free Commonwealth had a number of ad hoc courts with the very narrow subject-matter jurisdiction, which operated outside the framework of assemblies. These included the *engidómar* (meadow courts), *afréttardómar* (pasture courts), *skuladómar* (inheritance debts courts), *hreppadómar* (commonwealth courts) and *féránsdómar* (enforcement courts). See G. Karlsson, *Social Institutions*, [in:] R. McTurk (ed.), *A Companion*, *supra* n. 6, pp. 507–508.

[13] The Old Icelandic Law provided for two main types of sanctions: fines, imposable in the three amounts of 3, 6 and 12 marks, and three types of outlawry: full outlawry without the right to leave the country (*skóggangr*), full outlawry with the right to leave the country (the editors of the extant Old Icelandic lawbooks – see below – called this type of outlawry "lesser outlawry with the added condition of no right of return" – *fjörbaugs secþ at hann scyli eigi eiga fört vt hingat*), and lesser outlawry (*fjörbaugsgarðr*), i.e. temporary three-year outlawry which obliged the outlaw to leave Iceland.

[14] *Grágás, Islændernes lovbog i fristatens tid, udgivet efter det kongelige Bibliotheks Haandskrift og oversat af Vilhjálmur Finsen, for det nordiske Literatur-Samfund*, Kjøbenhavn 1852. See also P.E. Ólason, *The Codex Reguis of Grágás: Ms. no. 1157 in the Old Royal Collection of The Royal Library Copenhagen, Corpus Codicum Islandicorum Medii Ævi*, Vol. 3, Copenhagen 1932; and Ó. Lárusson, *Staðarhólsbók: The Ancient Lawbooks Grágás and Járnsíða: MS. no. 334 fol. in the Arna-Magnaean Collection in the University Library of Copenhagen. Corpus Codicum Islandicorum Medii Ævi*, Vol. 9, Copenhagen 1936. For a discussion on the nature of the source in question, circumstances surrounding its creation and its scientific value, see especially Ó. Lárusson, *On Grágás. The Oldest Icelandic Code of Law*, [in:] K. Eldjárn (ed.), *Þriðji víkingafundur. Third Viking Congress*, Reykjavík 1958, pp. 77–89; G. Karlsson, *Goðamenning. Staða og áhrif goðorðsmanna í þjóðveldi Íslendinga*, Reykjavík 2004, pp. 28–59; P. Foote, *Reflections on Landabrigðisþáttr and Rekaþáttr in Grágás*, [in:] K. Hastrup, P.M. Sørensen (eds), *Tradition og historieskrivning. Kilderne til Nordens ældste historie*, Arhus 1987, pp. 58–59; M. Stein-Wilkeshuis, *Laws in Medieval Iceland*, Journal of Medieval History No. 12, 1986, pp. 37–53. All further references to *Grágás* concern the edition published in A. Dennis, P. Foote, R. Perkins (eds), *Laws of Early Iceland: Grágás, the Codex Regius of Grágás, with Material from Other Manuscripts*, Vol. I & II, Winnipeg 1980. In order to make it more convenient for readers to find the relevant passages in the text, I use the following notation style: a Roman number indicates the volume, an Arabic number indicates the section, and the subscripted Arabic number points to the page

2. *GRÁGÁS*-BASED ADJUDICATION PROCEDURE

The first step towards the launch of the *Grágás* proceedings for the judicial adjudication of a dispute was the "publication" of the alleged offence (*lýsa*). Any attacks against the immunity of an individual (*helgi*) gave rise to an obligation to formally announce the occurrence of the relevant incident to the appropriate group of qualified persons. This obligation was essentially imposed on the injured party. Exceptionally, if the injured party died as a result of the suffered injuries, the obligation would pass on the attacker. The Old Icelandic law provided that the injured party should report the incident to five non-involved householders living nearest to the site of the incident. The notification of the injuries could be communicated to the public in both daytime and night-time and could be made during a fast day, but it had to occur before the third sunrise that followed the separation of the contesting parties (*GI* $86_{142–143}$).

If the assaulted victim was attacked by a group and they were unable to determine which of the attackers was responsible for the harm or damage they suffered, the victim could identify all members of the group that violated the victim's immunity as the perpetrators. However, any wounds suffered by the victim needed to be attributed to specific perpetrators. The victim was allowed to identify no more than three perpetrators (*GI* 88_{143}). If the injuries suffered by the injured party prevented them from publishing the offence on their own, a duly authorised third party could comply with this obligation for the injured party.

In turn, when "only one of the parties survived the encounter", the duty to publish the incident was incumbent on the killer (*GI* 87_{146}). Within twelve hours from inflicting a mortal blow to their opponent (or, if the encounter or attack occurred on a fjord or a mountain, within twelve hours from the killer's descent), the perpetrator had to go to the first household where he would be safe from reprisals from the victim's relatives and made the offence known to at least one adult household member. Moreover, the perpetrator of the killing was obliged to protect the victim's body from birds and wild animals, as well as to inform the household member before whom the publication was made about the place where the body was hidden. The perpetrator's failure to comply with these obligations made them a murderer in the eyes of the law, which resulted in their losing the right to rely on self-defence in the course of subsequent judicial proceedings (*GI* 87_{146}).

Persons to whom the offence was published could later appear before the assembly courts as witnesses to the incident. However, they also had to be summoned to attend the relevant assembly. A valid summons had to be made at least two weeks before the inauguration of an assembly at which the case was to be heard (*GI* 32_{69}). If the person summoned as a witness was not legally required to attend the assembly, the party who intended to rely on their testimony before the court was obliged to pay the costs of their travel and attendance in the assembly (*GI* 33_{69}).

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on which the passage is found. For example, *GII* 255_{222} indicates section 255 published in the second volume of *Grágás* on page 222. The "‡" symbol preceding the paragraph number denotes an addition originating from outside of the Codex Reguis, which is the basis for the edition cited in this paper.

The medieval Icelandic judicial proceedings were adversarial in nature. The extant lawbooks use the term "principals" (*aðilar*, singular *aðili*) with reference to the person whose rights have been infringed and the infringer. Furthermore, principals were usually parties to judicial proceedings arising out of a feud between them. Each principal was entitled to "transfer" (*selja*) the accuser's or defendant's case to a third party, referred to as "transferee" in literature.[15]

The *selja* constituted a specific form of the procedural power of attorney which did not authorise the transferee to represent the grantor (principal) but rather allowed the transferee to step into the rights of the principal. The transfer was made in the presence of at least two witnesses by means of a formal agreement (*handsal*) which clearly defined the powers of the transferee, including in particular whether or not they were entitled to enter into an out-of-court settlement with the principal's adversary (*GI* 74_{219}, see also the *Brennu-Njáls saga*, chapter 138, describing a transfer of this kind).[16] Depending on who the principal was and the subject-matter of the transferred case, the transfer could be effected voluntarily, mandatorily or by operation of law.

The voluntary transfer of a case was usually motivated by a principal's desire to increase the prospects of prevailing in litigation. In most cases, the transferees were chieftains or other prominent householders with extensive legal knowledge and the ability to mobilise supporters. The latter agreed to pursue principals' cases for profit (e.g. in exchange for the compensation they would recover from the opposing litigant), because of the opportunity to consolidate their position against the principal or the opposing party, or because of previously assumed obligations.[17]

The terms of the transfer, including in particular the consideration received by the person who took control of the case on behalf of a principal, were laid down in a contract (see e.g. the *Brennu-Njáls saga*, chapter 138, the *Droplaugarsona saga*, chapters 4–5). The consideration did not have to take a tangible form. It could also take the form of the principal's commitment to actively assist the transferee in future disputes or to take a specific action.

The possibility of transferring accusers' and defendants' cases to third parties was instrumental in protecting the rights of the Icelanders occupying lower positions in the social hierarchy. Thanks to the transfer option, an individual with a low social status was not doomed to fail in a dispute with a more powerful, better-connected or more affluent litigant. The availability of transferring the accuser's case to a more powerful social actor was, therefore, an important factor in preventing attacks on

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[15] W.I. Miller, *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland*, Chicago 1990, pp. 239–240.

[16] Unless otherwise specified, all references to the Old Icelandic sagas refer to the versions published in the series *Íslenzk fornrit*, *I-XXXV*, Reykjavík 1933–2003. For a general discussion on the Old Icelandic narrative sources, see the texts compiled in J. Morawiec, Ł. Neubauer (eds), *Sagi islandzkie. Zarys dziejów literatury staronordyckiej*, Warszawa 2015. For an overview of the sagas as a source of knowledge about the legal system of the Icelandic Commonwealth, see T. Tulejski, V. Mandrik, *Instytucje i prawo w islandzkich sagach XII i XIII wieku*, Czasopismo Prawno-Historyczne Vol. 58, No. 1, 2006, pp. 165–182.

[17] W.I. Miller, *Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland*, The American Journal of Legal History Vol. 28, No. 2, 1984, p. 104.

those who would otherwise be seen as "easy targets" with no capacity to resist violence. When completed, a transfer offered the original accusers an opportunity to obtain their rightful compensation and to have the perpetrator punished. All that was achievable because the victim of an infringement was usually able to find a person with the social standing of the level at least comparable to that of the perpetrator who would be willing to take over the accusation from the victim in exchange for some kind of a benefit. Consequently, the admissibility of case transfers meant that virtually no Icelander was completely defenceless but also that nobody could feel completely immune from the legal consequences of their actions.[18]

On the other hand, the fact that cases were transferred between individuals at different levels of the social hierarchy meant that relatively weak principals usually transferred their cases to more powerful transferees on conditions that were more favourable to the latter. Judging by the content of the preserved narrative sources, transfer agreements were almost always concluded on terms dictated by the stronger party. Also, Icelanders' sagas sometimes illustrate principals violently pressured to transfer their rights to third parties.[19]

Under *Grágás*, the transfer of the defendant's case was mandatory for those perpetrators who had seriously wounded or killed their opponent. This obligation resulted from a rule of the Old Icelandic law which prohibited them from participating in the officially initiated public assemblies (*GI* 99_{162}, *GI* 105_{167}). When they violated the above prohibition, they would lose all their cases pending during the assembly at which they appeared in contravention of the law, also cases that they had initiated and that were unconnected to the attack that prevented them from attending the assembly (*GI* 99_{162}).

The obligation to transfer the accuser's case was, in turn, incumbent on women. The Old Icelandic law exempted single women above 20 years of age and widows (regardless of their age) from the above rule. Under *Grágás* these women retained "control of the court cases relating to assault and minor injuries" but had to be represented in the proceedings by a male member of the household who was legally domiciled there (*GI* 94_{158}).

Moreover, judicial proceedings could not be initiated by principals who were men "whose mental limitations prevent them from managing their own property" and boys under the age of 16. In the two cases mentioned above, the case was transferred by operation of law. The principals of mentally disabled men and underage boys were their legal guardians and relatives, respectively, who would have the right to avenge the minor if the latter had died as a result of the attack (*GI* 94_{158}).[20]

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[18] D.D. Friedman, *Private Creation and Enforcement of Law: A Historical Case*, The Journal of Legal Studies Vol. 8, No. 2, 1979, pp. 406–407.

[19] W.I. Miller, *supra* n. 15, pp. 240–241.

[20] According to the wording of the extant lawbooks of the Free Commonwealth, a person who was wounded or otherwise injured in an attack, lost consciousness or was knocked down by a blow below the waist had the right to retaliate against the perpetrator (*GI* $86_{140–142}$). This right was also exercisable by the injured party's companions accompanying him during the incident, from the moment the perpetrator committed the act until the inauguration of the next General Assembly (*GI* 86_{141}). Persons who did not eyewitness the attack resulting in legally defined

The right to initiate judicial proceedings was also transferred by operation of law in the event of the victim's death. In such cases, the role of the principal was assumed by a person legally competent to avenge the victim. Here, the priority was given to an adult, legitimate son of the victim, in each case provided that he was born free and had sufficient intellectual capacity to accept and administer the estate. If the victim did not have a son, or their son did not satisfy the intellectual capacity requirement, the status of the principal was conferred on the victim's father or, in the case of a fatherless victim, on the victim's brothers (*GI* 94_{156}). If none of the above persons was alive, the obligation to bring judicial proceedings against the perpetrator was incumbent on one of the victim's relatives of illegitimate birth or, in their absence, any adult male relative residing in Iceland who had the right to inherit from the victim (*GI* 94_{157}). Where none of the persons legally designated as potential principals was alive, the chieftain, with whom the victim was affiliated, could initiate judicial proceedings against the perpetrator. If the chieftain did not exercise this right, it would pass on to any other free man of age (*GI* 97_{161}).

The transferee was obliged to pursue the case on their own because, once transferred, the case could not be further transferred to another person. The only exception to this rule applied to the transferees who fell ill or were injured on their way to or during the assembly where their case was to be heard. In such a situation, an ill or wounded transferee could transfer the case to a third party, but in all other circumstances – including when a transferee died – the case could only revert to the original principal (*GI* 77_{123}).

The transferee was obliged to conduct the case with due care and involvement. Specific requirements were attached to the acceptance of transfers of the accuser's cases. A person who formally agreed to bring an accusation against the principal's opponent before the court but failed to comply with this obligation for culpable reasons was subject to the penalty of lesser outlawry. On the other hand, if a transferee's failure to initiate the proceedings was caused by objective factors, the principal had the right to take over the case and initiate the judicial proceedings in the subsequent summer, without prejudice to the applicable prescription periods (see below, *GI* ǂ74_{219}).

Upon the completion of the official transfer, the transferee assumed the role of the principal in the dispute. However, any disqualification from the adjudicating panel and neighbours' panels (see below), effected in consequence of a personal relationship that posed doubts as to the impartiality of a juror or panellist (*GI* 25_{60} and *GI* 35_{72}, respectively), was based on the relationship with the original principal, not the transferee (*GI* $77_{124,}$ see also *Brennu-Njáls saga*, chapter 142).

The judicial proceedings had to be initiated within a legally prescribed period. For the most offences listed in *Grágás*, the proceedings had to start at the beginning of the first proper assembly held after the day when the principal became aware of the violation. If the offence imputed to the opponent was punishable by a fine,

injuries could only avenge the injured party within twenty-four hours of the incident (*GI* 86_{141}). If the perpetrator's blows did not leave any traces on the injured party's body, the revenge could only be carried out by the latter, and only immediately after the incident, before the perpetrator left the scene.

the case had to be brought before the court during the subsequent springtime local assembly. Cases involving offences carrying the penalty of outlawry had to be initiated at the beginning of the next General Assembly. The Old Icelandic law provided for two exceptions from that rule. First, there were the matters known as the "three-assembly cases" (*þrigia þinga mal*), which could be initiated before the end of the third General Assembly held after becoming aware of the violation concerned. Second, there was a category of cases that were subject to no prescription period (*söc fyrniz eigi*, literally "the cases that never grow old"). The first category comprised incest, adultery (*GII* 156_{73}), slander (*GII* 237_{196}), composing and reciting offensive poems (*GII* 238_{197}), as well as trespass on someone else's land causing damage worth at least five legal ounces[21] (*GII* ‡317_{301}). The second category comprised cases of "hidden theft" (i.e. theft that has not come to the attention of the injured party, *GII* 227_{178}), the payment of a debt (*GII* 259_{229}), and the establishment of paternity (*GII* 158_{74}, *GII* ‡251_{258}, *GII* ‡271_{288}).

The initiation of judicial proceedings had to be preceded by a formal summons to appear before the competent court, issued to the opposing party. In all cases which the editors of *Grágás* referred to as "summoning cases" (*stefnusök*), the summons had to be made "locally" (*heiman*) and during a "summoning day" (*stefnudagr*). The first of the above requirements meant that the summons was to be made at the household where the opposing party was legally domiciled, or as close to it as possible without being exposed to danger. If the principal initiating the proceedings did not know where the opponent lived and was unable to obtain this information directly from the opponent, the principal could issue the summons at the household that was the last known legal domicile of the opposing party (*GI* 80_{129}). The second requirement referred to the time limit for issuing the summons. In this respect, the Old Icelandic law laid down a general rule according to which the length of the "summoning days" period depended on the subject-matter jurisdiction of the court. If a dispute was to be settled by a court sitting at a springtime assembly, the summons had to be made no later than two weeks before the inauguration of the assembly. However, if the dispute fell within the jurisdiction of a court associated with the *Alþingi*, the summons had to be issued at least one month prior to the beginning of the General Assembly (*GI* $56_{98–99}$). A summons issued "locally" had to clearly define the person summoned, the offence charged, the type and amount or term of the imposable penalty and the court before which the summoned person was to appear (*GI* 31_{65}).

In the cases which *Grágás* editors did not explicitly refer to as *stefnusök*, namely minor cases and in disputes that occurred at a date closer to the beginning of the relevant assembly, after the expiry of the "summoning days" period, the opponent

[21] In the Free Commonwealth, several means of payment were used in parallel, most notably silver and homespun cloth (*vaðmál*, woollen fabric woven on a hand loom). The common denominator for the different forms of commodity money was the legal ounce (*lögeyrir*, plural *lögaurar*). One legal ounce was equal to six ells of homespun cloth. *In extenso*, S.H. Gullbekk, *Money and its Use in the Saga Society: Silver, Coins and Commodity Money*, [in:] S. Sigmundsson (ed.), *Viking Settlements and Viking Society Papers from the Proceedings of the Sixteenth Viking Congress*, Reykjavík 2011, pp. 176–188.

could be summoned, without the above locality and timing requirements being complied with, to the venue of the assembly where both parties appeared and where the court having the subject-matter jurisdiction over the case had a sitting (*GI* 105_{166}). All summonses, whether made locally or at an assembly, had to be made in the presence of at least two witnesses.

At first instance, disputes between Icelanders were resolved by three types of permanent courts: courts sitting at the springtime local assemblies (*sóknarþing*), the Quarter Courts associated with the *Alþingi* (*fjórðungsdómar*), and the "Fifth Court" (*fimtardómr*). Pursuant to the norms of *Grágás*, if the litigants were members of the same local assembly, and the violation that caused their conflict was punishable by a fine, the dispute between them had to be resolved before their common *sóknarþing* (*GI* 57_{101}). All other disputes were to be resolved at the discretion of the principal initiating the proceedings, by either a local court or a Quarter Court, unless a dispute fell within the exclusive subject-matter jurisdiction of the Fifth Court.

The *fimtardómr* exercised the subject-matter jurisdiction in first instance cases concerning (*GI* 44_{84}) false testimony and verdicts (see below), perjury, bribery of jurors and members of neighbours' panels, assisting persons convicted to full outlawry, and harbouring and/or employing of fugitive slaves and "domestic priests" (*heimilisprestar*)[22]. In the light of the preserved narrative sources, it is clear that the vast majority of cases involving violations punishable by outlawry were adjudicated by the courts associated with the General Assembly, although in law this sanction could also be imposed by the *sóknarþing*.

Under the Old Icelandic law, the court's geographical jurisdiction was, in turn, determined by the relationship between the principal and the *goðar.* If the litigants belonged to the same assembly triad, disputes between them were resolved by their common local court or Quarter Court. On the other hand, if, during an assembly, the principals followed chieftains leading different local assemblies, then the geographical jurisdiction was exercised by the court whose jurors were appointed by the chieftain of the summoned party (*GI* 22_{55}).

Pursuant to the norms of *Grágás*, any Icelander summoned to appear before a court whose composition was not influenced by the *goði* followed by the summonsee was entitled to exercise "chieftain's veto" (*goðalýritr*). In order to do so, the summoned litigant needed to request the chieftain whom he followed during the assembly, in the presence of at least two witnesses, for the transfer of the right to veto the jurors' authority to adjudicate the case he was a party to. The *goði* who denied an affiliated householder's veto request would face the penalty of lesser outlawry (*GI* $58_{104–105}$).

If the party summoned to appear before a "foreign" court invoked the *goðalýritr*, the dispute between the principals was referred to the *fjórðungsdómr* for the Quarter in which the vetoed court was located (*GI* 59_{106}). The above means that disputes

[22] This term denotes priests trained and ordained at the expense of a householder who provided them with room and board. In return, the *heimilisprestar* incurred the lifetime obligation to hold a legally determined, annual number of masses for the householder (*GI* 4_{34}). Domestic priests were only released from this obligation if they found someone to replace them or if they were unable to perform their ministry because of bad health (*GI* 4_{35}). If a domestic priest left the household without the patron's permission, he was treated as an outlaw.

between the parties following the chieftains presiding over different local assemblies could only be adjudicated by the court having jurisdiction over the initiating principal if the opposing litigant had not exercised the "chieftain's veto".

Given the opposing party's ability to invoke the *goðalýritr*, a principal who initiated proceedings had to know the identity of the chieftain followed by the opposing party. The principal could ask a "legal asking" (*lögspurning*), either to the opposing party or to all chieftains of the *Alþingi*. If the opposing litigant refused to disclose information about the chieftain whom he followed during the assembly, he was liable to a fine of three marks and forfeited the right to invoke "chieftain's veto" in the case. The same sanction was imposed on the chieftain who failed to publicly admit his relationship with a principal or falsely declared that a principal was one of his followers during an assembly. If, despite appropriate steps taken by the initiating party, it was impossible for that party to determine which *goðar* the opposing party followed, the case would be brought before the Quarter Court local to the initiating party (*GI* $22_{55–57}$ read in conjunction with *GI* $59_{106–107}$).

The editors of *Grágás* also foresaw a situation where the party initiating the proceedings summoned the opponent to appear before a court that had no geographical jurisdiction over either of them. In such a situation, under the Old Icelandic law, the court seized to hear the dispute had to dismiss the case and impose a fine of three marks on the principal who erred in establishing geographical jurisdiction (*GI* 59_{107}).

The Old Icelandic law provided for one fundamental exception to the general rule on the geographical jurisdiction of assembly courts. The feuds caused by killing or inflicting serious injuries were to be compulsorily adjudicated by the *fjórðungsdómr* for the Quarter relevant for the "site of the incident". And if the clash happened in the area close to the border of several Quarters, the jurisdiction was vested in the court of the home Quarter of the majority of the householders officially notified of the incident (*GI* 99_{163}).

Following the formal inauguration of the relevant assembly, the party initiating the proceedings was obliged to present a charge against the opponent to all assembly participants. For cases to be decided by the courts associated with the *Alþingi*, the public announcement of the harm suffered was to take place on Friday or Saturday following the start of the assembly. The initiating principal, accompanied by at least three witnesses, was then required to appear at the foot of the Law Rock (*Lögberg*)[23] at the time when both the Lawspeaker[24] and the majority of chieftains gathered there. The initiating principal had to identify out loud the person who had infringed the law, provide a detailed account of the offences imputed to the infringer, define

[23] The central area of the assembly site where the General Assembly convened. Unfortunately, despite the multiple references made to the Law Rock in *Grágás* and the narrative sources, it is uncertain which of the many rocks in the area performed this honourable function. E.Ó. Sveinsson, *Þingvellir – the Place and its History*, [in:] K. Eldjárn (ed.), *Þriðji Víkingafundur*, Reykjavík 1958, pp. 74–76.

[24] Lawspeaker (*lögsögumaðr*) was the only public official of the Free Commonwealth. His responsibilities included reciting universally applicable laws from the Law Rock, presiding over the Law Council and answering legal questions asked by private individuals. J. Jóhannesson, *supra* n. 9, pp. 47–49.

the penalty for those offences under the Icelandic law, and indicate whether the matter was yet to be brought before the court or it had already been tried but had not yet been resolved (the assembly courts first heard the cases initiated during the previous assembly that had not been concluded with a judgment for the lack of time, see below; *GI* 21_{54}).

The public presentation of cases submitted to the assembly courts for adjudication was followed by the appointment of jurors. Each permanent medieval Icelandic court consisted of 36 men appointed on an ad hoc basis (*GI* 20_{54}). Pursuant to the *Grágás* norms, the jurors were selected from among the rightful participants in a given assembly. A juror had to be a free person aged 12 or more, capable of being held liable for their own acts, with a legal domicile and fluent in the Norse language. In order to satisfy the latter requirement, a non-Icelander by birth had to live in Iceland for at least three years (*GI* 20_{53}).

Principals whose cases were to be adjudicated during the assembly were disqualified by operation of law from serving on a jury panel. The sole exception to this rule applied to the jurors of the Fifth Court who could be chosen from among all rightful participants of the General Assembly (*GI* 75_{121}). A party could challenge any juror whose personal relationship with the principal raised reasonable doubt as to the juror's impartiality. A challenge request would be granted against jurors related to one of the principals by the lineal or collateral consanguinity, in the first or second degree, as well as those entitled to collect the "kindred payment",[25] the principal sister's, daughter's or mother's spouse and his godfather or a confirmation sponsor (*GI* 25_{60}).

The chieftain who appointed a juror disqualified from the bench by the party's successful challenge was required to designate another eligible man from among his followers in the disqualified juror's place. If the chieftain's followers at the assembly did not include anyone who would be eligible to sit on the adjudicating panel and could not be disqualified, either by law or by the party's challenge, the *goði* had to ask the chieftains from the same assembly triad for help in filling the vacancy. The failure to appoint a sufficient number of jurors or causing delays in the procedure of establishing the adjudicating panel was punishable by a fine and the loss of chieftaincy (*GI* $25_{62–63}$).

Any non-principal participant in an assembly who failed to disclose circumstances preventing him from sitting on the assembly court was liable to a fine of three marks. If a principal first transferred the accusation or defence case to a third party and subsequently deceitfully appointed himself to the assembly court (other than the Fifth Court) hearing the case originally brought against him, then all the court

[25] *Niðgjöld*, or blood money payable to the kinsmen of a person killed (*GI* 113_{175}), as well as to the relatives of the four "men who are called corpses even though they are alive" (*menn ero er náir ero kallaþir þott lifi*), namely the injured victims of an attempted hanging, drowning or those who were left to die on a mountain or a skerry and survived (*GI* 113_{182}). The *niðgjöld* was paid by the perpetrator's kinsmen to the victim's kinsmen; the former contributed according to the degree of their relationship to the perpetrator; the payment was then distributed accordingly among the victim's relatives (the perpetrator's brother paid compensation to the victim's brother, the perpetrator's father to the victim's father, etc.). The perpetrator had to compensate the victim's family or the injured party on their own only if the perpetrator had no relatives (*GI* 113_{180}).

proceedings related to the principal pending during the assembly were invalidated by law, and a fine was imposed on the principal (*GI* 20_{53}). In a situation where a party demonstrated the legally defined circumstances giving rise to concerns about a juror's impartiality, the juror's refusal to comply with the party's challenge was considered to constitute "assembly balking" (*þingsafglöpun*), i.e. a disruption of the assembly punishable by lesser outlawry (*GI* 25_{61}).

Once the assembly courts had been formed, the courts determined the priority of cases on their dockets. To that end, the parties initiating the proceedings were required to appear at the place of the court's sitting to draw lots among themselves, which needed to be done in the presence of at least six jurors. The order of the hearings was determined by the sequence of the lots drawn (see the *Brennu-Njáls saga*, chapter 142). There was no draw for those cases which had not been adjudicated at the previous assembly session (provided that there were not more than four such cases) and disputes which occurred following the inauguration of the assembly. The priority was always given to the cases falling into the last two categories. The principal who failed to appear in time for the vote had to pay a fine of three marks and his case was processed as the last one during the assembly (*GI* $29_{64–65}$).

All cases litigated before the courts associated with local assemblies and Quarter Courts were subject to the same procedure (*GI* $57–59_{101–109}$). Hearings were probably held during night time, after midnight (*GI* 35_{75}, in Iceland, during the spring-summer period, the proceedings could take place in the late hours because of the bright nights).[26] Pursuant to the *Grágás* norms, a party was allowed to appear at the site of the proceedings accompanied by no more than ten persons who were not participants in the proceedings. Anyone who appeared before the court in a larger group was liable to a penalty (*GI* 28_{64}). However, the preserved narrative sources suggest that this penalty's preventive impact was insignificant. Given the extensive number of examples of that prohibition having been violated without any legal consequences shown in the Old Icelandic sagas, one may consider that this rule was violated as a matter of routine.

The audience watching the proceedings was neither allowed to approach too close to the place of the proceedings nor permitted to otherwise interfere with the proceedings. If the jurors considered that the behaviour of the bystanders compromised the course of the trial, they could ask the chieftains who took part in the forming of the adjudicating panel for protection. If the jurors made such a request, the relevant *goðar* were obliged to assign three men to secure the court. Failure to do so was punishable by a fine and the loss of chieftaincy. These men were to separate the audience from the litigants by two ropes and then prevent unauthorised persons from entering in the litigant-only area. Anyone who entered that area and failed to step behind the ropes when requested by the "guards" to do so was liable to a fine of three marks (*GI* 41_{80}).

The initiating party was the first to speak at any trial in Iceland. As part of the "presentation of the case" (*framsaga*), the plaintiff was to state under oath whether they appeared before the court as the principal or the transferee, to name

[26] J. Jóhannesson, *supra* n. 9, p. 68.

the person who had violated their rights, to define the offence charged and the penalty it carried under the Old Icelandic law, and then to designate the court before which the plaintiff summoned the opposing party (*GI* $31_{65–66}$). Evidence was then presented to show that the opposing party had been properly summoned. This was done by the testimony of at least one witness to the incident in question who was sworn in to confirm the veracity of the plaintiff's statements as to the time, place and content of the summons (see e.g. the *Brennu-Njáls saga*, chapter 142). In the event that none of the witnesses to the summoning appeared at the assembly, despite being required to do so, each witness was liable to the penalty of lesser outlawry (*GI* $32_{66–67}$).

After the case was presented and the witnesses confirmed that the opposite party had been duly summoned, the "formal means of proof" were produced. These means of proof were called *gögn;* the editors of *Grágás* also use the terms *sóknargögn* and *varnargögn*, while referring to the evidence produced against and for the summoned party, respectively. Under the Old Icelandic law, the formal means of proof could take the form of witness testimony, verdicts of neighbours' panels, judicial ordeals and the word of honour (the latter could be produced only before the Fifth Court).

A person could only stand as a witness before an assembly court if they had been formally designated (*nefna i þat vætti,* literally, "named") by the principals, and later duly summoned to appear at the relevant assembly. Designation of a witness involved the performance of an action in the witness' presence; alternatively, a witness could be designated through the publication of an offence (*lýsa*), which involved presentation of the course or consequences of a specific event to the witness in order to be able to refer to their testimony at a later date. For example, pursuant to the *Grágás* norms, a person who sustained an injury was to "name two or more witnesses to testify that 'I, [the injured party], publish the offence of assault under law committed by [XY]' and to identify the assailant and those towards whom the assault is published" (*GI* 88_{148}).

In the majority of cases specified by law, at least two witnesses had to be designated. *Grágás* occasionally establishes the requirement that certain facts or events should be demonstrated by the testimony of at least three or five persons (see *GI* 21_{54} and *GI* ǂ50_{210}, respectively). As a rule, each principal designated witnesses "for himself", which meant that if anyone else wanted to rely on the testimony of the same witness, the other person relying on the testimony had to separately designate the witness in the manner prescribed by law. The witnesses who were duly designated and timely summoned were legally obliged to attend the relevant assembly and give testimony under the penalty of lesser outlawry (*GI* 32_{66}). If a witness was unable to attend the assembly because of a serious illness or injury, such witness was obliged to make a formal "transfer" of their testimony to two substitutes who were to appear at the assembly in the witness' place (*GI* 32_{69}). The penalty of lesser outlawry was also imposed on anyone who summoned a person to testify during an assembly but failed to designate this person as a witness. The person that was summoned but not designated nevertheless had to appear at the relevant assembly; only then could they "resign" (*segjask ór*) from testifying as a witness (*GI* 32_{68}).

By testifying before the assembly courts, witnesses were not supposed to give an individual account of the events in which they took part or of which they had knowledge. Instead, the witnesses were expected to faithfully recreate the words spoken by the principal at the moment when he formally designated them as witnesses. As the editors of *Grágás* put it, "If someone brings a case in which witnesses' testimony is needed, he must ask them to determine what to say and say it [before the court]. Witnesses are first to take an oath and then testify. They will give their testimony correctly if they speak all the words they have been designated [to repeat] as witnesses. If they correctly repeat the words [that they have been supposed to testify to] but omit a few that are relevant to the case, then it is false testimony [*ljúgvitni*]. [Similarly,] if one correctly pronounces words they have been summoned to repeat but adds a few words relevant to the case that they have not been designated [to testify] as a witness, then it is [also] false testimony. If one does not repeat all the words they have been summoned to repeat as a witness in the exact same way [as the principal has done], then the testimony is correct despite not being faithful as long as this does not affect the case" (*GI* 32_{68}).

The content of the testimony was to be agreed upon by all witnesses designated by the principal and then publicly pronounced by one of the witnesses with the approval of the others. If witnesses were unable to agree on a common wording for their testimony, they held a vote among themselves. The version of the testimony approved by the majority of the voting witnesses was then pronounced before the court. In the event of a split vote, the court accepted the testimony with a more elaborate content, unless it was considered *ljúgvitni*. In a situation where two testimonies contained the same number of words, then the court was bound to consider the testimony favourable to the principal who designated the witnesses concerned "for himself" (*GI* 32_{68}).

False testimony was punishable by lesser outlawry which was imposed on all witnesses who spoke out in favour of the version of the testimony that did not correspond faithfully to the words of the principal who designated the witnesses concerned. Moreover, a witness could not avoid the penalty by simply voting against a testimony that they considered to be false. In order to exonerate themselves, the witnesses also needed to give the testimony they voted for before the court (*GI* 32_{68}).

Another formal means of proof under the Old Icelandic law was the verdicts of neighbours' panels (*búakviðr*). These panels consisted of the householders capable of paying assembly attendance dues (*þingfararkaupsbændr*)[27] or their duly authorised deputies, residing closest to the "the site of the incident", the household of the legal domicile of a principal or another place specified by law, depending on the

[27] The status of *þingfararkaupsbændr* was enjoyed by those of the householders who had not less than one unencumbered cow, fishing boat or their financial equivalent for each member of their household and "everything else necessary for a household to function" (*GI* 89_{150}). The assembly attendance dues (*þingfararkaup*) were the tribute collected by the chieftain from those of the affiliated householders who were entitled to attend the General Assembly yet decided not to participate in a given year (*GI* 23_{58}). For a more detailed discussion about the Icelandic *bændr*, see J.L. Byock, *Bóndi*, [in:] P. Pulsiano, K. Wolf (eds), *Medieval Scandinavia. An Encyclopedia*, New York 1993, pp. 51–52 and the literature referred to therein.

subject-matter of the case. Cases of violations punishable by a fine were heard and decided by a five-person panel. A panel of nine householders heard cases of offences punishable by any form of outlawry (*GI* 17_{50}). A 12-person panel was required to adjudicate cases of considerable importance, above all those involving any form of theft (*GII* 199_{128}, *GII* 224_{167}, *GII* 227_{177}, *GII* ǂ378_{323}), spells, witchcraft or magic (*GI* 7_{39}, *GI* 17_{50}), aiding full outlaws (*GI* 73_{121}) and those in which a chieftain acted as a principal (*GI* 36_{76}), as well as those concerning events that occurred outside Iceland (*GII* 218_{149}, *GII* ǂ163_{246}, *GII* ǂ205_{260}).

As a rule, the obligation to establish a neighbours' panel was on the party who wished to present its verdict as evidence in a court case (*GI* $27_{63–64}$). Only in the case of a 12-person panel, was this duty incumbent on the chieftain of the principal summoned to appear before the court (*GI* 26_{63} read in conjunction with *GI* 36_{75}). Householders duly summoned to sit on a neighbours' panel were legally obliged to attend the relevant assembly. Non-compliance was punishable by the same penalty as the one carried by the offence they were supposed to give their verdict on (*GI* 34_{70}).

The party that established the panel was obliged to invite the opposing party to challenge the panel's composition. Under the Old Icelandic law, the party summoned to appear before the court had the right to seek the disqualification (*ryðja*) of a member of the neighbours' panels, either because, contrary to what had been determined by the principal initiating the proceedings, they did not live closest to a location specified by law, or because there were circumstances which called their impartiality into question. In the latter case, the rules governing the challenge of jurors applied. Moreover, as shown in the preserved narrative sources, a challenge could effectively be made against those panel members who were economically incapable of paying assembly attendance dues and those householders who were forced to run their households unassisted by other household members (cf. the *Brennu-Njáls saga*, chapter 142). The party that established the neighbours' panel was required to replace the successfully challenged members with other householders complying with the relevant legal requirements (*GI* $35_{71–73}$).

Once the composition of the neighbours' panel was accepted by the opposing litigant, the establishing party called on the panellists to give a verdict on the issue submitted for their consideration. Alike witnesses, members of the panel were supposed to reach a verdict (*kviðr*) based on consensus. If they were unable to reach a common ground, the verdict was taken by voting. Verdicts were always announced under oath and with the approval of all panel members (including those who voted against it, *GI* 35_{73}).

The difference between a witness testimony and a verdict of the neighbours' panel was that the witnesses gave account of what they had seen and heard from the principal that had designated them, while the neighbours stated whether, to their knowledge, the person summoned by the principal to appear before the court was or was not guilty of the offence as charged (see e.g. the *Brennu-Njáls saga*, chapter 56). Moreover, the panel's decision did not determine the outcome of the proceedings as the panel's verdicts could be challenged. The summoned party could request the panel to confirm the existence of circumstances in favour of his case, which was done through the issuance of "clearing verdict" (*bjargkviðr*).

The clearing verdict had to be approved by five members of the neighbours' panel. If the summoned party was found guilty by the five-person panel, all the members designated by the party who established the panel had to express their opinion on the circumstances favourable to the party (*GI* 35_{74}). If a nine- or twelve-person panel was involved, the party found guilty was to designate from among the members of the *búakviðr* the five householders living closest to the site of the event (*GI* 38_{77}) or the five closest neighbours (*GI* 35_{75}), respectively, and then ask them to confirm the existence of circumstances relied on in the party's defence. Each argument of the defence was separately examined by the panellists.

Pursuant to the *Grágás* norms, the witness testimony had a higher probative value than the verdicts of neighbours' panels, and the latter could not contradict the former (*GI* $37_{76–77}$). Accordingly, if one of the parties wished to rely on the testimony of witnesses to prove a certain fact and the other did so by producing a *búakviðr* verdict, the former could submit a special type of veto to prevent the members of the panel from proceeding. However, if the panel gave its verdict after the veto had been filed, its members would be liable to a fine. Moreover, if such a verdict proved to contradict the reliable testimony of witnesses (as described above), the panellists could be held further liable for *ljúgkviðr* (literally, "false verdict"), an offence punishable by full outlawry (*GI* 25_{60}, *GI* 44_{84}, *GI* $58_{101–102}$). In view of the above, neighbours' panels actually issued verdicts only in matters in which no witness testimony was given. Hence, if a party to the proceedings wished to challenge the testimony of witnesses called by the opposing litigant, the challenging party could only do so by bringing a false testimony (*ljúgvitni*) case against the witnesses before the Fifth Court.

Apart from witness testimony and verdicts of neighbours' panels, the Old Icelandic law accepted judicial ordeals (*skírsla*) as a formal means of proof.[28] However, ordeals could only be used in paternity cases, instead of a verdict of a neighbours' panel or as a means of challenging such verdict (*GII* 143_{49}). An ordeal could be requested either by a woman alleging the man's paternity of her child (to confirm that she told the truth) or by a man summoned to appear before the court to prove his innocence. For women, an ordeal involved putting a hand in a vessel with boiling water and pulling out a sunken stone. Men, on the other hand, had to take a red-hot iron rod in the hand and carry it over a certain distance. Once the ordeal was finished, the person's hand was bandaged and, after the lapse of a fixed time period, inspected in the presence of a clergyman. The clean healing of the wound was considered to be evidence in favour of a person who had undergone the ordeal.[29] If the results of the inspection were inconclusive, the bishop for the Quarter in question could decree to repeat the ordeal (*GII* 264_{233}).

Judging by the accounts contained in the preserved narrative sources, ordeals in Iceland were very rare: the whole corpus of Old Icelandic sagas describes only nine cases of ordeals, some of which happened outside the judicial context and were often associated with considerable controversy (see e.g. the *Hrafns saga Sveinbjarnarsonar*,

[28] W.I. Miller, *Ordeal in Iceland*, Scandinavian Studies No. 60, 1988, pp. 189–218.

[29] T.M. Andersson, W.I. Miller, *Law and Literature in Medieval Iceland*, Stanford 1989, pp. 35–36.

chapter 15). After 1215, when the Fourth Lateran Council banned clergy from taking part in "God's judgments", ordeals probably ceased to be used as a formal means of proof. They were ultimately abolished at an unknown date (the literature mentions the years of 1248, 1253 or 1275).[30]

In proceedings before the Fifth Court, the word of honour was used as another formal means of proof. The party summoned to appear before the *fimtardómr* was required to designate two householders who, "putting their honour and integrity at stake" (*leggja undir þegnskap sinn*), were to publicly swear that the person for whom they vouched was, to their knowledge, innocent of the offence charged and would defend themselves only by invoking the truth and in accordance with the law and that they would not receive any remuneration for supporting the summoned party before the court (*GI* $47_{86–87}$).

Once both parties had used the formal means of proof, the "summing up" (*reifing*) took place. To that end, each party asked a juror of its choice to recapitulate their arguments. If the jurors approached by the parties declined to do so, the entire jury was obliged to participate in a draw under the penalty of lesser outlawry (*GI* 40_{79}). Two persons selected by the draw were then to provide a public summary of the party's arguments, naming the party for whom they gave evidence (*GI* $41_{79–80}$).

The final stage of the judicial proceedings was the jurors' verdict on the guilt or innocence of the person summoned to appear before the court. Pursuant to the *Grágás* norms, verdicts (*dómr*) of courts associated with local assemblies and the Quarter Courts were to be given by the unanimous consent of the entire jury panel. Consent was deemed to be unanimous if a given verdict was opposed by not more than five out of 36 jurors. If a majority verdict was opposed by at least six members of the adjudicating panel, the procedure of "divided judgment" (*véfang*) was initiated. The initial phase of the *véfang* involved an attempt to have the controversy resolved amicably by the jurors. They were to be divided into two groups based on their vote and then each group was to present to the other a version of the verdict they considered just and equitable. Having done so, each group was to "invite" the other "to join in the verdict they want to give" (*þeir bioða samneyti sitt at þvi sem þeir villia dema*).

If the conciliation attempt failed (i.e. neither group was joined by at least 31 jurors), the members of both groups made a solemn declaration that they acted in good faith and in accordance with the law. Thereafter, the representatives of both groups delivered two verdicts, one declaring the party summoned to appear before the court guilty of the charged offence and the other one releasing the party from legal responsibility. Subsequently, each party to the proceedings appealed against the verdict to a higher court (a Quarter Court, if the verdict was given by a local court or the Fifth Court if the verdict was given by a Quarter Court), seeking the reversal of the verdict and summoning the jurors who ruled against the appellant to appear before the higher court. The penalty for delivering an "unsafe judgment" (i.e. a judgment reversed by a higher court) was a fine of three marks (*GI* $42_{82–83}$).

[30] A. Dennis, P. Foote, R. Perkins (eds), *supra* n. 14, p. 49, end note 126.

Pursuant to *Grágás*, the Fifth Court was the only permanent Icelandic court which did not follow the principle of unanimity. Under *GI* 47_{88}, jurors of the *fimtardómr* should seek to reach a consensus, but if they failed to do so, they decided by a simple majority. In the event of a split vote, the prevailing opinion was the one expressed by those members of the adjudicating panel who were in favour of declaring the party summoned to appear before the court guilty. However, the Old Icelandic law provided for one exception from the above rule. If a split vote occurred in a case heard by the Fifth Court in the second instance (i.e. on appeal against a "divided judgment"), the final decision was to be made by drawing lots.

In their verdicts, the Icelandic jurors did not essentially rule on the perpetrator's intent. The perpetrator's liability was based on the very fact of them inflicting the damage or harm, regardless of the perpetrator's intent. According to the editors of the extant copies of *Grágás*, "It is decreed [in law] that there shall be no accidents" (*þat er mælt. at engi scolo verða vaða verc*, *GI* 92_{155}). Only in a few cases, enumerated in the Old Icelandic lawbooks, could the party summoned to appear before the court rely on a defence of unintentional fault. These exceptions applied to inflicting injuries during wrestling matches and other forms of sporting competition (to the exclusion of those resulting in death or serious injury, *GI* 92_{156}), "bloodletting" and other therapeutic procedures that did not improve the patient's health, despite the good intentions of the person administering a given procedure (*GI* ǂ119_{230}), harbouring an outlaw for a period longer than three days in ignorance of the fact that the person harboured was, in fact, outlawed (*GI* 77_{124}), cutting trees in a jointly-owned private forest with the consent of only one of the co-owners, if the person who was summoned to appear before the court was convinced that the consenting owner was the sole owner of the forest (*GII* 199_{128}, *GII* ǂ351_{313}), incorrect marking of a farm animal as one's own, provided that the neighbours' panel determined that the perpetrator could have reasons to believe that they owned the animal (*GII* 225_{68}), unintentionally starving someone else's horse to death if the death was caused solely in an attempt to prevent the horse from grazing on the perpetrator's own meadow (*GII* 268_{285}), and using commune's resources to provide room and board for a person from a different commune provided that the perpetrator was convinced that the recipient had legal domicile in the territory of the same *hreppr*[31] (*GII* 234_{189}, *GII* 235_{193}).

A special type of an exception to the principle of strict liability applied to persons who were found by a neighbours' panel to have committed "a deed of insanity" (*ora verk*). However, the defence of insanity could only be invoked before the court by people with a previous history of self-inflicted, life-threating injuries. These persons could receive limited assistance after the case brought against them was published and before the verdict was handed down. It was also possible to reach a settlement with them without obtaining prior consent of the Law Council (*GI* 93_{156}).

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[31] Neighbours' communes (*hreppar*, singular *hreppr*) were self-governing associations of at least twenty householders capable of paying assembly attendance dues. Their main objective was to assist vulnerable commune members and to operate a specific mutual insurance system offering coverage against the effects of livestock epidemics and fires. See W. Gogłoza, *supra* n. 10, pp. 252–254.

However, persons under the age of 12 were completely exempt from liability for all offences, intentional or otherwise. If they caused someone else's death, the obligation to pay the "kindred payment" fell on their relatives. If a person under the age of 12 committed any other infringement of the immunity of a third party, they could only to be restrained in a way preventing them from suffering a permanent injury. Any more aggressive measures aimed at ensuring their compliance constituted an infringement of their own immunity under the Old Icelandic law (*GI* 91_{155}).

When handing down a guilty verdict against a summoned person, the Icelandic courts did not decide on the type and severity of the penalty. The penalty was strictly defined by law and could only be modified with the consent of the Law Council.[32] Consequently, the party initiating the court proceedings had to know (and explicitly define) the legal penalty for the offence imputed to the opposing party. In the event that the opposing principal was convicted, the initiating party was also obliged to enforce the appropriate sanction against the defendant.[33]

3. CONCLUSION

This paper presents a summary compilation of the procedural rules applicable to the assembly courts based on the private lawbooks of the Icelandic Commonwealth, from time to time supplemented by information included in the Old Icelandic sagas. However, the exploratory value of these sources is, in any case, limited. The version of *Grágás* used for the purposes of this paper was created based on two manuscripts drafted between ca. 1260 and ca. 1280. In that period, after the Free Commonwealth collapsed and Iceland became a tributary land of Norway, the Icelandic population awaited the introduction of institutional reforms promised by the Norwegian monarch.[34] Accordingly, certain contemporary researchers argue that the extant copies of *Grágás*, in addition to expressing the laws actually in force in the Icelandic Commonwealth, may also contain passages anticipating the upcoming changes or constituting petitions for the Norwegian monarch.[35] It cannot be ruled

[32] The Law Council (*lögrétta*) was the legislative body arm of the General Assembly. It comprised 48 *goðar,* two Icelandic bishops and the Lawspeaker. Apart from enacting new legal norms, the *lögrétta* answered questions on the points of law referred by the courts and issued individual legal exemptions, such as permissions to impose a penalty different from that prescribed by law.

[33] For a discussion on the enforcement of decisions made by assembly courts, see W.I. Miller, *supra* n. 15, p. 235 et seq.

[34] For a discussion on the declining period of the Þjóðveldið, the Icelanders' gradual submission to the authority of the Norwegian king and the consequences of the loss of Iceland's independence, see J.V. Sigurðsson, *Becoming a Scat Land: The Skattgjafir Process Between the Kings of Norway and the Icelanders c. 1250–1300*, [in:] S. Imsen (ed.), *Taxes, Tributes and Tributary Lands in the Making of the Scandinavian Kingdoms in the Middle Ages*, Trondheim 2011, pp. 115–131; and *idem*, *The Making of a "Skattland". Iceland 1247–1450*, [in:] S. Imsen (ed.), *Rex Insularum. The King of Norway and his "Skattlands" as a Political System c. 1260–c. 1450*, Bergen 2014, pp. 182–191.

[35] See W. Gogłoza, *The Social Status of Women in the Old Icelandic Laws*, a paper accepted for publication in: R. Gogosz, T. Zielińska (eds), *Grettir's Little Sword. Constructing Masculinity in Old Norse Society*, Rzeszów 2019 and the literature referred to therein.

out that the judicial procedure presented above reflects not so much the actual rules of procedure applicable in the Free Commonwealth but rather the anonymous *Grágás* editors' views on the desired shape of the laws concerned.[36]

Although the Old Icelandic narrative sources contain numerous descriptions of disputes resolved by assembly courts,[37] these descriptions do not provide any guidance on the resolution of the above dilemma. The sagas did not start to appear as a more common written source in Iceland until in the early 13th century.[38] However, they depict much earlier events, taking place between the beginning of the 10th century and the middle of the 11th century (the period now called the *söguöld*, or the Saga Age). The passage of time between the moment when the editors compiled the sagas and the time when the described events took place raises a number of serious concerns as to the reliability of their accounts.[39] A number of differences can be observed between the dispute adjudication procedure presented in *Grágás* and that described in the sagas referring to events occurring during the *söguöld*, mainly due to the much lower degree of complexity of the latter. However, given the absence of reliable Old Icelandic legal sources dating from before the second half of the 12th century,[40] it is impossible to say whether these differences resulted from the changes to the applicable rules of procedure made over the passing centuries or rather were a consequence of the sagas editors' errors caused by ignorance or intentional simplifications designed to improve the narrative flow. In turn, the plot of those sagas which refer to the late 12th and early 13th century (nowadays called the "contemporary" *samtíðarsögur*)[41] unfolds at a time of a growing internal conflict, when the Icelandic assembly system was already in decline and the most powerful chieftains openly ignored the law and settled disputes by violent means rather than through courts.[42] Consequently, the practices described in those sagas cannot

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[36] It should be noted, however, that whenever the literature expresses doubts concerning the applicability of the norms recorded in *Grágás*, such doubts pertain to constitutional issues and possibly the status of free householders. See, in particular, T.J. McSweeney, *Fiction in the Code: Reading Legislation as Literature*, Georgia State University Law Review Vol. 34, No. 3, 2018, pp. 581–629.

[37] See examples discussed in K.A. Kapitan, *Z mieczem na wiec. Konflikt i metody jego rozwiązywania w wybranych sagach islandzkich*, Wrocław 2012.

[38] See T.M. Andersson, *The Growth of the Medieval Icelandic Sagas (1180–1280)*, Ithaca 2006.

[39] This issue is discussed in detail in W. Gogłoza, *Spór o historyczność sag Islandczyków w perspektywie antropologii prawa*, [in:] Z. Władek, J. Stelmasiak W. Gogłoza, K. Kukuryk (eds), *Księga życia i twórczości. Księga pamiątkowa dedykowana Romanowi A. Tokarczykowi*, Vol. V, Lublin 2013, pp. 64–89.

[40] The oldest and genuinely authentic medieval source of Icelandic law is a short section of *Grágás* on the ownership of land and rules governing conveyances (*Landbrigðarþáttur*), which constitutes a part of manuscript AM 315 D. fol, dated back to ca. 1150–1175.

[41] This name refers to a relatively short period that passed before the occurrence and recording of the reported events. As opposed to the sources referring to the *söguöld*, the majority of the accounts recorded in contemporary sagas do not raise serious doubts among researchers (concerns are raised only in respect of the impartiality of editors of these sagas). That subject is discussed in greater detail in Ú. Bragason, *Sagas of Contemporary History (Sturlunga saga): Texts and Research*, [in:] R. McTurk (ed.), *A Companion*, *supra* n. 6, pp. 440–442; and D. Skrzypek, *Sagi współczesne (Samtíðarsögur)*, [in:] J. Morawiec, Ł. Neubauer (eds), *Sagi*, *supra* n. 16, pp. 113–115.

[42] See, in particular, E.Ó. Sveinsson, *The Age of the Sturlungs. Icelandic Civilization in the 13th Century*, Ithaca 1953; and J.L. Byock, *The Age of the Sturlungs*, [in:] E. Vestergaard (ed.),

constitute a basis for assessment of the Old Icelandic procedural rules of judicial dispute adjudication.

However, even if one assumed that the procedural norms contained in the known copies of *Grágás* are specific proposals of what the law should be, they still remain a valuable source of knowledge about the views of medieval Icelandic "learned jurists" (*lögmenn*) on the requirements of a fair trial, the extent of involvement of local community members in the adjudication of disputes, the admissible means of proof or the ways in which guilt can be determined. A re-discovery of such norms can provide a basis for further comparative analyses and studies of the impact of the continental law culture in the medieval period.

BIBLIOGRAPHY

Andersson T.M., Miller W.I., *Law and Literature in Medieval Iceland*, Stanford 1989.

Brink S., *Law and Legal Customs in Viking Age Scandinavia*, [in:] J. Jesch (ed.), *Scandinavians from the Vendel Period to the Tenth Century*, San Marino 2002.

Brink S., *Law and Society: Polities and Legal Customs in Viking Scandinavia*, [in:] S. Brink, N. Price (eds), *The Viking World*, London 2008.

Brink S., Price N. (eds), *The Viking World*, London 2008.

Byock J.L., *Governmental Order in Early Medieval Iceland*, Viator: Medieval and Renaissance Studies 17/1986.

Dennis A., Foote P., Perkins R. (eds), *Laws of Early Iceland: Grágás, the Codex Regius of Grágás, with Material from Other Manuscripts*, Vol. I & II, Winnipeg 1980.

Eggertsson Þ., *Sources of Risk, Institutions for Survival, and a Game Against Nature in Premodern Iceland*, Explorations in Economic History 35, 1998.

Friedman D.D., *Private Creation and Enforcement of Law: A Historical Case*, The Journal of Legal Studies Vol. 8, No. 2, 1979.

Gogłoza W., *Spór o historyczność sag Islandczyków w perspektywie antropologii prawa*, [in:] Z. Władek, J. Stelmasiak, W. Gogłoza, K. Kukuryk (eds), *Księga życia i twórczości. Księga pamiątkowa dedykowana Romanowi A. Tokarczykowi*, Vol. V, Lublin 2013.

Gogłoza W., *Anarchistyczne wizje bezpaństwowego ładu społeczno-politycznego średniowiecznej Islandii – zarys krytyki*, Krakowskie Studia z Historii Państwa i Prawa Vol. 10, No. 2, 2017.

Finsen V. (ed.), *Grágás. Islændernes lovbog i fristatens tid, udgivet efter det kongelige Bibliotheks Haandskrift og oversat af Vilhjálmur Finsen*, for det nordiske Literatur-Samfund, Kjøbenhavn 1852.

Gullbekk S.H., *Money and its Use in the Saga Society: Silver, Coins and Commodity Money*, [in:] S. Sigmundsson (ed.), *Viking Settlements and Viking Society Papers from the Proceedings of the Sixteenth Viking Congress*, Reykjavík 2011.

Hastrup K., *Culture and History in Medieval Iceland. An Anthropological Analysis of Structure and Change*, Oxford 1985.

Helgadóttir G.P. (ed.), *Hrafns saga Sveinbjarnarsonar*, Oxford 1987.

Jóhannesson J. (ed.), *Droplaugarsona saga*, [in:] *Áustfirðinga sögur, Íslenzk fornrit XI*, Reykjavík 1950.

Jóhannesson J., *Íslendinga Saga. A History of the Old Icelandic Commonwealth*, Manitoba 2006.

Continuity and Change: Political Institutions and Literary Monuments in the Middle Ages, Odense, 1996, pp. 27–42.

Karlsson G., *Iceland's 1100 Years. History of a Marginal Society*, London 2000.
Karlsson G., *Social Institutions*, [in:] R. McTurk (ed.), *A Companion to Old Norse-Icelandic Literature*, Oxford 2005.
Miller W.I., *Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland*, The American Journal of Legal History Vol. 26, No. 2, 1984.
Miller W.I., *Ordeal in Iceland*, Scandinavian Studies 60/1988.
Miller W.I., *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland*, Chicago 1990.
Morawiec J., Neubauer Ł. (eds), *Sagi islandzkie. Zarys dziejów literatury staronordyckiej*, Warszawa 2015.
Nordal S., *Icelandic Culture*, Ithaca 1990.
Runolfsson Solvason B.Þ., *Institutional Evolution in the Icelandic Commonwealth*, Constitutional Political Economy Vol. 4, No. 1, 1993.
Sigurðsson J.V., *Chieftains and Power in the Icelandic Commonwealth*, Odense 1999.
Smith K.P., *Landnám: The Settlement of Iceland in Archaeological and Historical Perspective*, World Archaeology Vol. 26, No. 3, 1995.
Sveinsson E.Ó. (ed.), *Brennu-Njáls saga*. *Íslenzk fornrit XII*, Reykjavík 1954.
Sveinsson E.Ó., *Þingvellir – the Place and its History*, [in:] K. Eldjárn (ed.), *Þriðji Víkingafundur*, Reykjavík 1958.
Tulejski T., *Instytucje i prawo w islandzkich sagach XII i XIII wieku*, Czasopismo Prawno-Historyczne Vol. 58, No. 1, 2006.
Ułas M., *Rola thingów w prawie karnym średniowiecznej Skandynawii na przykładzie Norwegii i Islandii*, [in:] M. Mikuła (ed.), *Culpa et poena. Z dziejów prawa karnego*, Kraków 2009.
Urbańczyk P., *Ethnic Aspects of the Settlement of Iceland*, Collegium Medieavale 15, 2002.
Vésteinsson O., *Review: Jón Viðar Sigurðsson: Chieftains and Power in the Icelandic Commonwealth*, Saga Book 26, 2002.
Vésteinsson O., *Ethnicity and Class in Settlement-Period Iceland*, [in:] J. Sheehan, D.Ó. Corráin (eds), *The Viking Age*. *Ireland and the West*. *Papers from the Proceedings of the Fifteenth Viking Congress*, Dublin 2010.

ADJUDICATION OF DISPUTES IN THE ICELANDIC COMMONWEALTH

Summary

The Icelandic Commonwealth (ca. 930–1264) is a relatively well documented pre-state society based on chieftaincy. The Free Commonwealth institutional structure was based on a number of public assemblies (*þing*), which provided a meeting place for the local chieftains (*goðar*) and their followers recruited from the householders class (*bændr*). The assemblies had judicial functions and were often used to adjudicate legal disputes. The aim of this article is to reconstruct the assembly court proceedings using the extant private Old Icelandic lawbooks known as *Grágás*. In particular, special consideration is given to the case initiation process, the geographical, subject-matter and functional jurisdiction of various assembly courts, as well as to the formal means of proof, and the rules for convictions.

Keywords: Icelandic Commonwealth, assembly courts, court proceedings, *Grágás*

SĄDOWE ROZSTRZYGANIE SPORÓW W ISLANDZKIEJ WOLNEJ WSPÓLNOCIE

Streszczenie

Islandzka Wolna Wspólnota (~930–1264) jest relatywnie dobrze udokumentowaną źródłowo przedpaństwową społecznością funkcjonującą w tzw. modelu wodzowskim. Ustrój Wolnej Wspólnoty zorganizowany był wokół szeregu wieców publicznych (*þing*), na których regularnie spotykali się lokalni wodzowie (*goðar*) wraz ze stowarzyszonymi z nimi wolnymi gospodarzami (*bændr*). Wiece te miały w dużej mierze sądowy charakter i służyły rozstrzyganiu sporów powstałych na gruncie naruszeń prawa. Celem niniejszego artykułu jest zrekonstruowanie procedury sądowej obowiązującej w postępowaniach przed sądami wiecowymi w oparciu o treść prywatnych zbiorów staroislandzkiego prawa, zwanych *Grágás*. Szczegółowej analizie została w nim poddana kwestia inicjowania postępowań sądowych, właściwości miejscowej, rzeczowej i funkcjonalnej poszczególnych sądów wiecowych, dopuszczalnych środków dowodowych oraz sposobów wydawania orzeczeń.

Słowa kluczowe: Islandzka Wolna Wspólnota, sądy wiecowe, procedura sądowa, *Grágás*

SOLUCIÓN JUDICIAL DE LITIGIOS EN LA COMUNIDAD LIBRE ISLANDESA

Resumen

La Comunidad Libre islandesa (~930–1264) queda relativamente bien documentada en los fuentes como sociedad pre-estatal que funcionaba en el llamado modelo de líder. El régimen de la Comunidad Libre estaba organizado en numerosos mítines públicos (*þing*), en los cuales se reunían regularmente los jefes locales (*goðar*) junto con libres dueños asociados con ellos (*bændr*). Estos mítines tenían en su mayor parte carácter judicial y servían para resolver litigios resultantes de infracciones de derecho. El objetivo del presente artículo consiste en reconstruir proceso judicial existente en procesos ante tribunales de mítines en virtud del contenido de colección privada de antiguo derecho islandés llamada *Grágás*. Se analiza en particular la cuestión de incoación de procesos judiciales, competencia territorial, objetiva, funcional de los tribunales de mítines, admisibilidad de medios de prueba y formas de expedición de resoluciones.

Palabras claves: Comunidad Libre islandesa, tribunales de mítines, proceso judicial, *Grágás*

СУДЕБНОЕ РАЗРЕШЕНИЕ СПОРОВ В ИСЛАНДСКОМ СОДРУЖЕСТВЕ ЭПОХИ НАРОДОВЛАСТИЯ

Резюме

Исландское содружество эпохи народовластия (~930–1264) являлось относительно хорошо документированным догосударственным сообществом, функционировавшим в рамках так называемой вождистской модели. Строй Содружества был основан на народных вечах (*þing*), на которые регулярно собирались местные вожди (*goðar*), а также связанные с ними свободные общинники (*bændr*). Эти веча носили в значительной степени судебный характер и служили

для разрешения споров, возникших в связи с нарушениями закона. Целью статьи является реконструкция судебной процедуры, применявшейся в ходе разбирательств на вечевых судах, на основе текстов древнеисландского судебника «Серый гусь» (*Grágás*). Подробно проанализированы вопросы возбуждения судебных разбирательств, территориальной, материальной и функциональной юрисдикции вечевых судов, допустимых средств доказывания и способов вынесения судебных решений.

Ключевые слова: Исландское содружество, вечевые суды, судебная процедура, судебник «Серый гусь» (*Grágás*)

STREITBEILEGUNG IN DER ISLÄNDISCHEN FREIEN GEMEINSCHAFT

Zusammenfassung

Die isländische freie Gemeinschaft (~930–1264) ist eine relativ gut dokumentierte Quelle für das Funktionieren der vorstaatlichen Gemeinschaft im sogenannten Modell des Führers. Das System der Freien Gemeinschaft wurde um eine Reihe von öffentlichen Kundgebungen (*þing*) organisiert, bei denen sich lokale Führer (*goðar*) zusammen trafen mit den mit ihnen assoziierten freien Gastgebern (*bændr*). Diese Kundgebungen waren größtenteils gerichtlicher Natur und dienten der Beilegung von Streitigkeiten aufgrund von Gesetzesverstößen. Der Zweck dieses Artikels ist die Rekonstruktion des Gerichtsverfahrens angewendet im Verfahren vor Kundgebungen auf der Grundlage des Inhalts privater Sammlungen des altisländischen Rechts bekannt als *Grágás*. Die Frage der Initialisierung eines Gerichtsverfahrens, der örtlichen, materiellen und funktionalen Zuständigkeit einzelner Versammlungsgerichte, der zulässigen Beweismittel und der Methoden zur Erteilung von Entscheidungen wurde darin einer eingehenden Analyse ausgesetzt.

Schlüsselwörter: Isländische Freie Gemeinschaft, Versammlungsgerichte, Gerichtsverfahren, *Grágás*

RÈGLEMENT JUDICIAIRE DES DIFFÉRENDS AU SEIN DE LA COMMUNAUTÉ LIBRE ISLANDAISE

Résumé

La communauté libre islandaise (~930–1264) est une communauté pré-étatique relativement bien documentée dan sle sources fonctionnant dans le soi-disant modèle du commandant. Le système de la communauté libre était organisé autour d'une série de réunions publiques (*þing*) au cours desquelles les chefs locaux (*goðar*) et leurs hôtes libres associés (*bændr*) se rencontraient régulièrement. Ces réunions étaient en grande partie de nature judiciaire et ont permis de résoudre des différends résultant de violations de la loi. Le but de cet article est de reconstituer la procédure judiciaire contraignante devant les assemblées judiciaires sur la base du contenu des collections privées de l'ancienne loi islandaise appelées *Grágás*. Il a analysé en détail la question de l'ouverture d'une procédure judiciaire, la compétence locale, matérielle et fonctionnelle des assemblées judiciaires individuelles, les moyens de preuve admissibles et les moyens de rendre des décisions.

Mots-clés: Communauté libre islandaise, assemblées judiciaires, procédure judiciaire, *Grágás*

LA RISOLUZIONE GIURISDIZIONALE DELLE CONTROVERSIE NELLO STATO LIBERO D'ISLANDA

Sintesi

Lo Stato libero d'Islanda (~930–1264) è una fonte ben documentata di società pre-statale che funzionava con il cosiddetto modello del leader. Il governo dello Stato libero era organizzato attorno a una serie di assemblee pubbliche (*þing*), nelle quale si incontravano regolarmente i capi locali (*goðar*) con i liberi proprietari terrieri a loro associati (*bændr*). Tali assemblee avevano in larga misura un carattere di tribunale e servivano a risolvere le controversie derivanti dalle violazioni del diritto. L'obiettivo del presente articolo è la ricostruzione della procedura giudiziaria in vigore nelle cause presso tali tribunali assembleari, sulla base del contenuto delle raccolte dell'antico diritto islandese detto *Grágás*. Sono state sottoposte ad analisi dettagliata le questioni dell'avvio dei procedimenti giuridici, della competenza per territorio, per materia e per funzione dei singoli tribunali assembleari, dei mezzi di prova ammissibili e delle modalità di emissione delle sentenze.

Parole chiave: Stato libero d'Islanda, tribunali assembleari, procedura giudiziaria, *Grágás*

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