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THE AGREEMENT OF ALCAÑIZ AS AN EXAMPLE OF A LEGAL FORM FOR CONCILIATION PROCEDURE

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Abstract. *The Agreement of Alcañiz represents a prominent example of creating a means for solution of a succession dispute in the early 15th century. The means created was somehow unusual, due to the character of the monarchy with the succession in dispute. The Crown of Aragon, one of the states ancestors to the present Spain, was itself a union of a number of political entities, the most important of them being Aragon itself, Cataluña and Valencia. The parliaments of Aragon and Cataluña (mentioning also the participation of Valencia) concluded the Agreement of Alcañiz to establish the legal form for resolving the dispute, aimed at preserving the union from dissolution. Nine electors were nominated by the three parliaments to choose an heir to the Crown of Aragon among a number of candidates. The article is devoted to the analysis of the main undertakings of the parties according to the Agreement, enlightening the organization of the body established for the dispute settlement. With the use of our modern legal language the body may be characterized as a conciliation commission, and the whole act as a solution of an international dispute by a domestic means, that was created on the basis of an agreement between the members of a confederation.*

Key words: *the Agreement of Alcañiz, the peaceful dispute settlement, the conciliation procedure, the Medieval Europe, confederation.*

The problem. The Agreement of Alcañiz (la Concordia de Alcañiz) of February 15, 1412 was a treaty between Aragon and Cataluña (with Valencia also mentioned) represented by their respective parliaments, concluded with the view to secure peaceful succession of the throne of the Crown of Aragon. The Agreement established a procedure for peaceful dispute settlement. It was further implemented and led to the so-called Compromise of Caspe (el Compromiso de Caspe), that is, to the act of selection of an heir with the best rights among a number of candidates. Being considered significant in the history of Spain, the episode is also of international importance for survey and research in the field of the development of legal forms of peaceful settlement of international disputes.

The purpose of the present article is to analyse the main undertakings of the parties under the Agreement of Alcañiz with the view to define its contribution to peaceful settlement of international disputes in historical context.

The last research works and publications. The event and its consequences were mentioned in the research works of F. Janer [1], V. Piskorskii [2], M. del Treppo [3], R. Altamira y Creva [4], J. A. Sesma Muñoz, C. Laliena Corbera, and Cr. Monterde Albiac [5], A. Mackay [6], M. P. Poblador Muga [7] and others mostly with the emphasis on the Compromise of Caspe, as far as the conclusion of the Agreement was a preparatory stage to it. This article is aimed at analysing the contents of the Agreement itself with minor focus on the Compromise.

The main results of the research. The medieval political formation named the Crown of Aragon (La Corona de Aragon) was a union of a number of entities, characterized as states, each

of them preserving some degree of autonomy and peculiarities of its internal law and order. The most important states of the union were Aragon itself, Valencia and Cataluña, the two first being termed as kingdoms, and the last one being qualified as principate (*el principado*). Their union is nowadays widely characterized as a confederation [3, p. 592].

The death of the king Martin I the Humane (*El Humano*) in May 1410 left the throne of the Crown of Aragon vacant with no legitimate and obvious heir and so opened the way to civil discord and international competition. A number of candidates of relative distance appeared, some of them quite foreign to the Crown of Aragon, belonging to other states, thus giving the dispute the quality of international. (It still should be kept in mind that persons under international law of the period were mostly individuals, not states as themselves, and individuals were connected between themselves by various links within the feudal system).

The Agreement of Alcañiz of February 15 1412 was meant to set up the form of solution of the dispute, based on the arrangement devised by the parliaments of states members to the confederation. That is, the dispute being international by the origin of the contending parties, the way of its settlement was internal and organized by domestic representative institutions. This was the way to provide for the integrity of the union.

The parties to the Agreement were Aragon and Cataluña represented by their parliaments, but as to the representatives of the Kingdom of Valencia it was expressly stated that they would take part in the implementation of the Agreement and in further arrangement, with no right to introduce any changes.

The parties specially agreed in the first place that the document should not in any way infringe upon domestic law and order of the states members to the Crown. Any intention to pose a contradiction to their domestic laws was also denied.

The Agreement contains an express and very much detailed statement of the subject matter of the dispute which also serves as the definition of competence of the body created for its solution. The latter is entitled to investigate, determine and proclaim, to whom the parliaments, subjects and vassals of the Crown of Aragon should swear their allegiance. The decision was to be based on justice, God's will and conscience. It can be seen, that good conscience of people performing the election was considered an indispensable prerequisite for the fulfillment of the task.

The future king was to be elected by the body, composed of nine highly respected electors, acting in full accordance with the present Agreement. The nine were to represent the three parliaments of the main states members to the union, namely Aragon, Cataluña and Valencia. The nine were to receive from the parliaments mentioned all the powers necessary for dealing with the dispute. To provide for the security of the nine and to establish the procedure for decision-making, the total of nine electors was divided in three degrees.

It is of importance, that the Agreement contained no general name for the body established. It was not called neither 'court', nor 'commission' or otherwise; the term commonly used in the text of the Agreement is 'nine people'. The parties to the Agreement probably didn't care for any type of special qualification.

Although justice, God's will and conscience were listed as necessary criteria according to which the decision was to be made, the Agreement included nevertheless no statement of the sources of law that the nine electors were entitled to apply. It was probably considered understandable, that the electors would compare the rights of the contenders according to the domestic rules on the succession of the Crown of Aragon.

The list of the nine electors was to be agreed upon during 20 days since the conclusion of the Agreement; those elected had to possess good conscience and good fame, and also had to correspond to their office.

The nine electors themselves were empowered to replace an elector that could not act in office on various reasons; the same quality criteria were to be observed. The person elected in replacement would become equal to the rest. One replacement did take place in fact [5, p. 37].

The Agreement also necessarily established the way and the time period for the decision-making. The decision was to be taken either by mutual consent or by the minimum number of six votes, but in that case the total six votes were to comprise at least one vote from each of the three degrees.

The time-limit for decision making was 2 months starting from the fixed date of March 29, 1412. The term could be prolonged by the decision of the nine for a period no longer than other 2 months. Taken in total, the time period for the activities of the electors (including both investigation and deliberation) was not to last over 4 months, and it in fact lasted 3 [5, p. 37].

The parliaments undertook not to withdraw the powers of the nine electors, not to pose them any obstacles and not to contest the decision reached. Those undertakings were guaranteed by a promise and an oath taken by the representatives of the parliaments that had concluded the Agreement in their names.

The proceedings in the case were to take place in complete secrecy guaranteed by the solemn oath taken by the electors. The agreement also included a special clause regulating the mode of receiving information: it was to be received in the first place from those who had delivered it earlier, and if any information from various sources arrived simultaneously, the nine electors were free to decide upon the order of receiving. The electors had powers to address the representatives of the contenders with the view to receive the necessary information and also had powers to call for witnesses.

Certainly the Agreement could not avoid specifying the sources of financing the activities of the nine electors. It dealt with the issue in the following manner: the expenses of the Aragonese were to be taken by Aragon, and of the Catalan – by Cataluña respectively, and mutual expenses were to be taken according to a custom (without further specification of the manner in the text).

The nine electors were obliged to observe rights, freedoms and privileges of the states of the Crown of Aragon as well as their heritage and benefit when conversing with the contenders and their representatives.

The Agreement also contained elaborate provisions as to the means of providing for the security of the nine electors. The town of Caspe in the Kingdom of Aragon was chosen as their headquarters (that's why the act of the decision received the name of the Compromise of Caspe). The nine electors were to be present there in person, and none had the right to detain them. Each degree of the nine (that is, a group of each three electors of the nine) could be accompanied by no more than 30 knights and no more than 40 other officials, armed or unarmed; this train could be distributed among the electors within each degree according to their desires.

The nine electors did not receive immunity, but they were entitled to something more, namely, to all the authority over the town of Caspe for the period of their function and eight days additional. Jurisdiction in their name was to be exercised in practice by the two captains appointed by the parliaments. Each captain was to have 50 armed people with him.

The town was to receive all the necessary supply in food and arms. There were restrictions to free movement introduced, for none could approach the lodging of the nine electors without their express permission. Unarmed people could enter the town only in amounts permitted by the captains. None could approach the town at the distance of four leagues if accompanied by more than twenty armed people, having four lances with them. No official could enter the town without either permission or order from the nine electors. The ambassadors taking part in the proceedings could bring with them no more than 40 riders and 50 unarmed people for each mission.

These strict and detailed regulations express concern with the greatest safety possible and point to awareness of the danger that the town could be occupied by supporters of any contender thus imposing the decision by military force. This danger was to be eliminated.

The decision of the nine electors was to be effective, binding and not subject to revision. It was to be declared to the representatives of the parliaments before its public announcement. The parliaments were to remain in session during the whole period of election [8]. The Agreement did not contain any provision as to the means of possible enforcement of the decision, in case if anyone should stand against it. It was probably believed that everybody would obey the decision, so no special agreement was needed.

The nine electors chose Fernando de Antequera, a prince of the royal house of Trastámara ruling in Castile; thus a foreign pretender was elected. Fernando de Antequera was at the time exercising the functions of regent in Castile. Having moved to Aragon and suppressed some opposition that arose, he became the new King of Aragon with the name of Fernando I (or Ferdinand I) [9]. As far as one family of Trastámara became regnant in both Castile and Aragon, favourable grounds were created for the union of those states in one, namely, Spain - a union which was to come. Still it can be noticed that because of the election procedure observed the Crown of Aragon was not formally subdued to Castile.

Conclusion. The Agreement of Alcañiz may be qualified as an agreement between states belonging to a confederation that created a domestic legal means to resolve an international dispute. The dispute was to be solved according to justice and on the basis of evaluating the rights of pretenders. Yet the organ created for the settlement was no court. It can be probably best qualified as a joint conciliation commission created by parliaments of the states parties to the agreement.

The contribution of the agreement to international dispute settlement may be evaluated as giving an example of a treaty creating a legal form for peaceful dispute settlement that could be followed in the future. It also reflects many features of the Medieval European legal regulation and state structure, both typical and those special for the Crown of Aragon, in this way becoming a valuable document of the epoch in connection with other epochs.

References

1. Janer F. Examen de los sucesos y circunstancias que motivaron el Compromiso de Caspe. Madrid: Imprinto de la Real Academia de la Historia, 1855. – 189 p.
2. Piskorskii V.K. Istorია Ispanii i Portugalii. S-Pb. : Akzionerhoe obschestvo «Brokgauz-Efron», 1909. – 278 p.
3. del Treppo M. Aragon/ The Iberian peninsula// The New Cambridge Medieval History. Ed. by Ch. Allmand. Cambridge: Cambridge University Press, 2008–Vol. VII – P. 588-605
4. Altamira y Krevia R. Istorია Ispanii. M: Izdatelstvo inostranoj literatury. 1951. – T. 1. – 520 p.
5. Sesma Muñoz J.A. (coord.) Laliena Corbera C., Monterde Albiac Cr. En el sexto centenario de la Concordia de Alcañiz y del Compromiso de Caspe. – Zaragoza: Gobierno de Aragón, 2012. // [Electronic resource]. – Mode of access: <http://www.estatutodearagon.es/difusion/detalleNoticiasHistorico?idNoticia=1116128> – 52 p.
6. Mackay A. Castilia and Navarre/ The Iberian peninsula// The New Cambridge Medieval History. Ed. by Ch. Allmand. Cambridge: Cambridge University Press, 2008 – Vol. VII – P. 606-626
7. Poblador Muga, M. P. El valor de un acontecimiento histórico excepcional: El Compromiso de Caspe // [Electronic resource]. – Mode of access: <http://www.aragon.es/estaticos/>

- GobiernoAragon/Departamentos/PresidenciaJusticia/Documentos/3compromisoCaspe.pdf (дата обращения: 10. 07. 2014). – 3 p.
7. La Concordia de Alcañiz // Sesma Muñoz J.A. (coord.) Laliena Corbera C., Monterde Albiac Cr. En el sexto centenario de la Concordia de Alcañiz y del Compromiso de Caspe. – Zaragoza: Gobierno de Aragón, 2012. // [Electronic resource]. – Mode of access: <http://www.estatutodearagon.es/difusion/detalleNoticiasHistorico?idNoticia=1116128> – P. 30-35.
 8. Ferdinand I // Encyclopedia Britannica. // [Electronic resource]. – Mode of access: <http://www.britannica.com/EBchecked/topic/204397/Ferdinand-I>.

АЛКАНЬЇСЬКА УГОДА ЯК ПРИКЛАД ПРАВОВОЇ ФОРМИ ДЛЯ ПОГОДЖУВАЛЬНОЇ ПРОЦЕДУРИ

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Анотація. *Альканьїська угода являє собою видатний приклад створення засобу для вирішення спору про спадкування престолу на початку XV століття. Створений засіб був деякою мірою незвичайний, з причини характеру монархії, престол якої став предметом спору про спадкування. Корона Арагону, одна з держав-попередниць сучасної Іспанії, сама являла собою союз декількох державних утворень, з яких найважливішими були, власне, Арагон, Каталонія та Валенсія. Парламенти Арагону та Каталонії (із зазначенням також участі Валенсії) уклали цю Альканьїську Угоду, щоб встановити правову форму вирішення спору, яка мала на меті зберегти союз від розпаду. Дев'ять виборщиків були призначені трьома парламентами, щоб обрати спадкоємця Корони Арагону з-поміж низки кандидатів. Ця стаття присвячена аналізу основних зобов'язань сторін згідно з цією Угодою і висвітлює організацію створеного для вирішення спору органу. З використанням нашої сучасної правничої термінології цей орган може бути охарактеризований як погоджувальна комісія, а діяння в цілому - як вирішення міжнародного спору з допомогою внутрішнього засобу, створеного на основі угоди між членами конфедерації.*

Ключові слова: *Альканьїська угода, мирне вирішення спорів, погоджувальна процедура, середньовічна Європа, конфедерація.*

АЛКАНЬИССКОЕ СОГЛАШЕНИЕ КАК ПРИМЕР ПРАВОВОЙ ФОРМЫ ДЛЯ СОГЛАСИТЕЛЬНОЙ ПРОЦЕДУРЫ

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Аннотация. *Альканьисское соглашение представляет собой выдающийся пример создания средства для решения спора о престолонаследии в начале XV века. Созданное средство было в некотором роде необычно, по причине характера монархии, престол которой стал предметом спора о наследовании. Корона Арагона, одно из государств-предшественниц современной Испании, сама представляла собой союз нескольких государственных образований, важнейшими из которых были собственно Арагон, Каталония и Валенсия. Парламенты Арагона и Каталонии (упоминая также участие Валенсии) заключили Альканьисское соглашение, чтобы установить правовую форму решения спора, которая имела целью уберечь союз от распада. Девять выборщиков были назначены тремя парламентами, чтобы избрать наследника Короны Арагона среди нескольких кан-*

дидатов. Эта статья посвящена анализу основных обязательств сторон согласно этому Соглашению и освещает организацию созданного для решения спора органа. С использованием нашей современной юридической терминологии этот орган может быть охарактеризован как согласительная комиссия, а деяние в целом – как решение международного спора при помощи внутреннего средства, созданного на основе соглашения между членами конфедерации.

Ключевые слова: Альканьисское соглашение, мирное разрешение споров, согласительная процедура, средневековая Европа, конфедерация.