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## **THE SERVICES OF THE COMMUNE SELF-GOVERNMENT IN THE KINGDOM OF POLAND ON THE EXAMPLE OF THE PROVISION OF MEANS OF TRANSPORT FOR THE ARMY**

### **Introduction**

Before I move on to a detailed analysis of the issues related to transport burdens for the army during the period of the Kingdom of Poland (1815-1918), I must first of all make a brief description of the evolution and concept of local government – including commune (Polish: *gmina*) self-government,<sup>1</sup> its lowest level – in its historical development in Europe and Poland. This is due to the fact that the commune self-government will constitute, as follows from the title of this article, the main reference for my analysis. Although the origins of local self-government (commune self-government) can be traced back to ancient times [Górski 1894, 5-8; Pokrowskij 1927, 127-28, 204-205, 226-28; Kroński 1932, 9-10; Niewiadomski 1995, 142], the nature of exercising state power in the territories subordinated to a particular authority at the time, which resembled a form of territorial autonomy rather than an institution of local government in its modern form, does not allow us to treat it as source of the form of decentralisation of state administration which constitutes the contemporary local government [Gołębiowska and Konarski 2009, 64-87].

The beginnings of modern local government, as well as the beginnings of administrative law in European countries,<sup>2</sup> are connected with the legislation

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<sup>1</sup> Cf. Berezowski 2012, 251-60.

<sup>2</sup> The idea of administrative law in its modern form was born out of the need to protect the subjects from the despotism of the administration [Filipek 1974, 16-20]. The emergence of this branch of law was a response to the arbitrariness of the absolute ruler and his subordinate

of the Great French Revolution of 1789 and its socio-political consequences [Konarski 2016, 31-47], which in the following years led to the transition of European civilisation to constitutionalism.<sup>3</sup> It was already Alexis de Tocqueville who noted that the political revolution at the end of the 18th century in France was preceded by the “Great Administrative Revolution,” and in particular the reform of 1787, which led to a situation in which in France, in addition to intendants – who for centuries had been officials responsible for the entire administration of the districts – provincial assemblies began to operate, and they became the real administrator of districts [Tocqueville 2009, 235-36; Konarski 2012, 236].

Secondarily, significant reforms of the local administration and the formation of the concept of self-government can be found in the first years of the revolution in France under the influence of the doctrine of the so-called *pouvoir municipal* [Górski 1894, 65-74; Kroński 1932, 5; Caillousse 2017, 55-76]. The doctrine of the fourth power vested in communes, equivalent to the three authorities of the state of law, namely the legislative, executive and judicial authorities, meant that by virtue of this power, a commune has an autonomous right of existence, and thus also the right of complete freedom in a given scope of activity, the right to manage its own affairs, without the state interfering in its sphere [Panejko 1926, 42-43].

This doctrine, formed under the influence of the political thought of Jean-Jacques Rousseau [Zmierzczak 1989, 1-16; Baczek 2009, 288-303, 375-78; Grygień 2012, 55-121; Lis 2017, 193-210], took the view that people should elect their own authorities: not only members of parliament, but also local administrations, including judges and even parish priests and bishops [Konarski 2019a, 249-70]. Some of these demands were supported by the French Constituent Assembly, which in the years 1789-1790 enacted a series of decrees that made a fundamental change in the relations of the local government in the state.<sup>4</sup> There is no doubt that the French Revolution closed the

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officials. The law became a tool for inhibiting the omnipotence of the administration and for protecting the citizen from the administration [Starościak 1977, 29; Duniewska 2010, 67-71]. French administrative law is linked to the basic ideas on which the country's constitutional system has been based since the Revolution of 1789 [David 1965, 220-21].

<sup>3</sup> See Hayek 2011, 196-220; Konarski 2019c, 23-46 and literature cited therein.

<sup>4</sup> The latter territorial units expressed the triumph of egalitarianism, because every village and

old era decisively and marked the beginning of a new phase not only in the history of France, but of the whole of Europe.<sup>5</sup> In the following years, especially in the Napoleonic period, further transformations were made in the organisation of local self-government [Górski 1894, 74-78]. Together with the Prussian reforms of local self-government at the beginning of the 19th century [Kroński 1932, 15-17; Kopczyński 2015, 95-125], a model of a contemporary, continental organisation of local self-government was created in Europe.

In Poland, just like in Western Europe, one can find some elements of the communal system, alongside the dominant patrimonial system, i.e. the feudal one.<sup>6</sup> However, as I have already stressed before, it was only with the consequences of the Great French Revolution that the modern system of communal self-government organisation reached Poland.<sup>7</sup> Nevertheless, it should be stressed that the need to put municipal affairs in order and to create conditions for the development of towns led to the creation of modern law of self-

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every small or large town had basically the same communal system. Each of them had its own mayor and prosecutor, as well as its own council. It should be added that in 1790 Paris was divided into 48 districts, sections, which were mainly electoral districts. The sections operated with the help of executive bodies: social assistance committees and military committees. In the following years of the revolution, revolutionary committees took a key position in the system of local government, see Szelański 1934, 279-304; Mathiez 1956, 12-13; Baszkiewicz and Meller 1983, 60, 71-79, 82; Meller 1987, 59-72, 196-217; Baszkiewicz 1993, 196-202; Edelblutte 2010; Karkocha 2011, 107-109; Konarski 2012, 244 and 247.

<sup>5</sup> The development of the revolution resulted in a far-reaching democratisation of public life, forcing the constant search for new forms and means of influence [Wojtowicz 1972, 336].

<sup>6</sup> In the feudal era, elements of the communal system were limited with the granting of privileges to manorial lords, which meant broad attributes of state jurisdiction on behalf of the prince over the inhabitants of the estate. The factor which led to the creation of lords' power over peasants and the emergence of the communal system was colonisation. A self-governing village in the pre-modern period was a political unit based on German law as the base for rural relations. These issues are analysed in more detail by [Rafacz 1922, 14-90]. Cf. Górski 1894, 14-15; Konarski 2006, 433-48; Szandra 2012, 31-53; Targowski 2013, 169-90; Konarski and Woch 2014, 29-30 and 95-114.

<sup>7</sup> It should be noted that the French Revolution only reached Polish soil with the arrival of Napoleon and the establishment of the Duchy of Warsaw. The reason for this was the fact that it was Napoleon who merged the eighteenth-century Polish reform tradition with the consequences of the revolutionary legal codification, which included many social measures that were new in Poland. As S. Meller emphasised, the Napoleonic legend, which continues to this day in Poland, has two faces: it is a legend about a great commander who supported the national interests of Poles and, at the same time, a legend about a commander who gave a civic opportunity to all his Polish soldiers, including peasants [Meller 1991, 258-59].

government earlier – during the period of the Four-Year Sejm’s activity in 1788-1792 – as one of the first European countries. This was due to the legislation on cities.<sup>8</sup>

As I have mentioned above, however, it was only with the entry of Napoleon’s troops into Poland that a new stage in the formation of state administration and commune self-government began.<sup>9</sup> As we know, the Constitution of the Duchy of Warsaw of 22 July 1807, based on the French models, adopted a two-tier centralist administrative system,<sup>10</sup> with the communal issue completely omitted, as the functions of *vogts* (Polish: *wójtowie*), like in Prussia, were still performed by *soltysi* (village leaders), who were under the direct authority of the sub-prefects. It was not until the Decree of the Duke of Warsaw of 23 February 1809 that a temporary organisation of rural and municipal communes was introduced.<sup>11</sup> From that time on, each town and village constituted a commune, with a rural commune being headed by a *vogt* appointed by the prefect and approved by the Minister of Internal Affairs and subordinate to the sub-prefect (who could be replaced in a *gromada* by the *soltys* as his deputy). From the point of view of this discussion, the most important role was played by the *vogt* when assigning *podvodas* for the army, i.e. when providing means of transport.<sup>12</sup>

<sup>8</sup> Namely the Act of 17 April 1791: “Principles for a draft bill on towns” and “Our royal free towns within the dominions of the Republic;” “The law on free towns of the Republic in the Crown and the Grand Duchy of Lithuania” of 24 and 27 June; “The law on municipal and assessorial courts” of 3 October, see *Volumina Legum*, Vol. IX, Kraków 1889, p. 214-19, 291-97, 301-13. This was the first Polish general legislation on self-government which abolished the existing mosaic of different municipal authorities subordinate to feudal lords [Zahorski 1957, 88].

<sup>9</sup> However, it should be remembered that in the Prussian partition the origins of the communal organisation in Southern Prussia date back to the regulations of 17 June 1795, which established a *gromada*, with a *soltys* (village leader) elected from among peasants, as the lowest-level body of State authority. In New East Prussia these regulations were introduced on 29 May 1799 [Kukulski 1983, 113].

<sup>10</sup> The Constitution of the Duchy of Warsaw, Journal of Laws of the Duchy of Warsaw, Vol. 1, No. 1, p. I-XXLVII [henceforth cited as: JLDW]. For more about the institutions of the Duchy of Warsaw [Leśnodorski 1971, 430-38; Kallas 1982, 189-210].

<sup>11</sup> The Decree of 23 February 1809 on the temporary organisation for communes, JLDW 1, No. 9, p. 201-209.

<sup>12</sup> The Decree of 22 May 1810 on the provision of military *podvodas*, JLDW 2, No. 18, p. 195-212. For more about the obligation to provide *podvodas* in this period, see Konarski

After this brief analysis of the evolution of local government in Europe and in Poland, we now reach a period in the history of Poland, which will be the main turning point for the subject of my research. However, before I move on to this discussion, I must indicate the types of public services<sup>13</sup> that the population living on Polish soil was obliged to provide.<sup>14</sup>

In the initial period of the Polish statehood, as well as in the following centuries, services of the population living on the territory of the then state for the administration were of a universal nature [Konarski 2019e, 111-31], i.e. military duties and obligations concerned each estate – understood as a social group differing from others both in its actual position in society and in its legal position,<sup>15</sup> – and thus concerned both knights and nobles [Zajączkowski 1978b, 61-88; Szymczak 2017, 57-81], towns and burghers [Szczygielski 1960, 425-57; Zajączkowski 1978a, 3-44],<sup>16</sup> as well as serfs, i.e., peasants [Idem 1958, 425-82].

It is impossible to address all the aspects of these public burdens here. Let me only add at this point that with the establishment of commune self-gove-

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2019d, 113-35.

<sup>13</sup> The origins of the distinction between public and private services (for the benefit of the manor) go back to the obligations arising from land serfdom. Manorial duties usually included unpaid labour, or various types of rents in cash, rents in kind, economic and administrative charges, as well *robocizny* (additional tasks) and, related to *robocizny*, *zwózki* and *drogi*, i.e. transport services, or services involving means of transport, that were used to transport agricultural products, wool and wood to marketplaces or places they were floated from [Rusiński 1947, 91; Cackowski 1961, 170-216; Borowski 1963, 74].

<sup>14</sup> For more on the transport service in the form of the duty to provide *podvodas* between 16th and 18th century in Poland, see The State Archives in Poznań, „Regestra potrzebne dla informacji miasta dawnych zwyczajów. Dochody i wydatki miasta Kalisza” [The Registers of the old customs of the city, Revenue and expenditure of the city of Kalisz], fonds no. 4328, file no. 1/185, card 81; The Central Archives of Historical Records, “Archiwum Platerów z Antuzowa” [“The archives of the Plater family from Antuzów”], fonds no. 373, file no. 149, cards 1-2 [henceforth cited as: CAHR]; Kutrzeba 1900, 401-11; Opas 1971, 127-28; Konarski 2019b, 63-86.

<sup>15</sup> See Weber 2002, 228-233. He emphasises that “estate” refers to a group of people who, within a certain relationship, effectively claim the right to special estate-related respect, possibly also to special estate monopolies.

<sup>16</sup> For more about wartime obligations and burdens of the Jewish population for the State against the background of the wartime duty of towns and burghers of the Republic till the end of the 17th century [Horn 1978, 12-15].

rnment in Poland, the public burdens involved the obligation to provide, *inter alia*, services concerning: road, detainees, military quarters, public charity, maintaining lower levels of jurisdiction, and, which is most interesting for us, transport obligation in the form of the duty to provide *podvodas* for the army and various types of state and commune officials.

### **1. The services of the commune self-government in the Kingdom of Poland before 1831**

Let us now move on to a proper analysis of the subject of my research. As a result of the resolutions of the Congress of Vienna in 1815, the Kingdom of Poland was created. The Kingdom was to be united with Russia by a constitution in the form of a dynastic union. This meant that each tsar of Russia was to be at the same time king of Poland. Obviously, this state was to have limited sovereignty. It remained within the boundaries set in 1815 until the end of World War I in 1918.

After the creation of the Kingdom of Poland, the structure of administrative authorities from the times of the Duchy of Warsaw<sup>17</sup> was maintained, and the amendment of the regulations on the commune system took place later. The first decisions were made on 3 February 1816 in the resolution on the organisation of the administrative authorities and in the regulations of 1818 on the appointment of voigts and their powers.<sup>18</sup> According to these decisions, the country was divided into voivodeships, *obwód*s (Russian: *oblast* – *область*) and *powiats*, and a village with 10 chimneys could constitute a separate commune. On 30 May 1818, the previous regulations were confirmed, at the same time making it possible to merge several (or more than 10) villages, which were part of a landed property, into one commune.<sup>19</sup>

These regulations also defined powers of the municipal and rural (*vogts*)

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<sup>17</sup> The Constitutional Act of the Kingdom of Poland of 27 November 1815, Journal of Laws of the Kingdom of Poland, Vol. 1, No.1, p. 50 [henceforth cited as: JLKP]. JLKP was created as a result of the Decision of General Zajączek, the Viceroy of Poland, of 16 January 1816, JLKP, No. 1, p. 106-12. For more about announcing normative acts in this official publication [Marszałek 2008, 195-98].

<sup>18</sup> JLKP 2, No. 8, p. 31-68.

<sup>19</sup> The law on voigts in villages, JLKP 6, No. 22, p. 34-35.

administration,<sup>20</sup> i.e. ensuring public safety and order, maintaining roads, bridges, fire-fighting tools and equipment, keeping population records, etc.<sup>21</sup> and, which are of most interest to us, powers related to transport services and the obligation to provide *podvodas* for the army by municipal and rural communes.

As I have said above, the public burdens of rural and municipal communes, in addition to taxes (contributions of a monetary nature), were called commune duties and services, which by their very nature served the general needs of the country.<sup>22</sup> In the field of transport services, these burdens concerned the obligation to guard criminals, fugitives and vagrants sent by administrative, police and judicial authorities to their destination, through established transport stations.<sup>23</sup> I will not discuss these burdens here. The second

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<sup>20</sup> It should be remembered that in the light of these regulations the duties of a vogt were to be performed by the owner of the estate or a deputy appointed by him. The communal legislation referring to the patrimonial principle of combining the functions of the lowest-level state authority with the property ownership established a situation in which a manorial lord who was at the same time the vogt and who had administrative, judicial and enforcement powers, had an influence on all areas of social and economic life of the village [Kukulski 1983, 117; Dziki 2015, 121].

<sup>21</sup> JLKP 2, No. 8, p. 61-65.

<sup>22</sup> In the case of private obligations, i.e. the services of serfs provided to manors, in the first years of the existence of the Kingdom of Poland, the overburden existed in noble estates, which resulted from the fact that a small number of peasants had to meet the economic requirements of manorial farms and satisfy the needs of farms [Kirkor-Kiedroniowa 1912, 163-74].

<sup>23</sup> Between 1823 and 1866, almost 100 different types of legal acts were announced in this respect (decisions, regulations, proclamations). The most important of them include: the decision of the Royal Viceroy indicating the rules of commune transport service in communes when sending back criminals, fugitives and vagrants of 27 May 1823, JLKP 8, No. 33, p. 76-85 and the regulations issued by Government Commission of Internal and Spiritual Affairs: on preventing detainees from escaping during transport of 13 (25) October 1844, No. 30,241/23,209, *Zbiór przepisów administracyjnych Królestwa Polskiego* [A collection of administrative regulations in the Kingdom of Poland], Part IV, Vol. 1, Warszawa 1867, p. 149-59 [henceforth cited as: CARKP]; indicating in what cases the number of *podvodas* and guards should be increased when transporting detainees, and what evidence should justify this increase of 11 (23) January 1846, No. 53,402/26,887, CARKP IV/1, p. 171-75; prohibiting unfair and unlawful treatment of arrested and transported persons by police authorities of 18 (30) August 1853, No. 1,436/3,664, CARKP IV/1, p. 217-19. For more about the interesting history of the multi-volume CARKP publication and its significance for Polish scholarship [Kaczkowski 1917, 1-78].

type of commune obligations concerned the needs of the army and included the duty to: accommodate the army; provide rooms for offices, schools, hospitals and other military institutions; supply the army with firewood, light and straw for bedding; contribute to the costs of transporting people enlisted to the army and, finally, most interesting for us, the obligation to provide *podvodas* for the army.

The military burdens enacted in the times of the Duchy of Warsaw were maintained in the Kingdom of Poland, even though the wartime needs that caused them ceased to exist.<sup>24</sup> What brought relief to the population were regulations on the particularly onerous obligation to provide *podvodas*. This was due to the announcement at a meeting of the Administrative Council on 10 May 1817 by the Viceroy of the Kingdom of Poland, General Józef Zajączek, on behalf of Tsar Alexander I,<sup>25</sup> of a decision which, in order to free the inhabitants of the Kingdom of Poland from the existing free provision of *podvodas* for the army, guaranteed that on July 1, 1817 the free provision of *podvodas* by the inhabitants would be abolished.<sup>26</sup> It was stipulated that in its place *podvodas* provided by the inhabitants for the needs of the army would be paid 1 zloty per mile of a two-horse *podvoda* from a special fund.<sup>27</sup> Subsequently, on 28 May 1817, the Governmental War Commission,<sup>28</sup> following the instructions of the Viceroy on the issue of detailed regulations concerning the provision of *podvodas* for the army, announced the “Regulation on the

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<sup>24</sup> During the period of the Duchy of Warsaw, or earlier during the wars of revolutionary France and then Napoleonic wars [Wise 1944, 47-62], the needs of the army were often satisfied by means of requisitions, see CAHR, “Rada Stanu i Rada Ministrów Księstwa Warszawskiego” [“The Council of State and the Council of Ministers of the Duchy of Warsaw”], fonds no. 175, file no. 202, cards 1-69; CAHR, “Rada Ministrów Księstwa Warszawskiego” [“The Council of Ministers of the Duchy of Warsaw”], fonds no. 176, file no. 117, cards 2-143.

<sup>25</sup> For more on the circumstances of appointing Gen. J. Zajączek, the Viceroy of the Kingdom of Poland, see Nadziejka 1971, 179-89.

<sup>26</sup> Official Journal of the Voivodeship of Mazovia of 9 July 1817, No. 40, p. 503-504, Jagielloonian Library, file no. 12152 II [henceforth cited as: OJVM].

<sup>27</sup> According to the Resolution of Prince Royal Viceroy of 19 October the fee for two-horse or two-oxen *podvoda* used for continuous riding was to be 1 zloty 15 grosz per mile.

<sup>28</sup> The Central Archives of Historical Records, I Rada Stanu Królestwa Polskiego [I Council of State of the Kingdom of Poland], “Organizacja Komisji Rządowej Wojny” [“The organisation of the Governmental War Commission”], file no. 386, cards 1-81.



provision of *podvodas* for the army.”<sup>29</sup> It was the first normative act concerning the obligation to provide *podvodas* after the Decree of 22 May 1810.

However, the regulations of 28 May 1817 were much more sloppy in editorial terms than those of 1810. They were grouped into five titles with a total of 37 articles: Title I “On cases giving the military the right to require *podvodas*,” Title II “On road cards, certificates and open letters,” Title III “Regulations on accounting and cancelling fees,” Title IV “Police regulations,” Title V “General regulations.” These regulations in several places referred to and repeated the solutions developed under the Decree of 1810.<sup>30</sup> Nevertheless, in many places they were so imprecise that the Provincial Commission was forced to make some of the regulations more detailed by supplementing them, which took place on 27 June 1817.<sup>31</sup>

Because of the poor quality of the regulations on the provision of *podvodas* to the army announced in 1817, the Governmental War Commission took a decision as early as 6 years later to unify and make more specific the provisions in force in the Kingdom of Poland in this respect. Thus, on 24 May 1823, the “Regulation on the provision of *podvodas* for the army” was announced.<sup>32</sup> This legislative act was well-thought-out, reminiscent of the Decree of 1810 and therefore of high legislative quality.<sup>33</sup> It contained 71 articles, which were grouped into 10 titles, providing detailed regulations of individual issues related to the provision of *podvodas* for the army, i.e.: strictly defining the entities authorised to use *podvodas*, the number of *podvodas* required for particular military formations and loads as well as charges for them, provisions on issuing and handling of road cards or open letters, police and penal regulations, and procedure for control proceedings to be carried out at

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<sup>29</sup> OJVM, p. 504-11.

<sup>30</sup> However, it should be remembered that the military administration (accommodation, food, uniforms, funds) in the Kingdom of Poland, just as the provisions on transport services for the needs of the army, was entirely based on Russian principles [Eile 1930, 19 and 34, 37-42].

<sup>31</sup> OJVM, p. 512-13.

<sup>32</sup> The State Archives in Lublin “Podwód dostarczania przepisy” [“The regulations on the provision of *podvodas*”], fonds no. 22, file no. 908, cards 4-19 [henceforth cited as: SAL].

<sup>33</sup> This act was accompanied by official specimens of documents relating to the procedure for the delivery of *podvodas*, see *ibid.*, cards 20-28.

least once a year by the Commissioner in charge of the military department of the Voivodeship Commission.

On the night of 29 to 30 November 1830, an armed uprising broke out in the Kingdom of Poland [Zajewski 1994, 173].<sup>34</sup> During the uprising, draft bills for the peasant reform were being developed, which was obviously intended to encourage this most numerous social group to the fight against Russia, drawing attention to the fact of personal gain for peasants resulting from this fight [Rostworowski 1908, 131-33]. From the end of March 1831, three such draft bills were brought to the Sejm, none of them explicitly bringing to the fore the unilateral and gratuitous abolition of the obligations, including transport obligations, of peasants in government (national) and private estates.<sup>35</sup> With the collapse of the uprising, the issue of the abolition of these obligations returned to the initial state.

Shortly after the end of warfare in the Kingdom of Poland, on 28 October 1831, the “Regulations on supplying *podvodas* to troops by the citizens of the Kingdom of Poland, needed during the relocation of those troops or due to other circumstances” were promulgated.<sup>36</sup> As is evident from the title of this act, it concerned primarily the obligation of supplying *podvodas*, and their quantities, for various types of military formations moving around (cavalry regiments, infantry regiments, companies of light and heavy guns, sapper battalions, etc.) as well as for transporting their equipment, including hospital facilities.

Despite the exceptional nature of these provisions, i.e. relating to the ex-

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<sup>34</sup> For more about the legislative activity of the Sejm during the November Uprising see Mażewski 2014, 277-94.

<sup>35</sup> These draft bills were analysed in detail by [Rybarski 1910, 158-214; Meloch 1948, 102-59; Grynwaser 1951, 77-82].

<sup>36</sup> SAL, “Podwód dostarczania przepisy” [“The Regulation on the provision of *podvodas*”], fonds no. 22, file no. 908, cards 94-116. [Mencel 1962, 114-18] pointed out the organisational efforts of insurgent administrative authorities and citizens’ committees in the field of the supply of weapons, food and horse forage to army, the organisation of warehouses, as well as providing supplies to the fortress of Zamość (to which 100 *podvodas* daily were provided in December 1830 and January 1831). Cf. Barszczewska 1962, 264-70; Zabielski 1973, 168-69. Attention should also be drawn to the fact that in June 1831 the insurgent authorities issued orders to requisition horses and the obligation to supply rye, peas, oats, lard, vodka, hay and straw, which posed a risk of famine for the population.

ceptional situation of giving *podvodas* to passing troops, the regulation partly maintained the standards of this procedure developed in previous years. This meant that *podvodas* could only be given to persons who presented a road card issued on official forms, or, according to the previous regulations of the Kingdom of Poland, the fee for one *podvoda* (driven by two horses or an ox) was 1½ zloty per mile and was to be paid on receipt of the *podvodas*.<sup>37</sup> In addition, the regulations provided for criminal liability for exceeding the number, marked on the road card, of collected *podvodas* or falsifying documents. These regulations also required military personnel to behave “courteously and with dignity” in their relations with *podvoda* providers<sup>38</sup> and prohibited military units from taking *podvodas* without the participation of civil authorities. These provisions also applied to the passage of *podvodas* to subsequent stages, allowing their use only to the nearest stage, without stopping more than one hour and prohibiting deviations from the route shown on the road card. In addition, the regulations referred to the condition of the roads in the Kingdom, taking into account their poor condition and stating<sup>39</sup> that if the road was bad or damaged, a two-horse *podvoda* should travel one mile within 1½ hours and for an ox-driven *podvoda* that time should be two hours.<sup>40</sup>

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<sup>37</sup> It should be remembered that the Decree of 22 May 1810 set out in detail the obligation of the passing troops to, *inter alia*, notify the civil authorities at least 24 hours before their arrival of the number of *podvodas* and horses needed, and the consequences of failure to do so. Generally speaking, the regulations of that time were exceptionally humanitarian and extremely precise and therefore did not create legal uncertainties [Konarski 2019d, 129-30].

<sup>38</sup> Rules with a similar wording were included in the Prussian regulations for the province of South Prussia [“Vorspann-Reglement für die Provinz Südproussen”] and the Decree of the Duchy of Warsaw of 22 May 1810 [*ibid.*, 132].

<sup>39</sup> An interesting analysis of the legislation on roads in the Kingdom of Poland between 1815 and 1830, including the description of the roads, was made by Rutkowski 2015, 141-54. On the condition of roads in the 19th century [Wolski 2016, 735-38].

<sup>40</sup> The same solution was provided for in the Decree of 22 May 1810, i.e. it specified the travelling time of a *podvoda* on a good road to be 1 mile per 1½ hours (1 mile per 2 hours for an ox-driven *podvoda*) [Konarski 2019d, 131-32].

## 2. The services of the commune self-government in the Kingdom of Poland after 1831

The defeat of the November Uprising led in the following years to changes in the system and organisation of the administration of this already non-sovereign state, which was dictated by repressions from Russia. However, reforms of the local self government took place many years later – in the 1860s – as a result of the initiative of Aleksander Wielopolski, head of the civil government in the Kingdom of Poland [Grynwaser 1938, 3-82]. Under Tsar's ukases, local government councils (town and *powiat* councils) were established,<sup>41</sup> and then, with the affranchisement reform, the self-government system of rural communes was introduced.<sup>42</sup>

As regards the duty to provide *podvodas* and horses, for transporting people and things, to the army, the provisions laid down in previous years remained, as we will see in a moment, in force until 1858. The only new normative act in this respect was the decision of the Administrative Council of the Kingdom of Poland of 25 July/6 August 1833, establishing the order and principles under which *podvodas* for the army were to be provided in the city of Warsaw.<sup>43</sup>

It was a landmark decision and it was a reconciliation gesture to the inhabitants of the largest city in the Kingdom after the repressions connected with the fall of the November Uprising, as from 1 October 1833 it abolished the supply of *podvodas* in kind from its inhabitants. From that time on, the provision of *podvodas* for the needs of the army (transporting people arrested by the police, vagrants, beggars, telegraphic service) was to be carried out on the basis of a contract concluded between the Municipal Office and an entrepreneur, selected through a competition, who undertook to deliver *podvodas* at the lowest price per mile. The costs of servicing this entrepreneur were to be covered by the general municipal funds.

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<sup>41</sup> Tsar's Ukases of 24 May/5 June 1861 on governorate, *powiat* and municipal councils, JLKP 58, No. 176, p. 276-363.

<sup>42</sup> The Ukase of 19 February/2 March 1864 on the organisation of rural commune's, CAR KP 62, No. 187, p. 36-93. Issues related to the reform of the local administration are analysed in more detail by [Kończakowski and Ratajczak 2013, 161-90].

<sup>43</sup> CAR KP IV/2, p. 539-41.

The entrepreneur with whom a contract was concluded in such a way was obliged to deliver *podvodas* to the army on his own for each summons by the Municipal Office, for which he was to receive an annual lump sum payment, and regardless of this payment, the entrepreneur could directly charge the party taking a *podvoda* a fee determined by later regulations (of 1858). The contract usually contained many details of how the *podvodas* were to be delivered, and provided that, in the event of failure to comply with the provisions of the contract, the entrepreneur would be liable with all his assets, while waiving his right to proceedings in both civil and administrative courts, and, in the event of any doubt arising from the contract, he would submit to the decision of the administrative authority.

In 1858 a new regulation on the obligation to provide *podvodas* was adopted, which remained in place until the end of the Kingdom of Poland [Konic 1906, 185], namely the “Provisions on the supply citizens’ *podvodas* in the Kingdom of Poland,” effective from 1 July 1858.<sup>44</sup> They were approved by the Administrative Council’s decision of 22 April/4 May 1858.<sup>45</sup> The new regulation consisted of 57 editing units (articles) grouped in 9 titles: I. “General provisions,” II. “To whom *podvodas* are to be delivered,” III. “On the weight of loads to be transported by *podvodas*,” IV. “On road cards,” V. “On the harness and load of *podvodas* and the pay for them,” VI. “On how to pay for *podvodas*,” VII. “On the funds from which the charge for *podvodas* is to be paid,” VIII. “On penalties for misconduct,” IX. “On the payment of the remuneration for *podvodas* to the inhabitants.”

According to these regulations, *podvodas* in the Kingdom of Poland were to be provided by residents of towns and communes, and in Warsaw, in place of residents, by contracted entrepreneurs. It was already pointed out many years ago that in fact, those residents were landowners, so within communes the obligation to provide *podvodas* was imposed only on landowners, on manors [Powichrowski 1893a, 83]. It was only with the *Ukase of 19 February/2 March 1864* when peasants were granted the ownership of land<sup>46</sup> and thus

<sup>44</sup> JLKP 51, No. 156, p. 184-239; CARKP IV/2, p. 557-611.

<sup>45</sup> JLKP 51, No. 156, p. 179-83; CARKP IV/2, p. 555.

<sup>46</sup> After the enfranchisement of peasants, the basis of the peasant economy was the land in the exclusive use of individual farms, as well as various types of rights to land in common use [Rutkowski 1950, 296]. For more about the regulation of easements, see Pietkiewicz

made equal in legal terms with the existing landowners. As a result all duties and burdens attached to the land ownership were transferred to them. Initially, these regulations were misinterpreted, mainly by the commune assemblies, which decided that only manors had *podvoda* duties. It was only the decision of the Executive Committee in the Kingdom of Poland (*Учредительный комитет в Царстве Польском*) of 15 (22) October 1866 that explicitly specified that the *podvoda* duty lies with on all landowners in a commune, regardless of the area owned and the ownership title.<sup>47</sup> In this way each village (as whole) provided *podvodas* without the need to collect *podvodas* from individual peasants. Each manorial estate also constituted a separate whole. A characteristic feature of this distribution of duties was the formula “as many *podvodas* as voloks (*włókas*).” For the total area of a village calculated in voloks, the *podvoda* duty was distributed in the ratio of on two-horse *podvoda* or two one-horse *podvodas* per one volok. This meant that the number of *podvoda* units was equal to the number of voloks in a given commune.

*Podvodas* were to be provided to various military formations (regiments, battalions of sappers and riflemen and others) during their march. The number of *podvodas* was indicated in military orders. In addition, *podvodas* were to be provided to members of recruitment commissions during the military census and enlistment of recruits, in the number and class indicated (e.g. two-horse, three-horse and four horse *podvodas*), to doctors, for the carriage of ill recruits and soldiers, wives of soldiers (both alone and with children) and soldiers. All these people had to show their road card. In total, there were over 10 categories of eligible persons. These regulations, made more specific by military orders and instructions, formed an extensive system covering a number of entities entitled to receive *podvodas*.<sup>48</sup>

According to the regulations, the legislator decided to pay for *podvodas*.

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1905, 82-96; Szumski 2002, 188-208.

<sup>47</sup> JLKP 66, No. 220, p. 320-23.

<sup>48</sup> The provision of *podvodas* by the residents of a given commune was regulated by resolutions of commune meetings. [Powichrowski 1893c, 145-56] analyses these issues in detail and also discusses the way to fulfil the *podvoda* obligation and the inspection of books of payments and distribution, covering receipts for the money paid for *podvodas*.

The normal fee was 2 kopecks per verst for one horse,<sup>49</sup> 4 kopecks per verst for a pair of horses etc.<sup>50</sup> This fee was paid only for the way from the assembly point, i.e. the point of marching out to the nearest station, without the way to the assembly point and the way back home. An exception was made to the principle of payment, namely the right to use *podvodas* free of charge, which was regulated in the Order of 10 (22) May 1868 on *podvodas* for the lower supervisory levels of the gendarmerie corps.<sup>51</sup> In addition, there were also free of charge *podvodas* used only within a single commune, e.g. *podvodas* for the vogt or for the needs of the commune's residents, e.g. for transporting ill people to a hospital.<sup>52</sup>

The legal title authorising its holder to receive a *podvoda* was either a road card or an open letter. A road card was the title to receive military *podvodas* paid two kopecks per verst for one horse. Open letters were given to officials of different categories for the right to receive paid *podvodas*, i.e. those used in the interest of the service to use *podvodas* for the purpose of carrying out the activity entrusted to them.

As regards the criminal sanctions provided for in the regulations on the provision of *podvodas*, it was decided that a person officially issuing road cards was to be subject to a pecuniary penalty if he issued a road card to a person who did not have the right to receive *podvodas*, or if he marked a quantity of *podvodas* that was greater than the quantity specified in the regula-

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<sup>49</sup> Verst (Russian: *versta*) was an old Russian unit of length equal to 1066.78 m. For more about the length of roads built in the Kingdom of Poland between 1815 and 1918, see Kowalczyk 2004, 63-85.

<sup>50</sup> It should be noted at this point that 40% of the total expenditure in the Kingdom of Poland went to military purposes, while the ten governorates of the Kingdom were highly productive for the Russian treasury in terms of various revenue categories [Ślusarska 2010, 35 and 40-41].

<sup>51</sup> JLKP 68, No. 231, p. 225.

<sup>52</sup> For more on justified reasons for free provision of *podvodas*, see Powichrowski 1893b, 99. Cf. the report of the Police Commissioner of Precinct II in Lublin dated February 25th/9th March 1861 on the request made to him by six Jewish cart owners to be freed from providing *podvodas*, SAL, "Akta miasta Lublina" ["Records of the city of Lublin"], fonds no. 22, file no. 1236, cards 258-61. Lublin was divided into two precincts: Jewish Precinct and Christian Precinct. Precinct II was the so-called Jewish town, which included the districts of Podzamcze, Czwartek, Kalinowszczyzna and Piaski [Kociuba 2018, 29].

tions.<sup>53</sup> The penalty was collected from the pay of the guilty party and paid to the fund to which the rent of *podvodas* was related. In addition, anyone who forged a road card or arbitrarily took a *podvoda* was liable to a fine.

## Conclusion

To conclude, let me first stress, that, as is apparent from the research presented above, the regulations on the duties of local commune government service in the times of the Kingdom of Poland were not of a native nature. The first modern regulations in this area date back to the period of the Duchy of Warsaw. They were modelled on French and, partially, Prussian regulations [Konarski 2019d, 121]. The last native legislation on this matter dates back to the early 17th century [Idem 2019b, 79-80]. After the fall of Napoleon, the lands of the Duchy were incorporated into the Kingdom of Poland established at the Congress of Vienna in 1815, and from the very beginning Russian legislation was applied as a model there, but many of the legal solutions referred to regulations from the times of the Duchy of Warsaw. In fact, the legislation of the insurgent authorities in the years 1830-1831 also rejected Russian solutions in favour of the French solutions. After the defeat of the uprising, and also later, individual regulations concerning the obligation to provide means of transport and other military contributions were permanently based on Russian regulations.<sup>54</sup>

Secondly, it should be emphasised that the source of transport burdens in the Kingdom of Poland were the obligations of the local government resulting from the need to satisfy local needs, but above all the obligations set out for the state organisation in the form of some local assistance in the performance of activities by state offices, or the performance of duties for the defence of the state, as was the case with the provision of *podvodas* for the

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<sup>53</sup> Cf. the letter of the Head of the Łęczyca Powiat concerning the way of imposing penalties on persons whose fault was the death of a horse or a horned animal resulting from overloading a *podvoda*, state Archives in Płock, Branch in Łęczyca, “Akta miasta Parzęczewa” [“Records of the town of Parzęczew”], fonds no. 12, file no. 27, cards 15-16.

<sup>54</sup> For example, in 1874, a special administration body, the Governorate College for the Military Duty, was established to supervise the enlistment of recruits within a governorate. In each *powiat* district there was a college for the military duty. These bodies were dissolved in January 1918 [Górak and Latawiec 2015, 55-56 and 112].



army [Grabski 1908, 6-7]. The classification of certain public needs as those which should be obligatorily satisfied was obviously dependent on the historical development of public life. However, it was always associated with the imposition of the duty to perform transport obligations on peasant farms as a separate form of feudal service, but apart from peasants it also encumbered the knighthood, which was obliged to perform such duties [Piekosiński 1896, 57; Grodecki 1930, 22-23].

Finally, attention should be paid to the financial aspect, which is related to the payment for provided *podvodas*. What I am referring to is, of course, a fee established in 1858, which was not increased for over 50 years. This meant that the fee established in other economic relations than those existing at the beginning of the 20th century was still unchanged, which, obviously, meant *de iure* legalisation of exploitation for persons providing *podvodas* [Powichrowski 1893b, 98].

In the final years of the Kingdom of Poland – during the Great War – the obligation to provide means of transport resulted from the Russian war legislation regulating the scope of wartime duties.<sup>55</sup> However, the most common way of obtaining items for supplying troops was requisitioning.<sup>56</sup> The rebirth of Poland in November 1918, after the 123 years of partitions, saw the beginning of the process of creating native Polish regulations on the public obligation to provide means of transport for the army.

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<sup>55</sup> These regulations are analysed in more detail by Podolska-Meducka 2011, 54-59.

<sup>56</sup> The Archives of Modern Records, “Gabinet Cywilny Rady Regencyjnej Królestwa Polskiego w Warszawie” [“The Civil Cabinet of the Regency Council of the Kingdom of Poland in Warsaw”], fonds no. 2, file no. 76, cards 5-11, 17, 19-25, 27-29, 32-34, 60-61. Cf. Przeniosło 2004, 96 and 105-107; Zakrzewski and Studnicka-Mariańczyk 2014, 14, 28 and 46. On estimating the remuneration for a requisition, see Lewy 1920, 1-16.

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**The Services of the Commune Self-Government in the Kingdom of Poland  
on the Example of the Provision of Means of Transport  
for the Army**

Summary

The article analyses the duty to provide transport services which lay with local administration units in the Kingdom of Poland (1815-1918) – rural and municipal commune. The research covers two periods in the history of the Kingdom, namely the so-called constitutional period, from the Congress of Vienna to the November Uprising, and then the period of limited political separateness after the fall of the Uprising, until the end of the Kingdom as a result of World War I. The author draws attention to the essence and nature of commune self-government and public burdens

(obligations) which lay on it, putting particular emphasis on the extremely onerous commune burdens that were borne by the population for the benefit of the army and public officials.

**Key words:** Kingdom of Poland, commune self-government, commune burdens, transport burdens, *podvodas*

## **Posługi samorządu gminnego w Królestwie Polskim na przykładzie dostarczania środków transportowych dla wojska**

### Streszczenie

Przedmiot niniejszej analizy związany pozostaje z usługami o charakterze transportowym, których obowiązek dostarczania spoczywał na lokalnej jednostce administracji w Królestwie Polskim (1815-1918), jaką była organizacja gminna, zarówno wiejska, jak i miejska. Cezura badań obejmuje dwa okresy w dziejach Królestwa, a mianowicie okres tzw. konstytucyjny, od kongresu wiedeńskiego do powstania listopadowego, a następnie okres ograniczania odrębności ustrojowych po upadku powstania, aż do zakończenia bytu Królestwa wskutek I wojny światowej. Autor niniejszych rozważań zwraca uwagę na istotę i charakter samorządu gminnego i spoczywających na nim ciężarów (powinności) publicznych, kładąc szczególnie akcent analizy na niezwykle uciążliwe ciężary gminne, które świadczone były przez ludność na rzecz wojska i urzędników państwowych.

**Słowa kluczowe:** Królestwo Polskie, samorząd gminny, ciężary gminne, ciężary transportowe, podwody

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