

CRIMINAL AND DISCIPLINARY PROCEEDINGS AGAINST WŁADYSŁAW SIŁA-NOWICKI BEFORE THE COURTS OF THE PEOPLE'S REPUBLIC OF POLAND (1959-1984)

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Abstract. This article aims to present a fragment of the biography of Władysław Siła-Nowicki, a lawyer and defence counsel in political trials during the period of the People's Republic of Poland. He practised law from 1959 to 1984. During this period, his uncompromising courtroom stance led to repeated disciplinary penalties, criminal proceedings, and temporary deprivation of his right to practise law. Thanks to his courage and willingness to make sacrifices in defence of his clients, he earned public recognition and respect. The article is also intended as a contribution to broader reflections on the status of the legal profession under a communist state.

Keywords: Władysław Siła-Nowicki; lawyer; People's Republic of Poland; judiciary; disciplinary and criminal proceedings.

INTRODUCTORY REMARKS

Among the documents of Władysław Siła-Nowicki, now preserved in the Archives of Modern Records in Warsaw, there is a short note he wrote in the early 1990s. He recorded the conviction that the idea of Christian democracy requires honest, Christian, and cultured treatment even of political opponents, as well as of people with differing political views.¹ Siła-Nowicki had become associated with Christian democracy during the Second World War and remained faithful to its principles throughout his life. He also applied them in his professional practice as a lawyer and defence counsel in political trials. For him, the central value was the human being, and thus he saw his duty as fighting for justice for others. He committed himself wholeheartedly to defending his clients, believing that a lawyer should defend anyone

¹ The Central Archives of Modern Records (Polish: Archiwum Akt Nowych) [hereinafter: CAMR], ref. no. 58, note, undated, place not indicated, Archive of W. Siła-Nowicki, place not indicated.

who entrusted their case to him. Because of his conduct in the courtroom, he was repeatedly subjected to disciplinary measures, criminal proceedings were brought against him, and he was deprived of the right to practise law several times. His appearances in political trials earned him a reputation as a courageous, uncompromising, and selflessly devoted defence counsel.

The article focuses on a specific period of Siła-Nowicki's life, namely his professional activity between 1959 and 1984. The first chronological marker relates to his entry on the Warsaw Bar Association's list of lawyers on 5 March 1959. In 1984, however, Siła-Nowicki was deprived of the right to practise law. The official pretext was his reaching retirement age the year before. The then minister of justice, Sylwester Zawadzki, refused to grant him permission to establish an individual legal practice. Upon leaving the profession in 1984, Siła-Nowicki addressed an open letter to General Wojciech Jaruzelski, in which he criticised the political situation in the country and pointed to numerous examples of law-breaking by public officials [Rzeczkowska 2018, 403-19].

Siła-Nowicki belonged to a small group of defence lawyers who consistently spoke up for the rights of defendants in political trials. In such trials, the point was not to prove someone's guilt within the framework of judicial proceedings but to carry out political instructions through the courts [Pleskot 2020]. The attitude of the judiciary towards defence lawyers in political cases, as Siła-Nowicki's close associate and student Piotr Andrzejewski observed, was exceptional: "we constituted a threat to the proper functioning of the justice system. The authorities feared Siła-Nowicki so much that they issued a special regulation: a lawyer who reached the age of seventy was required to cease practising law" [Dłużewska 2017, 40]. He was removed from the list of the Warsaw Bar Association No. 24 pursuant to Article 19 of the Law on the Bar of 26 May 1982.² Adopted during martial law but drafted earlier following the National Bar Congress in Poznań (3-4 January 1981), this law was widely regarded by lawyers as a measure aimed at eliminating defence lawyers active in political cases [Rościszewski 2012, 19]. Siła-Nowicki was probably the first person against whom the new provisions were applied. After his removal, he attempted to set up an individual legal practice, but this required the approval of the minister of justice. By a decision of 19 January 1984, the minister refused to grant such permission [Rościszewski, Olszewski, Grabiński, et al. 1994, 205].³

This article describes the circumstances surrounding the initiation of disciplinary proceedings against Siła-Nowicki, their course, and the arguments used by the parties involved. Particularly valuable are the remarks of the judiciary, disciplinary bodies, as well as of Siła-Nowicki himself, regarding the

² Act of 26 May 1982, the Law on the Legal Profession, Journal of Laws, No. 16, item 124.

³ Archive of the Institute of National Remembrance in Warsaw, file no. 0204/20, registration questionnaire, code name 'Stefan'; extract from Protocol No. 16 of the meeting of the District Bar Council, 1 December 1983, vol. 11, fol. 142.

status of a lawyer and defence counsel in political trials before the courts of the People's Republic of Poland. During the period under discussion, the status of the legal profession was defined by the Act on the Structure of the Bar of 27 June 1950 (subsequently amended) and later by the Act of 19 December 1960.⁴ Both statutes introduced new disciplinary organs into the Bar's structure. The existing disciplinary courts were replaced by disciplinary commissions (Provincial Disciplinary Commissions and Higher Disciplinary Commissions). The scope of supervision exercised by the minister of justice was also expanded, granting him, as Marcin Zaborski has written, the position of overseer and hegemon [Zaborski 2018, 128].

1. THE TRIAL OF JEHOVAH'S WITNESSES IN BIAŁYSTOK

In October 1959, Siła-Nowicki appeared as defence counsel in a trial against Jehovah's Witnesses before the Provincial Court in Białystok. The charges concerned the distribution of religious literature without the required state permit (debit). Reflecting on his practice, Siła-Nowicki recalled: "I also handled many cases of members of the Jehovah's Witnesses, who were prosecuted at that time in Poland for refusing military service and for their openly negative attitude towards the materialist worldview. Being myself a believing and practising Catholic, I defended them with full conviction that they were people of high moral standing and that everyone has the right to praise God according to their own beliefs, in keeping with the age-old tradition of religious tolerance."⁵

Jehovah's Witnesses had been under particular surveillance by the communist security apparatus since 1946. Informants reported that they agitated for boycotting elections. In 1950, the activities of the Association of Jehovah's Witnesses in Poland were banned, and many of its members were arrested. Contrary to expectations, the post-1956 liberalisation did not result in the legalisation of the community, which Jehovah's Witnesses demanded, along with exemption from military service. A new wave of repression followed in 1958, with cases of prolonged detention without court verdict. In 1960, the Security Service liquidated eight clandestine printing houses belonging to Jehovah's Witnesses. These actions were aimed less at eradicating the denomination than at subordinating it to the official system of recognised religious associations in the People's Republic of Poland [Jasiński 2020; Rzędowski 2004].

The October session of the Provincial Court in Białystok was attended by Captain Jan Ciosek, a functionary of the Provincial Office of Public

⁴ Act of 27 June 1950 on the Organisation of the Legal Profession, Journal of Laws No. 30, item 275; Act of 19 December 1963 on the Organisation of the Legal Profession, Journal of Laws No. 57, item 309.

⁵ CAMR, file no. 95, memorandum, no date or place, W. Siła-Nowicki Archive, n.d.

Security. He drafted a note from the proceedings which later served as the basis for initiating disciplinary action against Siła-Nowicki. He accused the lawyer of criticising Jan Jantas, head of the Provincial Office for the Control of Press, Publications and Performances in Białystok, who appeared as an expert witness in the trial. According to Ciosek, Siła-Nowicki declared that Jantas, as an expert, wrote absurdities and ‘nonsense’ that did not deserve consideration and should in no way constitute material evidence against the accused.⁶ In fact, Siła-Nowicki’s remarks referred to the legal status of Jehovah’s Witnesses. He argued that their activity was lawful under the 1952 Constitution of the People’s Republic of Poland, yet the Office for Religious Affairs refused to legalise their organisation. He recalled the early 1950s, when many Jehovah’s Witnesses had been arrested and accused of espionage, and how most were later released and rehabilitated after 1956. He also referred to the period of Nazi occupation, when many members of the group had been persecuted and murdered by German authorities. Ciosek’s report further noted: “In the course of his statements, he [Siła-Nowicki] claimed that Jehovah’s Witnesses had been exterminated by Hitler during the occupation, and that, at that time in Białystok, a new Hitlerite cell had been formed, whose task was to annihilate Jehovah’s Witnesses, who did not act hostilely towards the authorities but pursued a peaceful path. He added that, at that time, there were no cases of a Jehovah’s Witness being prosecuted for hooliganism, theft, or brawling. These people, he continued, followed the proper peaceful path, and no Hitlerite cell would be able to annihilate them. During these remarks, Presiding Judge Skubowski repeatedly admonished him to watch his words, but he paid no attention and continued speaking, while those present in the courtroom burst out laughing.”⁷

This note caused considerable difficulties for Siła-Nowicki. On 23 March 1960, the District Prosecutor’s Office in Białystok charged him with having “behaved indecently on 12 October 1959 before the Provincial Court in Białystok by criticising evidence in the case with raised voice and inappropriate words, thereby committing an act under Article 128 of the Penal Code.”⁸ Nearly two months later, the charges and legal classification were revised. In the new decision of 5 May 1960, Siła-Nowicki was accused of publicly insulting the Department for Religious Affairs of the Presidium of the Provincial National Council (PNC) during his defence speech in the Białystok court, claiming that the department employed ‘Hitlerite methods.’ This act

⁶ CAMR, file no. 95, memorandum, no date or place, W. Siła-Nowicki Archive, n.d.

⁷ Ibid.

⁸ Ibid. “Anyone who, in a public place or during official duties, insults the authorities, an office, the army, or the navy, or their units, shall be liable to imprisonment for up to two years or a fine” – Article 127 of the Presidential Decree of 11 July 1932, the Penal Code, Journal of Laws No. 60, item 57.

was classified under Article 127 of the Penal Code.⁹ In fact, during the trial, Siła-Nowicki had critically assessed the opinion issued by the Office for the Control of Press, Publications, and Performances and had made no statements regarding the Department for Religious Affairs. However, his explanations during the trial were disregarded by the adjudicating panel.¹⁰

By a verdict of the District Court in Białystok of 12 November 1960, Siła-Nowicki was found guilty of the alleged offences. Judge Henryk Cygan sentenced him to a fine of PLN 4,000 or 80 days' imprisonment should the fine not be paid. The court's decision was based solely on the testimony of five witnesses, whose examination took place three months after the incident. On 30 May 1961, the Białystok Provincial Court overturned this verdict. The case did not conclude with the appellate court's decision, as Deputy Minister of Justice Kazimierz Zawadzki, in an extraordinary appeal on 28 July 1961, petitioned for the annulment of the verdict and the reassignment of the case to a different panel. The appeal justification stated that: "Although witnesses at the trial did not confirm that the accused had directed an abusive statement specifically at the Office for Religious Affairs, there was no doubt based on their testimony that such a statement was made against the Presidium of the Provincial National Council. ... The precise wording of the accused's statement by the witnesses was deemed irrelevant, as its meaning, containing an insult to a public office, was sufficiently clear."¹¹

In November 1961, the Supreme Court decided to leave the minister of justice's extraordinary appeal unconsidered. One of the judges, Mikołaj Mokrawiec, submitted a dissenting opinion, noting that he fully agreed with the reasoning of the first-instance court.¹²

Although Siła-Nowicki ultimately prevailed in court, this did not end his troubles. On 25 November 1961, disciplinary proceedings were initiated against him. On that day, Deputy Disciplinary Prosecutor L. Koprowski, charged him: "[...] with having abused freedom of speech during his defence by referring to expert witness J. Jantas, Head of the Provincial Office for the Control of Press, Publications and Performances at the PNC Presidium in Białystok, as 'nonsense.' Additionally, in his defence speech, he allegedly employed improper expressions, creating the impression among the courtroom audience that the PNC Presidium in Białystok applied inappropriate, Hitlerite-like methods against Jehovah's Witnesses. As a result, the presiding judge admonished him not to abuse freedom of speech in defending the

⁹ Ibid.

¹⁰ CAMR, file no. 95, judgment of the District Court for the city of Białystok, 12 November 1960; untitled memorandum, W. Siła-Nowicki Archive, n.d.

¹¹ CAMR, file no. 95, extraordinary review by the Minister of Justice to the Supreme Court, Warsaw, 28 July 1961, W. Siła-Nowicki Archive, n.d.

¹² Ibid.

accused, thereby violating his duties as a lawyer and committing a disciplinary offence.”¹³

On 3 February 1962, the Provincial Disciplinary Commission of the Warsaw Bar Association issued a decision in Siła-Nowicki’s case, acquitting him of the charges.¹⁴ Dissatisfied with this outcome, the disciplinary prosecutor of the Warsaw Bar Council filed an appeal on 22 September 1962 to the Higher Disciplinary Commission for lawyers in Warsaw, seeking the annulment of the acquittal and the imposition of an appropriate disciplinary penalty.¹⁵ Once again, the disciplinary decision was favourable to Siła-Nowicki. The Higher Disciplinary Commission upheld the appealed decision, stating that, based on the final outcome of the trial in case K. 94/59, the analysis and assessment of the expert opinion by the accused were substantively correct, as the Provincial Court, contrary to the expert’s opinion, acquitted both defendants.¹⁶ The commission further referenced the District Court verdict in Białystok, which had ruled in favour of the two Jehovah’s Witnesses defended by Siła-Nowicki, thus validating the lawyer’s arguments while rejecting the reasoning of the expert, the Head of the Provincial Office for the Control of Press, Publications, and Performances in Białystok.

The disciplinary proceedings against Siła-Nowicki were subsequently referred to the Supreme Court due to an appeal filed by the minister of justice. The minister requested the annulment of the decisions issued by both Disciplinary Commissions, arguing that: “Contrary to the conclusions reached by the commissions, the accused had exceeded the limits of freedom of speech necessary for the factual defence of the Jehovah’s Witnesses in Białystok, and therefore committed a disciplinary offence for which an appropriate sanction should be imposed.”¹⁷

On 24 August 1963, the Supreme Court issued a ruling instructing the Warsaw Bar Association Disciplinary Commission to reconsider the case.¹⁸ Siła-Nowicki described his impressions from the Supreme Court hearing in a letter to his daughter Maria: “I returned from the court at 5 p.m. after losing my disciplinary case: one round for the minister – considering that

¹³ CAMR, file no. 95, protocol of the presentation of charges, W. Siła-Nowicki Archive, n.d.

¹⁴ CAMR, file no. 95, decision of the Provincial Disciplinary Commission of the Warsaw Bar Association, Warsaw, 3 February 1962, W. Siła-Nowicki Archive, n.d.

¹⁵ CAMR, file no. 95, appeal of the Disciplinary Commissioner of the Bar Council in Warsaw to the Higher Disciplinary Commission for Advocates in Warsaw, Warsaw, 22 September 1962, W. Siła-Nowicki Archive, n.d.

¹⁶ CAMR, file no. 95, decision of the Higher Disciplinary Commission for Advocates, Warsaw, 1 December 1962, W. Siła-Nowicki Archive, n.d.

¹⁷ CAMR, file no. 95, review by the Minister of Justice to the Supreme Court, Warsaw, 20 March 1963, W. Siła-Nowicki Archive, n.d.

¹⁸ CAMR, file no. 95, judgment of the Supreme Court, 24 August 1963, W. Siła-Nowicki Archive, n.d.

he had already been knocked out several times, he deserved it – the minister is a human being, after all... They deliberated only an hour and ten minutes. Lawyer Koziołkiewicz defended me very well – apparently I did too, or so it seems to me. Now everything will be reviewed disciplinarily from the beginning. If I manage to convince the case rapporteur and he outlines possible motives, I hope we will win again. In any case: 'brothers, the time for battle has come' (again)."¹⁹

The Warsaw Bar Association Disciplinary Commission convened on 4 January 1964 to review Siła-Nowicki's case. In accordance with the Supreme Court's instructions, Judge Wincenty Skubowski, from the District Court in Białystok, was examined as a witness. In the justification of the acquittal, it was noted that the witness did not understand the meaning of the speech, could not reconstruct its content, and therefore such evidence was insufficient and could not serve as a basis for judgment.²⁰ Determined to pursue the matter, Minister of Justice Zawadzki again filed an extraordinary appeal to the Supreme Court, contesting the factual assessment that had justified Siła-Nowicki's acquittal. He also argued that the proceedings before the Provincial Disciplinary Commission had been conducted without proper adherence to the Supreme Court's guidance, or only partially and formally in accordance with it. Furthermore, the minister criticised the commission for superficially adopting one of the Supreme Court's alternative positions favourable to the accused, without explaining why the alternative unfavourable to the accused was excluded.²¹ Nevertheless, he recognised the need for a swift conclusion to the proceedings, given their excessive duration,²² and requested that the decision of the Disciplinary Commission be annulled and the case referred to the Provincial Disciplinary Commission in Katowice. In January 1965, the minister amended the conclusion of the extraordinary appeal, requesting that the appealed decision be annulled and the case referred to the Dean of the Warsaw Bar Council for the imposition of a disciplinary penalty.²³ Finally, on 12 June 1965, the Supreme Court issued a verdict that concluded the more than six-year-long criminal and disciplinary proceedings against Siła-Nowicki, initiated by the note

¹⁹ Excerpt from a letter from W. Siła-Nowicki to Maria Nowicka-Marusczyk, in: W. Siła-Nowicki, *Wspomnienia i dokumenty*, M. Nowicka-Marusczyk (ed.), vol. 2, Wrocław 2002, p. 13.

²⁰ CAMR, file no. 95, judgment of the Supreme Court, 24 August 1963, n.d.; decision of the Provincial Disciplinary Commission of the Warsaw Bar Association, Warsaw, 4 January 1964, W. Siła-Nowicki Archive, n.d.

²¹ CAMR, file no. 95, extraordinary review by the Minister of Justice to the Supreme Court, Warsaw, 10 October 1964, W. Siła-Nowicki Archive, n.d.

²² Ibid.

²³ CAMR, file no. 95, request of the Minister of Justice to the Supreme Court, Warsaw, 11 January 1965, W. Siła-Nowicki Archive, n.d.

of police officer Ciosek in Białystok. The Supreme Court left the minister of justice's appeal unconsidered.²⁴

2. THE CASE OF LECH ZIELKE

On 31 December 1965, another disciplinary case against Siła-Nowicki began. It was initiated by the disciplinary prosecutor of the Warsaw Bar Council based on a report from the Provincial Prosecutor's Office in Białystok. This time, he was accused of "filing, on 26 October 1965 in Ełk before the District Court, an unjustified motion to disqualify all judges of the court while representing his client, Lech Zielke, thus committing an act contrary to the principles of professional dignity."²⁵

As with the previous case, the proceedings extended over several years and went through successive instances in disciplinary proceedings. Siła-Nowicki was acquitted by the Warsaw Provincial Disciplinary Commission, which stated that he had acted in the interest of justice and to ensure the proper adjudication of the case.²⁶ The Higher Disciplinary Commission for Lawyers, which reviewed the case at the disciplinary prosecutor's request, adopted the same position, holding that Siła-Nowicki's motion to disqualify the judges was legally permissible, formally correct, and submitted at the explicit request of his client, whose interests he represented. In a letter to Maria and Konrad Maruszczyk, Siła-Nowicki wrote: "I was annoyed by the disciplinary prosecutor: a so-called decent person, and indeed, I do not know why he committed this mischief – which he did not even hide, saying to Lis [Witold Lis-Olszewski represented Siła-Nowicki before the Higher Disciplinary Commission] and to me that he would have preferred to be on the opposite side. ... Ah, these 'decent' ones... It is good that the disciplinary commissions still represent some honesty and reason – in addition, the case had quite serious general significance, not only personally for me."²⁷

General Prosecutor Henryk Cieślik disagreed with the Higher Disciplinary Commission and submitted an extraordinary appeal to the Supreme Court. In the prosecutor's view, the role and rights of a lawyer in proceedings differed from those advocated by Siła-Nowicki. The prosecutor regarded a lawyer as a "component of the judiciary" who "should act according to legal

²⁴ CAMR, file no. 95, judgment of the Supreme Court in Warsaw, Warsaw, 12 June 1965, W. Siła-Nowicki Archive, n.d.

²⁵ CAMR, file no. 95, judgment of the Supreme Court in Warsaw, Warsaw, 12 June 1965, W. Siła-Nowicki Archive, n.d.

²⁶ CAMR, file no. 293, decision of the Provincial Disciplinary Commission of the Warsaw Bar Association, Warsaw, 5 November 1966, W. Siła-Nowicki Archive, n.d.

²⁷ Excerpt from a letter from W. Siła-Nowicki to Maria and Konrad Maruszczyk, Warsaw, 8 October 1967, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 26.

provisions and exercise procedural rights based on factual necessity.” In contrast, client wishes, according to the general prosecutor, should be assessed “not only in terms of law but also in relation to the factual needs, the good of the justice system, and the principles of professional dignity.” Ultimately, he accused Siła-Nowicki of challenging judicial independence and causing delays in the adjudication of the case.²⁸

Siła-Nowicki also expressed his views on the rights and duties of a lawyer in court proceedings. In March 1969, he addressed a letter to the Supreme Bar Council, requesting that the disciplinary prosecutor take a formal position on the matter. He argued that his motion to disqualify the entire bench did not concern him personally alone, but that its consequences could have broader implications for the status of lawyers before criminal courts. He emphasized that the motion to disqualify a court is a statutory right of a lawyer and does not violate either the dignity of the judge or the authority of the court. He wrote: “This matter is of fundamental importance to ensuring that lawyers can properly and fully fulfil their duties before the Criminal Court. It should also be clarified that a motion to disqualify a judge, usually and unjustifiably treated by courts as an affront to the dignity of the judge or even the authority of the court, is a normal procedural measure provided for in the Code of Criminal Procedure, which does not violate anyone’s authority or dignity, and that both courts and all other state authorities violate the rule of law when they obstruct a citizen – including a lawyer – from exercising rights guaranteed to them by law.”²⁹

On 15 March 1969, the Supreme Court addressed the disciplinary case. It decided to leave the extraordinary appeal filed by the general prosecutor without consideration, rejecting the argument that Siła-Nowicki had violated the dignity of a lawyer or judicial independence.³⁰

3. THE CASE OF NINA KARSOV

While the disciplinary proceedings regarding the disqualification of the court bench were ongoing, in November 1967, another criminal and disciplinary case was initiated against Siła-Nowicki, triggered by a search of his apartment. The case continued until January 1970 and was particularly burdensome because it resulted in the suspension of Siła-Nowicki’s professional

²⁸ CAMR, file no. 293, extraordinary review by the General Prosecutor, Warsaw, 30 March 1968, W. Siła-Nowicki Archive, n.d.

²⁹ CAMR, file no. 293, request of W. Siła-Nowicki to the Supreme Bar Council in Warsaw, addressed to the Disciplinary Commissioner, Advocate Tadeusz Sarnowski, Warsaw, March 1969, W. Siła-Nowicki Archive, n.d.

³⁰ CAMR, file no. 21, judgment of the Supreme Court, 15 March 1969, Władysław Siła-Nowicki Archive, n.d.

rights. At that time, he continued to represent Jehovah's Witnesses in court cases and, most importantly, took on the case of Nina Karsov, a graduate of the Faculty of Polish Philology at the University of Warsaw. Together with Szymon Szechter, Karsov was collecting information on political trials in the 1960s, including those of Jacek Kuroń, Karol Modzelewski, Ludwik Hass, Kazimierz Badowski, Romuald Smiech, Cezary Ketling-Szemley, and Janusz Grzędziński, as well as on the student, literary, and legal communities and the Polish United Workers' Party. Their research served as source material for the diary they had been compiling since mid-1965. In August 1966, Karsov was arrested and imprisoned at Mokotów. The investigation against Szechter was conducted on bail due to his disability (he was blind) [Rokicki 2006, 179-80].³¹ The search of Siła-Nowicki's apartment was undoubtedly linked to his representation of Karsov and Szechter, as authorities suspected that he had assisted Szechter in preparing a text critical of the political situation in communist Poland, possibly in the form of a letter to the English philosopher and political activist Bertrand Russell.³²

The November search, carried out by officers of the Citizens' Militia Investigative Bureau, lasted several hours. A substantial number of documents were seized, including religious materials and documents related to the activities of the Catholic Church.³³ From the mid-1960s, Siła-Nowicki had been a member of an Informational Team under Primate Stefan Wyszyński. During each meeting, participants received documents from the primate, which were then distributed to other individuals interested in the situation of the Catholic Church in communist Poland. According to participant Wiesław Chrzanowski, the transmission of correspondence concerning Church-state relations was a key aspect of the team's work.³⁴ He recalled the search of Siła-Nowicki's apartment, during which one of the documents received from the primate was found. This document later became the basis for criminal charges against Siła-Nowicki. Chrzanowski explained: "At each Informational Team meeting, the participants received files of texts patiently typed by nuns. These manuscripts were not yet considered a violation of censorship laws but under pressure from the authorities, the Supreme Court later issued a contrary ruling. The documents were subsequently distributed among the intelligentsia. One document discovered during the late-1960s search concerned directives from Colonel Morawski, head of the Ministry of Interior's Department for

³¹ The course of the case was described by its protagonists, Nina Karsov and Szymon Szechter. More on this topic see Karsov and Szechter 1987.

³² CAMR, file no. 21, protocol of the review, Warsaw, 20 November 1967, W. Siła-Nowicki Archive, n.d.

³³ W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 27.

³⁴ Pół wieku polityki. Z Wiesławem Chrzanowskim rozmawiali Piotr Mierecki i Bogusław Kiernicki, Warszawa 1997, p. 262.

religious affairs.³⁵ This document, sent anonymously to the Episcopate, contained instructions on monitoring priests for the purpose of later blackmail, including a series of provocations, deceptions, and fraud.”³⁶

Chrzanowski noted that the document in question was a copy of instructions issued by the Office for Religious Affairs on 13 September 1960, signed by Jerzy Sztachelski, the head of the office. It outlined the Polish People’s Republic’s religious policy, including limiting Church activities, dismantling its administrative units, imposing high taxes, and charging high rents for Church-owned properties.³⁷

On 11 December 1967, the Warsaw Provincial Prosecutor’s Office formally charged Siła-Nowicki under Articles 23 and 24 of the Small Penal Code.³⁸ He was accused of drafting a document with the characteristics of an official state organ document regarding state-Church relations, containing false and defamatory information about the Polish People’s Republic, and of possessing such documents, including the open letter of Jacek Kuroń and Karol Modzelewski.³⁹ On 23 December, the disciplinary prosecutor of the Warsaw Bar Council filed a motion for the temporary suspension of Siła-Nowicki from professional practice due to the ongoing investigation. The prosecutor acted on instructions from the Bar Council, which decided in a vote of seven in favour, four against, and three abstentions to request the suspension.⁴⁰

Siła-Nowicki reacted strongly to the prosecutor’s motion. In a letter to the Provincial Disciplinary Commission, he accused him of failing to provide substantive justification for the suspension and of acting for political motives. He compared the prosecutor’s actions to the functioning of the justice system during the Stalinist period, when lawyers were administratively

³⁵ It concerns Department IV of the Ministry of Internal Affairs.

³⁶ Ibid., pp. 262, 266.

³⁷ CAMR, file no. 21, copy of the instruction of the Office for Religious Affairs, 13 September 1960, W. Siła-Nowicki Archive, n.d.

³⁸ Decree of 13 June 1946 on particularly dangerous crimes during the reconstruction of the State, Journal of Laws No. 30, item 192, Article 23: “§ 1. Anyone who disseminates, or for the purpose of dissemination prepares, stores, or transports writings, printed matter, or images that incite the commission of a crime, glorify a crime, contain material to be kept secret from state authorities, or contain false information capable of causing substantial harm to the interests of the Polish State or undermining the authority of its supreme organs, shall be liable to imprisonment for no less than three years. § 2. If the act referred to in the preceding paragraph has caused great harm to the State, the perpetrator shall be liable to imprisonment for no less than five years or to life imprisonment.”

³⁹ Article 24: “§ 1. Anyone who stores writings, printed matter, or images referred to in Article 23 shall be liable to imprisonment for up to five years. § 2. No crime is committed by anyone who stores such items for purposes justified by their profession.”

⁴⁰ This concerns the ‘Open Letter to the Party’ [List otwarty do partii] from 1965. CAMR, file no. 21, decision to bring charges, Warsaw, 11 December 1967, W. Siła-Nowicki Archive, n.d.

⁴⁰ W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 27.

removed from practice. He argued: “The suspension from professional duties of a lawyer defending in a political trial, on grounds related to the defence itself, without proof of guilt, and even at the preparatory stage of criminal proceedings before the filing of an indictment, must be regarded as a relapse into the worst traditions of the Stalinist era, a period of errors and distortions, when administrative measures were used to eliminate any defence counsel who dared to oppose the prevailing views of the time.”⁴¹

On 6 January 1968, Siła-Nowicki also provided oral explanations before the commission, criticizing his colleagues in the Warsaw Bar Council for seeking his suspension rather than defending him. He declared that this episode would remain in the history of the bar as one of its most disgraceful chapters.⁴² He described as shameful the convergence, in his case, between the position of the Public Prosecutor’s Office and that of the Bar Council, which submitted a motion for his suspension instead of coming to his defence.⁴³

Perhaps under the influence of the lawyer’s argumentation, the Provincial Disciplinary Commission did not uphold the motion of the disciplinary officer.⁴⁴ However, its decision was appealed by both the Regional Prosecutor’s Office and the disciplinary officer.⁴⁵ On 16 March 1968, a session of the Higher Disciplinary Commission was held. Siła-Nowicki and Witold Lis-Olszewski, who was also suspended from his duties as a lawyer on that occasion, were defended before the commission by as many as five lawyers. In his defence speech, one of them explained why he had decided to stand in defence of the accused: “If I undertook this defence, it is not primarily about colleagues Siła-Nowicki and Lis-Olszewski. For me, this is the matter of the bar, of the lawyer’s freedom and independence, of freedom from fear and the threat of disciplinary reprisals, especially in so-called political trials. A lawyer who, in defending before the court, fears disciplinary action, suspension, or the director of the bar, the dean, the disciplinary prosecutor, the judge, or the minister, ceases to be a lawyer, ceases to be an independent and autonomous participant in the justice system, and becomes a feeble and redundant assistant to a corrupt ‘justice system.’”⁴⁶

⁴¹ CAMR, file no. 95, statement of W. Siła-Nowicki, Warsaw, 6 January 1968, W. Siła-Nowicki Archive, n.d.

⁴² CAMR, file no. 98, oral explanations of Advocate W. Siła-Nowicki at the meeting of the Disciplinary Commission on 6 January 1968, W. Siła-Nowicki Archive, n.d.

⁴³ Ibid.

⁴⁴ CAMR, file no. 98, decision of the Provincial Disciplinary Commission of the Warsaw Bar Association, Warsaw, 6 January 1968, W. Siła-Nowicki Archive, n.d.

⁴⁵ CAMR, file no. 98, appeal of the Disciplinary Commissioner of the Bar Council in Warsaw to the Higher Disciplinary Commission, Warsaw, 24 January 1968, W. Siła-Nowicki Archive, n.d.

⁴⁶ CAMR, file no. 98, typescript of the address by an advocate [personal details missing], no date or place, W. Siła-Nowicki Archive, n.d.

Despite the strong defence and numerous arguments presented, taking into account appeals from the provincial prosecutor and the disciplinary prosecutor, the Higher Disciplinary Commission temporarily suspended Siła-Nowicki from professional practice. In a letter to Maria and Konrad Maruszczyk, Irena Siła-Nowicka wrote: "So we are already on the threshold of what we had been expecting since 6 January – temporary suspension from duties. Naturally, at this moment, Dad and I (especially Dad) are stunned, as we were hit hard! Even though we did not expect much from these commissions. Dad is deeply impressed by the six outstanding speeches (his seventh). They were full of pearls... one could equally have recited *Sir Thaddeus* [Poland's national epic – translator's note] or *Eugene Onegin*, and it would not have changed their opinion. Since yesterday, phones, friends, activity, excitement. Dad, like a film actress, receives flowers (white, as a sign of innocence...), but once the wave subsides, we will be left with our not problems but troubles. And what can a common man do?"⁴⁷

In addition to the temporary suspension from professional duties, the decision deprived Siła-Nowicki of his livelihood. Over the following two years, he worked occasionally, assisting in drafting legal documents, while his wife, Irena, at the request of Maria Bokszczanin, was transcribing the letters of Henryk Sienkiewicz, which were being prepared for publication under the supervision of Professor Krzyżanowski.⁴⁸ In April 1968, the authorities also suspended other lawyers involved in political trials, including Aniela Steinsbergowa, a collaborator of Siła-Nowicki.⁴⁹ In connection with the November search, Siła-Nowicki was repeatedly interrogated by Franciszek Orłowicz, an inspector at the Ministry of Interior's Investigative Bureau. The questioning concerned, among other matters, the open letter by Kuroń and Modzelewski, as well as the instructions from the Office for Religious Affairs dated 13 September 1960, which had been found in Siła-Nowicki's apartment.⁵⁰

In July 1968, the Warsaw Provincial Prosecutor's Office discontinued the investigation under Article 23 of the Small Penal Code due to lack of evidence. In the same month, the Prosecutor's Office filed charges under Article 24 of the Small Penal Code with the Warsaw District Court. At the end

⁴⁷ Excerpt from a letter from I. Siła-Nowicka to Maria and Konrad Maruszczyk, 17 March 1968, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 30.

⁴⁸ Ibid.

⁴⁹ CAMR, file no. 58, note, no place or date, W. Siła-Nowicki Archive, n.d.

⁵⁰ CAMR, file no. 21, interrogation protocol of W. Siła-Nowicki, prepared by Franciszek Orłowicz, Inspector of the Investigative Bureau of the Ministry of Internal Affairs, Warsaw, 21-22 December 1967; interrogation protocol of W. Siła-Nowicki, prepared by Franciszek Orłowicz, Inspector of the Investigative Bureau of the Ministry of Internal Affairs, Warsaw, 18 January 1968; interrogation protocol of W. Siła-Nowicki, prepared by Franciszek Orłowicz, Inspector of the Investigative Bureau of the Ministry of Internal Affairs, Warsaw, 19 January 1968, Władysław Siła-Nowicki Archive, n.d.

of August, Siła-Nowicki submitted a request to the Provincial Disciplinary Commission to lift his temporary suspension from professional practice. On 7 September 1968, the commission granted this request.⁵¹ However, three days later, Deputy Minister of Justice Kazimierz Zawadzki suspended Siła-Nowicki again, declaring the commission's decision to lift the suspension unjustified. In effect, the deputy minister annulled the commission's decision, an action beyond his legal authority, and imposed suspension without waiting for a possible appeal to the Higher Disciplinary Commission by the disciplinary prosecutor or the Prosecutor's Office.⁵²

Siła-Nowicki hoped for a favourable outcome from the Warsaw District Court, which convened on 30 September 1968. On the eve of the trial, he wrote to his daughter Maria: "What interests both of you most now – my trial tomorrow: objectively, it is so favourable that I should win it with minimal honesty from the judges. On the other hand, the presiding judge is such a... [here he refers to a series of widely recognized pejorative terms], and the conditions are so vile, and people's capacity for corruption so developed – regarding the litigants – that one must consider the possibility of losing. But in court, one never really knows, so I will not be surprised either by loss or victory."⁵³

Siła-Nowicki was aware that the authorities sought to permanently deprive him of his ability to practice law. Any conviction would automatically result in his removal from the bar. In the same letter to Maria, he wrote: "With all probability, it is not about actual imprisonment (which would be quite something considering my past... with a possible five-year sentence! ha ha ha...) but about any conviction that would allow my elimination from the bar. Suspension of six months to two years is very suitable for this nefarious purpose. Acquittal on two charges and discontinuation under Article 49 of the Code of Criminal Procedure for the other two would be a compromise solution somewhat favourable to me. The only correct solution is acquittal – of course, the proper and very difficult to achieve one."⁵⁴

The District Court ultimately found Siła-Nowicki guilty of possessing documents containing "false information regarding socio-political relations in the Polish People's Republic, particularly state-Church relations, potentially harmful to the interests of the Polish state ..."⁵⁵ The court determined that

⁵¹ CAMR, file no. 21, from a note sent in March 1970 to the Chair of the Parliamentary Committee on the Administration of Justice, W. Siła-Nowicki Archive, n.d.

⁵² Ibid., CAMR, file no. 21, note, no date or place, W. Siła-Nowicki Archive, n.d.

⁵³ CAMR, file no. 21, note, no date or place, W. Siła-Nowicki Archive, n.d. Excerpt from a letter from W. Siła-Nowicki to Maria Nowicka-Marusczyk, 24 September 1968; excerpt from a letter from W. Siła-Nowicki to Maria Nowicka-Marusczyk, 24 September 1968, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 34.

⁵⁴ Ibid.

⁵⁵ CAMR, file no. 21, judgment of the District Court for the capital city of Warsaw, Warsaw, 30 September 1968, W. Siła-Nowicki Archive, n.d.

the lawyer had held documents classified as state secrets, including an article entitled *What is Socialism?*, a study on the principles of religious freedom in Poland, and an open letter by Jacek Kuroń and Karol Modzelewski. He was sentenced to six months in prison, suspended for two years. This outcome represented the worst-case scenario he had anticipated. The verdict was not unanimous; one judge submitted a dissenting opinion advocating acquittal.⁵⁶

Both the prosecution and the defence appealed the District Court's decision. On 4 April 1969, the Warsaw Provincial Court upheld the sentence.⁵⁷ Siła-Nowicki had anticipated such a ruling, given his conflict with the presiding judge. His motion for the judge's recusal was dismissed. He noted in his correspondence: "The scheduled April date for my trial appears pessimistic, given that the judge, with whom I had previously been in dispute and about whom I filed a written complaint (one such judge only in all of communist Poland!), refuses to recuse himself. Once my motion is ultimately denied, my defence and I will leave the courtroom with heads held high and the verdict in our pocket – in this case, a synonym for the nearest and inevitable outcome."⁵⁸

Due to procedural irregularities, the Supreme Court considered filing an extraordinary appeal. However, this was deemed unnecessary as the sentence was nullified under the Amnesty Act of 21 July 1969, thus rendering the conviction legally void. Meanwhile, Deputy Minister Zawadzki petitioned the Warsaw Bar Council to strike Siła-Nowicki from the list of advocates. This petition was left unaddressed due to the amnesty. In the subsequent disciplinary proceedings before the Disciplinary Commission of the Warsaw Bar Council, Siła-Nowicki was acquitted on 11 October 1969. This decision was appealed by the prosecution.⁵⁹

In this context, Siła-Nowicki petitioned the Higher Disciplinary Commission to request that the minister of justice lift his temporary suspension. The commission refused by decision dated 24 November 1969.⁶⁰ Critically assessing this ruling, Siła-Nowicki submitted a letter to the National Bar Council on 13 December 1969, sharply criticizing the commission's decision. In his letter, he wrote: "If the Disciplinary Commission – the only body formally empowered to defend the rights of an advocate – does not exercise its powers even in such a blatant case, where an advocate suspended for one year and eight months has been acquitted in the first instance, this indicates

⁵⁶ CAMR, file no. 21, judgment of the District Court for the capital city of Warsaw, Warsaw, 30 September 1968, W. Siła-Nowicki Archive, n.d.

⁵⁷ CAMR, file no. 21, note, no date or place, W. Siła-Nowicki Archive, n.d.; excerpt from a letter from W. Siła-Nowicki to Maria Nowicka-Marusczyk, 24 September 1968.

⁵⁸ Excerpt from a letter from W. Siła-Nowicki to Maria and Konrad Marusczyk, Warsaw, 1–2 March 1969, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 35.

⁵⁹ CAMR, file no. 21, from a note sent in March 1970 to the Chair of the Parliamentary Committee on the Administration of Justice, W. Siła-Nowicki Archive, n.d.

⁶⁰ Ibid.

a misapprehension of its duties and that it functions more as an auxiliary, overzealous punitive organ than as a corporate body of justice.”

He concluded the document by noting: “today, in the name of various but equally short-term political objectives, people – my case being not the only one – are deprived of the possibility of practising a profession with particularly demanding duties in a socialist state.”⁶¹ These passages were subsequently evaluated both at the provincial level and by the Higher Disciplinary Commissions. Despite a request for recusal, the Higher Disciplinary Commission re-examined the case, overturning the acquittal and imposing on 10 January 1970 a disciplinary suspension of one year and nine months.⁶² By this time, the act for which Siła-Nowicki had been accused was no longer a criminal or disciplinary offense. He described the ruling in a letter to Maria and Konrad Maruszczyk as: “... a masterpiece of bureaucratic caution... issued after a six-hour deliberation. The ‘Most Honourable Prosecutor’ demanded either a five-year disbarment or expulsion from the bar. The absence of his defence counsel was recorded as a demonstration undermining the authority of the Higher Disciplinary Commission. As a Polish proverb goes: ‘The dog knows it has eaten the fish.’”⁶³

Additionally, the Presidium of the National Bar Council determined that Siła-Nowicki’s 13 December 1969 letter contained elements of insult and defamation and recommended initiating a separate disciplinary proceeding.⁶⁴ Siła-Nowicki responded, asserting that his letter had neither insulted nor defamed anyone; it was a sharp but justified critique of the Higher Commission’s 24 November 1969 decision. He explained with surprise that, in his view, the lawyers to whom the document referred had not felt insulted or defamed by his words; however, the Presidium of the Supreme Bar Council reacted negatively to his statement, despite the fact that the petition in question made no reference to it. Consequently, in January 1970, a new disciplinary case was initiated against Siła-Nowicki. On 18 February, having reviewed the disciplinary records, Deputy Minister Zawadzki suspended him once more from practising law.⁶⁵ In his justification, he ignored Siła-Nowicki’s explanations, merely asserting that, ‘given the alleged serious disciplinary violations, it was appropriate to prevent him from practising law until the disciplinary proceedings were legally concluded.⁶⁶

⁶¹ Ibid.

⁶² Ibid.

⁶³ Excerpt from a letter from W. Siła-Nowicki to Maria Nowicka-Maruszczyk, 13 January 1970, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 43.

⁶⁴ CAMR, file no. 21, from a note sent in March 1970 to the Chair of the Parliamentary Committee on the Administration of Justice, W. Siła-Nowicki Archive, n.d.

⁶⁵ CAMR, file no. 238, decision of the Minister of Justice, Warsaw, 18 February 1970, W. Siła-Nowicki Archive, n.d.

⁶⁶ Ibid. CAMR, file no. 21, from a note sent in March 1970 to the Chair of the Parliamentary Committee on the Administration of Justice, W. Siła-Nowicki Archive, n.d.

In March 1970, Siła-Nowicki met with former first president of the Supreme Court Jan Wasilkowski. This meeting followed a discussion with the chairman of the Parliamentary Committee on the Judiciary on 6 March. Together with two other suspended lawyers, Aniela Steinsbergowa and Jan Olszewski, Siła-Nowicki sent a letter to the committee chairman, complaining about Deputy Minister Zawadzki's abuse of authority in suspending lawyers based on trivial or unfounded allegations.⁶⁷ Under the 1963 Bar Act, a lawyer could be suspended only in exceptional circumstances if required by the public interest.⁶⁸ The lawyers characterized the minister's actions as a form of discrimination linked to their defence of political cases, including those of Modzelewski and Kuroń (Steinsbergowa, Olszewski) as well as Karsov and Janusz Szpotarski (Siła-Nowicki).⁶⁹ During the same period, they also met with the former first president of the Supreme Court, who promised to intervene with the minister of justice regarding Siła-Nowicki's suspension.⁷⁰

Independently of these efforts, the disciplinary prosecutor of the Warsaw Bar Council filed charges with the Provincial Disciplinary Commission against Siła-Nowicki, accusing him of insulting and defaming Bar Council authorities and members through his 13 December 1969 letter.⁷¹ On 6 June 1970, the commission found him guilty of the alleged disciplinary violations and imposed a three-month suspension, counting the prior temporary suspension towards this period.⁷² It deemed the following sentence from his letter defamatory: "today, in the name of various but equally short-term political objectives, people – my case being not the only one – are deprived of the possibility of practising a profession ..." (sic!)⁷³ The commission argued that this statement could undermine trust in Bar Council authorities, including disciplinary commissions, by suggesting that these bodies were not impartial or independent and could revoke lawyers' right to practice for political purposes, regardless of guilt.⁷⁴ Siła-Nowicki appealed this decision;⁷⁵ however,

⁶⁷ CAMR, file no. 21, letter from A. Steinsbergowa, J. Olszewski, and W. Siła-Nowicki to the Chair of the Parliamentary Committee on the Administration of Justice, 13 March 1970, n.d.

⁶⁸ Ibid. Article 99 of the Act of 19 December 1963 on the Organisation of the Bar (Journal of Laws No. 57, item 309).

⁶⁹ Ibid.

⁷⁰ Excerpt from a letter from W. Siła-Nowicki to M. Nowicka-Marusczyk, Warsaw, 10 March 1970, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 45. Fragment listu W. Siła-Nowickiego do Marii i Konrada Marusczyków, Warszawa 13 April 1970, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 47.

⁷¹ CAMR, file no. 238, indictment, Warsaw, 11 March 1970, W. Siła-Nowicki Archive, n.d.

⁷² CAMR, file no. 238, decision of the Provincial Disciplinary Commission of the Bar Association in Warsaw, Warsaw, 6 June 1970, W. Siła-Nowicki Archive, n.d.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ CAMR, file no. 238, appeal, Warsaw, 2 July 1970, W. Siła-Nowicki Archive, n.d.

the Higher Disciplinary Commission upheld the ruling in September 1970.⁷⁶ Only the minister of justice's decision on 13 July 1970 enabled Siła-Nowicki to return to professional practice.⁷⁷ In November, the minister notified the Bar Council that he would no longer pursue his 27 May 1969 request to remove Siła-Nowicki from the list of practising lawyers.⁷⁸

4. THE RADOM TRIALS

In 1976, Siła-Nowicki became actively involved in providing legal assistance to repressed workers from Radom factories. As an advocate, he participated in at least a dozen proceedings held at the Radom District Court. In February 1977, the disciplinary prosecutor of the Warsaw Bar Council accused him of abusing freedom of speech and violating the dignity of the legal profession during the trial of Zofia Sadowska.⁷⁹ The indictment stated: "On 15 October 1976, before the District Court in Radom, while defending Zofia Sadowska, the advocate abused his professional duties by asserting – beyond the substantive need and freedom of speech – that the defendant's presence in the building of the Radom Provincial Committee of the Polish United Workers' Party on 25 June 1976 was her right and duty guaranteed by the Constitution and that the defendant was a genuine representative of the working class, whereas those issuing statements about the current situation were not, and that the worst events were those which occurred in Radom after 25 June 1976."⁸⁰

The Provincial Disciplinary Commission convened on 7 May 1977 and decided to acquit Siła-Nowicki. However, both the disciplinary prosecutor and the provincial prosecutor lodged appeals, alleging that the commission had drawn incorrect conclusions from the evidence and had evaluated it incompletely. Furthermore, the indictment was expanded to include charges that his statements were anti-state in character. The Higher Disciplinary Commission upheld the acquittal. In its reasoning, it expressed a remarkably courageous and assertive position regarding advocate immunity. According to the commission: "This immunity must be interpreted as broadly as possible, as freedom of speech in the practice of law is the

⁷⁶ CAMR, file no. 238, decision of the Higher Disciplinary Commission for Advocates, Warsaw, 5 September 1970, W. Siła-Nowicki Archive, n.d.

⁷⁷ CAMR, file no. 238, decision of the Minister of Justice, Warsaw, 13 July 1970, W. Siła-Nowicki Archive, n.d.

⁷⁸ CAMR, file no. 238, excerpt from the minutes of meeting no. 17 of the Bar Council in Warsaw, 5 November 1970, W. Siła-Nowicki Archive, n.d.

⁷⁹ Notification to the Bar Council in Warsaw, Warsaw, 19 January 1977, in: W. Siła-Nowicki, *Wspomnienia i dokumenty...*, vol. 2, p. 107.

⁸⁰ Ibid.

most effective guarantee for ensuring the rule of law in adversarial proceedings, which are an inherent part of the democratic principles underpinning the socialist system. Consequently, advocates have the right to analyse the social context and causes in any case they handle, even if their expressed opinions are subjective (and therefore potentially objectively incorrect), as long as they remain within the bounds of defence or representation.”⁸¹

The commission emphasized the advocate’s right to subjective assessment and the possibility of error: “The right to exercise subjective judgment and the concomitant possibility of error extends to the expression of political opinions connected with specific matters, as well as to the critique of individual representatives of the authorities. Notwithstanding this, any criticism directed at the fundamental principles of the socialist system is strictly impermissible, irrespective of the fact that such critique could never be justified as falling within the legitimate bounds of defence. Nonetheless, it may constitute a basis for consideration by the Bar Councils in assessing compliance with the professional obligations incumbent upon advocates in the Polish People’s Republic.”⁸²

In conclusion, the commission found no grounds to determine that Siła-Nowicki, in his speech, had criticized the socialist system. On the contrary, his critical remarks regarding the conduct of certain militia officers could contribute to improving the rule of law in Radom, which was considered to be in the broadly understood interest of the Polish state.⁸³

The Higher Disciplinary Commission’s ruling did not conclude the disciplinary proceedings. The general prosecutor appealed, and on 28 May 1978, filed a special appeal with the Supreme Court, alleging factual errors in the basis of the two rulings and requesting a retrial. By judgment of 11 December 1978, the Supreme Court overturned the contested decision and referred the case back to the Warsaw Provincial Disciplinary Commission. It once again acquitted Siła-Nowicki on 4 December 1979, and the Higher Disciplinary Commission confirmed this decision on 14 June 1980.⁸⁴

The disciplinary proceedings concerning Siła-Nowicki, which originated from the Radom trials, continued until mid-1980. In the course of one such proceeding, he came into contact with Judge Józef Dziowgo, who, in 1978, had presided over the judicial panel adjudicating Siła-Nowicki’s disciplinary case before the Supreme Court. Notably, 28 years earlier, in 1949, Lt. Col.

⁸¹ CAMR, file no. 246, decision of the Provincial Disciplinary Commission for Advocates, Warsaw, 24 September 1977; copy of the decision of the Higher Disciplinary Commission for Advocates, Warsaw, 24 September 1977, W. Siła-Nowicki Archive, n.d.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ CAMR, file no. 246, decision of the Higher Disciplinary Commission for Advocates, Warsaw, 14 June 1980, W. Siła-Nowicki Archive, n.d.

Dziowgo had presided over the Military Supreme Court panel that, on 4 February, confirmed Siła-Nowicki's death sentence.⁸⁵ Anticipating his participation, Siła-Nowicki filed a motion to recuse him, which he justified during the hearing. His words visibly agitated the judge. Siła-Nowicki later recalled: "I was, of course, aware in advance that Dziowgo would sit on the adjudicating panel in my case, and I was prepared to recuse him without hesitation. Accordingly, when the hearing began, I submitted a motion for his recusal and commenced, in a relatively composed manner, to justify that motion. In his role as presiding judge, he committed a professional error. Once he realised the nature of my motion, he should have interrupted me immediately, declared that the court would recess briefly on jurisprudential grounds, withdrawn, and after five or fifteen minutes – having already recused himself in the deliberation room – introduced a newly composed panel to the courtroom to announce the decision granting my motion, thereby closing the matter. However, unlike an advocate – and, to some extent, also unlike a prosecutor – a judge in the courtroom never feels threatened, for he embodies authority there; he may admit or reject motions at will and enjoys considerable discretion. Thus, Judge Dziowgo did not feel threatened in the slightest. Moreover, he made another error: he assumed that a lawyer appearing before the court as the accused or defendant is in a weaker position than a lawyer pleading as a member of the bar. This assumption is mistaken, not least because the accused is afforded greater latitude than the defence counsel. Thus, convinced that he had nothing to fear, Judge Dziowgo, instead of interrupting me, leaving the courtroom, and not reappearing, chose to listen. And once he began listening, it became increasingly difficult to stop me, while I spoke in terms ever more incriminating. Finally, when I declared: 'I must admit that I have often wondered, and still wonder, how it is that individuals who committed such egregious errors, with such tragic consequences, continue to pronounce judgments in the supreme judicial instance of the People's Republic of Poland' – he cut me off, his face crimson, exclaiming: 'I interrupt you! I interrupt you at this point; these words must be recorded in the minutes with utmost accuracy. At this, I resumed from the beginning, now in a loud voice. Dziowgo interjected: 'But there was something about astonishment there', 'I shall return to that at once, Your Honour', I replied, and thundered on: 'I have wondered, and I continue to wonder, how it is that individuals who committed such egregious and tragically consequential errors continue to deliver judgments in the supreme judicial instance of our state. But I claim the right to demand that I not be judged by a man who unjustly sentenced me to death, branding me repeatedly a bandit, a murderer, a criminal, as well as the instigator

⁸⁵ More on this topic in: Rzeczkowska 2021, 394-95.

and ringleader of criminal activity.⁷ There were approximately thirty lawyers present at the hearing, and the matter quickly became widely discussed.”⁸⁶

The Radom case was the last instance of disciplinary proceedings brought against Siła-Nowicki in his capacity as an advocate prior to 1980. Although the disciplinary trials and proceedings before the criminal courts demanded great effort from him, they also earned him respect among ordinary people, whom he continued to assist despite his own difficulties, as well as recognition from some of his professional colleagues, who acknowledged his attempts to defend the standing of the advocate before the courts of the People’s Republic of Poland. An examination of the course of the disciplinary and criminal proceedings initiated against Siła-Nowicki suggests that their purpose was to obstruct his professional activity and ultimately to eliminate him from the bar. The charges brought against him were illusory and trivial, based on weak premises. His ordeals further reveal the extent of the influence exerted over the bar by the minister of justice and the Public Prosecutor’s Office. One is compelled to conclude that Minister Zawadzki harboured a particular dislike for Siła-Nowicki, repeatedly appealing against the decisions of disciplinary commissions that were favourable to the advocate. The general prosecutor also played an important role in disciplinary proceedings within the bar. Although he represented a different legal corporation, whose members confronted advocates in the courtroom, this did not prevent him from pronouncing on the status and role of the advocate in the trial process. Political defence lawyers likewise found little understanding among certain representatives of the bar itself. The case of Siła-Nowicki illustrates that the leadership of the Bar Council, by aligning itself with the position of the prosecutor, acted against members of the profession and, instead of serving as a body supporting advocates, became an instrument of repression.

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⁸⁶ W. Siła-Nowicki, Wspomnienia i dokumenty..., vol. 2, pp. 108-109.

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