

## GLOSS TO THE JUDGMENT OF THE SUPREME COURT OF POLAND OF 16 APRIL 2019, REF. NO. VI KA 5/19

Dr. Damian Szeleszczuk

Department of Criminal Law, Faculty of Law, Canon Law and Administration  
The John Paul II Catholic University of Lublin, Poland  
e-mail: [damian.szeleszczuk@kul.pl](mailto:damian.szeleszczuk@kul.pl); <https://orcid.org/0000-0002-7062-3145>

**Abstract.** The subject of this gloss is military reduction in rank. It is an important element of the penalty system in Polish military criminal law. The author accepts the position of the Supreme Court of Poland concerning this penalty. The following study, based on the judgment given on 16 April 2019, as well as earlier judgments of the Supreme Court of Poland, contains the analysis of the prerequisites of its ordering as well as the role of reduction in rank. The study also sets out to showcase the practical and theoretical problems presented by using this penalty.

**Keywords:** penal measures, reduction in rank, military criminal law

“According to the provisions of Article 327(2) of the Criminal Code, reduction in rank can be ordered in case of sentencing for a crime committed with intent, if the type of act, the manner and the circumstances it was committed in make it appear that the offender has lost the attributes required to hold a military rank, and especially in the case of acting to achieve economic gain.”

The judgment of the Supreme Court given on 16 April 2019<sup>1</sup> was passed in the following circumstances. One of the accused was convicted of five aggravated offenses pursuant to Article 228(1) of the Criminal Code, of which three were committed as serial offenses (Article 91(1) of the Criminal Code). For these crimes he was given a converged sentence of one year of imprisonment, which was conditionally suspended for the probation period of three years. The court also imposed a fine of 600 daily units, setting the value of one unit at 40 PLN. Additionally, pursuant to Article 45(1) of the Criminal Code, the court ordered the forfeiture of all ill-gotten gains coming directly from the crime, and pursuant to Article 43b of the Criminal Code used the penal measure of publicly announcing the judgment.

---

<sup>1</sup> Ref. no. VI KA 5/19, Lex no. 2677119.

The second of the accused committed twenty offenses, of which thirteen were classified under Article 230(1) of the Criminal Code, five were classified under Article 230(1) concurrent with Article 229(1) in conjunction with Article 12 of the Criminal Code, one under Article 270(1) of the Criminal Code and one under Article 286(1) of the Criminal Code in conjunction with Article 65(1) of the Criminal Code. It must be mentioned that most of the offenses were committed as serial offenses (Article 91(1) of the Criminal Code). Due to this the reduction in rank was imposed in conjunction with one year of imprisonment, conditionally suspended for a trial period of three years, a cumulative fine of 800 daily units of 30 PLN, and additionally, pursuant to Article 45(1) of the Criminal Code, forfeiture of all ill-gotten gains and penal measure of publicly announcing the judgment (Article 43b of the Criminal Code).

An appeal was filed by the prosecutor against the defendants. The prosecution based their appeal on the fact that there was an unfair lack of use of reduction in rank against both defendants despite the fact that their situations, the types of offenses that were attributed to them, their seriality, the manner and circumstances in which they were committed, including their role in the criminal behaviour, as well as the fact that they acted to achieve economic gain led to the conclusion that they lost the qualities required for the military rank they held. The Supreme Court shared the views of the appellant on the matter of not applying the penal measures set in Article 324(1)(3) of the Criminal Code to both defendants and changed the sentence in such a way that, pursuant to Article 327(2) of the Criminal Code, ordered the penal measure of reduction in rank.

The Supreme Court's judgment includes interesting thoughts on reduction in rank. Its deeper analysis can become a good opportunity to reflect on this military penal measure. The commented judgment can be an important voice in the discussion concerning the substance of demotion, its functions, its role in criminal policy, as well as the point of keeping its presence in the system of military penal measures, especially considering the changes happening in the military that lead to reevaluating existing principles, determining the denotation of traditional concepts that make up the soldier ethos. The need for such discussion becomes all the more obvious when one takes into account that reduction in rank is considered the most severe of military penal measures [Kutzman 2020; Marek 2007, 592] and its role has in effect been reduced solely to repression [Janiszowski–Downarowicz 2016, 491]. The timeliness of the topics undertaken in the judgment is confirmed by the tendencies visible in the doctrine, to broaden the personal scope of reduction in rank to include those that had, at the time of committing a prohibited act, held a military rank, even though they were not in active military service [Winik and Nowak 2019, 44–61]. The judgment is worth analysing also due to the fact that the Supreme

Court rarely has the chance to speak out on the subject of military penal measures, which stems from their rareness in the practice of the criminal justice system.

The subject of reduction in rank cannot be analysed separately from the concept of a soldier's and officer's ethos. According to M. Ossowska, ethos is a lifestyle of a community, a social hierarchy of values adopted by that community, formulated in a distinct way and possible to decipher from people's behaviour [Ossowska 2014, 7]. This definition underlines both the hermetic character as well as the uniqueness of a particular group's ethos, which makes it specific to particular communities or social structures. One can surmise, as C. von Clausewitz did, that the distinctness of the military ethos is defined by the organization, customs and laws [Clausewitz 1958, 157].

In popular opinion this distinctness has always been fully justified and stemmed from the singular position occupied by the military in society as well as the trust that is bestowed upon it. It had its sources in soldiers' ethos that consisted of, e.g., courage, honour, discipline, readiness to sacrifice oneself for laudable ideals, righteousness of character, faithfulness, truthfulness, solidarity with one's service companions. These values, norms and attitudes were linked to numerous privileges, honorary rights and powers.

The amount of these privileges was connected to the rank in the army. The higher the position in the hierarchy, the bigger the level of expectations and trust bestowed upon the soldier. Breaching that trust by committing an act inconsistent with the ethos could not elude the criminal reaction, though it could not be limited to using penal measures analogical to those that were used on persons who were not soldiers. Even in the most ancient times it was noted that the specific nature of the military service requires different reactions from criminal law.

In the military, the punishment needed to be a mirror of the peculiar position occupied by soldiers, connected to the extraordinary trust bestowed upon them. It applied particularly to the soldiers of higher rank, officers and non-commissioned officers, for whom the level of expectations and requirements was higher than in the case of privates. At a normative level, it meant the need to deprive soldiers of the thing that determined their exceptional position, both in the society and amongst their fellow soldiers, which meant dignity, ethos, prestige, veneration, respect and honour [Czyżak 2010, 158]. This caused the universal tendency to use punishments targeting that veneration and honour. One of them was reduction in rank – a sanction strictly connected to the hierarchy of military ranks and their role and meaning in the army, as well as outside of it [Majewski 2006, 1017].

The particular character of military service stems not only from assigning some "special" or "separate" system of values to the army, but also from goals and tasks that should be achieved and fulfilled by the armed forces

[Marcinkowski 2014, 86]. The most important role of the army is to guard the sovereignty of the state and the safety of its citizens. To achieve that goal the army needs to be well trained. This process depends on leadership that is efficient, effective and based on high ethical standard, which requires the commanding staff to be aware of the officer's ethos, its traditions and commitments that come with it.

Military service has always been treated as an honourable service to the motherland. Over the centuries, its character changed, and along with it, the requirements for soldiers changed too. The one stable and invariable value that stayed the same was soldier's honour, as well as soldier's and officer's ethos that was connected to it. It has its source in the ethos of a knight. It was significantly impacted by the Polish tradition of fighting for independence [Adamkiewicz 1997a; Idem 1997b; Łochyński 1997, 157; Karwin, Pomianowski, and Rutkowski 1965, 32]. These historical conditions caused the standards set before the officers to be very high and demanding.

Currently the officers' ethos of the Polish Armed Forces is shaped by a few basic groups of values [Kasperski 1997, 221]. The first of them is the group of professional values, understood as obligations and requirements resulting from the particular nature of the officer's profession. They are an emanation of the postulated professional traits and their achievement serves to ensure the right way of performing tasks. They include competence, responsibility, discipline and control, care for the subordinates, courage, amicability, efficiency, loyalty to the superiors. Second group consists of strictly moral traits, which enable (when they are observed) conflict-free cohabitation of individuals and groups of people. These values are often called personal traits or moral virtues. As is often noted, these values determine the correct influence on subordinates, organization of social relations and performance of educational duties. Values enumerated in this group include honour, honesty, fairness, tact, cordiality, nobility, tolerance, respect for the dignity of other people (soldiers). The next group consists of the so called virtues of character, such as firmness, truthfulness, dependability, reliability, modesty. The officer's ethos also consists of the perfecting (creating) values, among which one can include intelligence and knowledge as well as those that help achieve them, such as diligence and perseverance, and civic values, chiefly patriotism [ibid.; Marcinkowski 2012, 70].

This ethos positions an officer not only in the structures of the Armed Forces. It also plays an important social role, stemming from the tasks set before the army in a democratic state, as well as the role of a professional soldier in their environment. Nursing and cultivating universal ethical values: dignity, honour, faithfulness, responsibility, courage, bravery, nobility and those that stem from the particular nature of the military service, is invaluable in times of overwhelming relativism. It is those values that create the still needed archetype of a contemporary officer.

Faithfulness to these values and their observance are the best protection of the quality and efficiency of the army [Kubiak 2008, 179]. It is particularly important when confronted with the ongoing processes that lead to the change in the model of the army [Świniarski 2012, 160–61] that results in devaluation of the traditional concepts that shape the officer's ethos.<sup>2</sup> Ordering the reduction in rank is dependent on establishing that the perpetrator lost all qualities required to hold a military rank. Those qualities are the traits that should characterize a soldier who received a particular military rank. Being appointed to a military rank (or to the next military rank) of a non-commissioned officer, ensign or officer is conditional upon, e.g., whether the soldier has the

<sup>2</sup> These changes come down to moving on from the model of the army as an institution and treating it as a civil organization with all the following consequences. One of them is denotation of honour and other values shaping the officer's ethos. As J. Świniarski notes, "faithfulness, immutability and tenacity that were absolutized before, are now exchanged for integrity to oneself and others, care not for the abstract and hypostatic family of the families – the Motherland, but specific and own family as well as their and own safety. It is a pragmatic mentality. The virtue of honour seems to be replaced by such an ethical distinctness as human dignity, or the denotation of honour starts to include human dignity, which Aristotle defined as the moderation between the overabundance of servility and the scarcity of conceit – the golden mean between egoism and altruism, care for oneself and sacrifice for others. In this ideal a soldier doesn't serve any special purpose in a country, they have the same rights as any other citizen – simply a citizen. Faithfulness or submission are not required of him, as is not mindless discipline. Instead, what is required is partnership, a soldier's dignity, «citizenship in a uniform» of a free and equal man, friendly towards others and himself. A «citizen in a uniform» is characterized more by their inalienable human dignity, care for himself and others than by strictly understood honour, loyalty, obedience and tenacity. Because honour understood in such a way cannot be reconciled with such preferences of contemporary democratic societies as freedom and individualism. Strictly understood honour doesn't favour dignity, freedom and responsibility. At the dusk of strictly understood honour and preference for human dignity, the rule of law and freedom of people in uniforms is somewhat proved by the belief that if in the society of liberal, free market economy there is no time for honour, because if all people care for are themselves and their own gain, material goods and economic values as well as mass consumption, traditions of officer's codes of honour do not have to be cultivated, or alternatively they can be equitably extended to cover those who are not officers, meaning all professional soldiers. What seems to become more meaningful is business ethics, grounded in economic ethics, which contradicts the heroic ethics – ethics of honour that doesn't calculate outlays and profits, costs and effects. Human dignity is the most important value in democratic systems that strive to achieve the idea of freedom. Because of this in the conditions of military service the goal is to maximally respect human dignity and simultaneously optimize military efficiency – professionalism. The goal is not a soldier who is faithful to their sovereign (state), with the distinction of honour (understood as unconditional devotion) as a priority, but a soldier who respects the law, their own and others' dignity as well as the order of free democracy. It is the ideal of a «citizen in a uniform» [...]. The tendencies of the army as an organization and changes in the conditions of military service serve the purpose of perfecting the military professionalism. This purpose shapes the pragmatic, rational and liberal tradition of military activity – activity of people who are equal in their dignity and civic rights, who take up an occupation in one organisations that is natural and indispensable to the liberal-democratic society, as the professional armed forces fundamentally are."

necessary moral and professional qualifications that determine the exemplary attitudes of soldiers as well as their prestige and social recognition. Officers, ensigns and non-commissioned officers that have particular powers as commanders and educators are especially obligated to act in a way that shows their commitment to moral and professional requirements.

It can be said that attributes required to hold a military rank are the normative characteristics that make up the concept of an officer's ethos. The loss of attributes required to hold a military rank has to be the result of evaluation of the type of offense as well as the manner and circumstances in which it was committed. This evaluation should be complex and take into account all components (the type of offense, the manner and circumstances in which it was committed). It cannot be based solely on some aspects determining the loss of attributes required to hold a military rank. It must be stressed that in the commented judgment, the Supreme Court made a comprehensive analysis of circumstances that determine the loss of attributes required to hold a military rank. These considerations are, in a way, a synthesis of previous achievements of the jurisprudence of the highest court, while at the same time being their updated expansion.

The Supreme Court notices that the loss of attributes required for holding a military rank is evidenced by the fact that the crimes committed by the accused were not accidental or incidental in their lives. On the contrary, the crimes for which they were sentenced were committed over the course of several years and in that time, neither of them felt the need to reflect and change their behaviour. Subsequently, the Supreme Court takes note of the fact that the accused did not commit the acts attributed to them under the influence of fleeting emotions, but acted deliberately, with motives that do not deserve any justification.

The doctrine has also pointed out that reduction in rank should be ordered when the perpetrator committed the crime with motives deserving particular reprobation [Hoc 2016, 1711]. As early as in the Supreme Court's resolution given on 27 August 1977<sup>3</sup> it was stressed that establishing that the perpetrator acted with low motives (i.e. motives that in general opinion are considered disgusting or contemptible) should as a rule be considered a reason to award reduction in rank. Such a sentence, in cases of crimes (both military and common) committed with low motives, can be issued only when the type of crime, the gravity of social harmfulness, especially to the military discipline (e.g. by committing a crime with a subordinate or an officer of lower rank, or to the detriment of a comrade-in-arms), the manner in which the perpetrator acted as well as their personality traits indicate that they should be completely disqualified from the role of a commander and educator, connected to holding the

---

<sup>3</sup> Resolution of the Supreme Court of 27 August 1977, ref. no. U 1/77, OSKNW 1977, No. 10-11, item 110.

rank of an officer, ensign or non-commissioned officer, and they should also never hold such rank in the future.

In the commented judgment the Supreme Court emphasized that the fact that a professional soldier commits a serial crime to achieve economic gain, should lead to reduction in rank. In the previous jurisprudence of the Supreme Court it was precisely articulated that the fact that a crime was committed as a serial crime should be treated as an aggravating circumstance when deciding on a punishment, and the impact of this circumstance should depend on the number of serial actions.<sup>4</sup>

It should be noted that the Supreme Court, referring to its previous judgments, emphasized again that the fact that a professional soldier acts to achieve economic gain and additionally commits a crime in collusion with soldiers of lower rank should usually lead to ordering reduction in rank of that perpetrator. When it comes to officers, their criminal actions can have a negative influence on shaping the attitudes of other soldiers, particularly subordinates and soldiers of lower rank.

This leads to the decline the officer's authority, and at the same time undermines the correct functioning of the army. The position of a contemporary officer is based mainly on authority. Authority (Lat. *auctoritas* – example) is someone's generally recognized seriousness, impact, meaning. Authority is a set of characteristics, particularly how respected a person is, e.g. in a group, work environment, which causes others to follow their orders, prohibitions, opinions – without coercion or fear.

Authority creates the ability to manage people. Compliance with the orders of a person who is an authority stems from the positive evaluation of their characteristics, and not from fear of punishment [Borkowski, Dyrda, Kanarski, et al. 2000, 16]. It does not just come down to formal authority, but also the informal one, based mainly on trustworthiness. It cannot be achieved with norms, or anyone's bestowal. It is achieved with one's own example and attitude. Conflict between behaviour and ethos causes an officer's loss of authority, and at the same time prevents them from positively impacting their subordinates and shaping their attitudes correctly.

Compatibility between an officer's ethos and their behaviour, corroborated by their personal example, is an expression of responsibility for shaping the right attitudes of subordinates. An officer without authority becomes dysfunctional. It leads to lowering the level of discipline, which in turn can result in reduction of an officer's leadership skills, and in consequence – their ability to fulfil tasks set before the army. The superior officer is supposed to, by using their authority, make their subordinates execute specific tasks and

---

<sup>4</sup> Judgment of the Supreme Court of 16 March 1979, ref. no. Rw 60/79, OSNKW 1979, No. 5, item 57.

activities that are their sovereign decisions or prerogatives given to them by higher command.

Without a competent commander, wielding their authority and equipped with appropriate traits and abilities, the efficiency of leadership might be disrupted and goals might not be reached. In all situations, they should be the personification of consequence and integrity, which form the foundation of leadership. It is also important from the point of view of subordinates. Subordinate soldiers want to believe that their commanding officer is absolutely and implicitly fair, both at work and in their private life.

Thus, it is with approval that one should consider the Supreme Court's comments, which unequivocally show that actions of the accused R.B. were highly demoralising; the accused not only did not react appropriately to the actions of the lower ranked soldier, but with his attitude allowed him to carry out his criminal activities, from which he himself benefitted. As the Supreme Court clearly noted, the accused committed subsequent crimes, regardless of the fact that their behaviour created in persons willing to take up military service - who had nothing to do with the honour of an officer or a non-commissioned officer – the image of a soldier as a person who, in order to achieve economic gain, is willing to break the rules of service and commit a crime, and thus harmed the prestige of the Polish Army. One has to appreciate the fact that the Supreme Court noticed the relationship between the authority of the institution (the army) and the authority of the individuals, on which it is based, and the fact that a blemish on one element of a hierarchical structure is not indifferent to the image and perception of the whole.

In regards to the commented judgment, it mattered significantly that the accused committed crimes connected to their military service and used opportunities provided to them by that service. In practice it is connected to, e.g., managing funds or materials owned by the army. It should also be noted that committing a crime against the interest of the military service is not a prerequisite of using the penal measure of reduction in rank. It can be justified by committing any other intentional crime. As the Supreme Court accurately stated, the fact that the crime committed by a soldier does not infringe on the interests of the military or the service, but concerns the private or personal spheres of life, is not an obstacle to ordering reduction in rank if the conditions set out in Article 327(2) of the Criminal Code are met.<sup>5</sup>

In the commented judgment the Supreme Court could once again confirm that ordering a penal measure of reduction in rank is justified when the crime is committed by a soldier to achieve economic gain. It is not synonymous with automatic assumption that a soldier lost their right to hold a military rank, and especially not with obligatory ordering of reduction in rank. Committing

---

<sup>5</sup> Judgment of the Supreme Court of 20 August 1970, ref. no. Rw 42/70, OSNKW 1970, No. 11, item 136.



a crime with this purpose should cause the court to carefully examine the purposefulness of ordering reduction in rank, while the decision to not use this penal measure should be justified by the particular circumstances of the case [Marcinkowski 2011, 127].

In the case held before the Supreme Court there were so many circumstances proving the loss of attributes required for holding a military rank that, in essence, each of them, if analysed separately, could be a sufficient reason for ordering the reduction in rank. The character of these circumstances is unequivocally negative and shows that the accused lost the moral and ethical values necessary in persons who want to belong to the corps of officers or non-commissioned officers of the Polish Armed Forces and should not hold their military ranks even after ending their military service.

The Martial District Court was even more critical in its appraisal of the accused's attitude, noticing that "the accused proved to be persons who brought shame and dishonor on the uniforms of the Polish Armed Forces they wore" and that persons such as them "should not continue to perform military service, because the number and type of criminal violations they committed, related either to the performance of official duties or in the milieu of their military service was so discrediting that they should not be allowed to continue that service." Despite such an unequivocal assessment, the District Court decided not to order reduction in rank, reserving its use for even more drastic cases. It is particularly satisfying that such a necessity was noticed by the Supreme Court, according to which the *ratio legis* of this penal measure is to protect the authority connected to the possession of a military rank, which after all has a hierarchical structure. In this context, it will not be an exaggeration to say that the Supreme Court, by changing the appealed judgment and ordering the reduction in rank of both defendants, also saved the authority of the military justice system.

#### REFERENCES

- Adamkiewicz, Marek. 1997a. *Z dziejów etosu wojska*. Warsaw: Wydawnictwo Bellona.
- Adamkiewicz, Marek. 1997b. *Wybrane zagadnienia z historii etosu wojska*. Warsaw: Wydawnictwo Wojskowej Akademii Technicznej.
- Borkowski, Jan, Mirosław Dyrda, Leszek Kanarski, et al. 2000. *Słownik terminów z zakresu psychologii dowodzenia i zarządzania*. Warsaw: Wydawnictwo AON.
- Clausewitz von, Carl. 1958. *O wojnie*. Vol. 1. Warsaw: Wydawnictwo MON.
- Czyżak, Mariusz. 2010. *Odrębność polskiego prawa karnego wojskowego wobec prawa karnego powszechnego*. Warsaw: Wydawnictwa Akademickie i Profesjonalne.
- Hoc, Stanisław. 2016. "Komentarz do art. 327 kodeksu karnego." In *Kodeks karny. Komentarz*, edited by Marian Filar, 1711. Warsaw: Wydawnictwo Wolters Kluwer.
- Janiszowski-Downarowicz, Rafał. 2016. "Wojskowe środki karne." In *Środki karne po nowelizacji w 2015 r.*, edited by Ryszard A. Stefański, 485–94. Warsaw: Wydawnictwo Wolters Kluwer.

- Kasperski, Marian. 1997. "Przemiany wzorów osobowych kadry WP w okresie transformacji." In *Tradycje i współczesność etosu oficera Wojska Polskiego*, edited by Marek Adamkiewicz, 221–31. Warsaw: Wydawnictwo Wojskowej Akademii Technicznej.
- Karwin, Józef, Edward Pomianowski, and Stanisław Rutkowski. 1965. *Z dziejów wychowania wojskowego w Polsce od początku państwa polskiego do 1939 roku*. Warsaw: Wydawnictwo MON.
- Kubiak, Mariusz. 2008. "Etyczne aspekty dowodzenia." In *Etyka żołnierska. Etyka w służbie ojczyźnie*, edited by Krzysztof Jeżyca, Jerzy Gałkowski, and Mirosław Kalinowski, 165–80. Warsaw: Wydawnictwo Dom Żołnierza Polskiego.
- Kutzman, Witold. 2020. "Komentarz do art. 327 kodeksu karnego." In *Kodeks karny. Komentarz*, edited by Ryszard A. Stefański. Warsaw: C.H. Beck. Legalis el.
- Łochyński, Jerzy. 1997. "Morale armii. Rys historyczny." In *Problematyka moralna w kształceniu oficerów armii państwa demokratycznego*, edited by Kazimierz Pająk, Marian Marcinkowski, and Lech Urbański, 152–62. Poznań: Wydawnictwo WSO.
- Majewski, Jarosław. 2006. "Komentarz do art. 327 kodeksu karnego." In *Kodeks karny. Część szczególna. Komentarz*. Vol. 3: *Komentarz do art. 278–63*, edited by Andrzej Zoll, 1016–1018. Warsaw: Wolters Kluwer.
- Marcinkowski, Marian. 2012. "Wartości moralne w edukacji żołnierzy zawodowych." In *Obywatel w mundurze. Aksjologiczny wymiar funkcjonowania nowoczesnych sił zbrojnych*, edited by Henryk Spustek, Marek Bodziany, Mirosław Smolarek, et al., 60–79. Warsaw: Wydawnictwo WSO.
- Marcinkowski, Marian. 2014. "Służba wojskowa jako służba wartościom." *Colloquium Wydziału Nauk Humanistycznych i Społecznych* 1:69–88.
- Marcinkowski, Wojciech. 2011. *Kodeks karny. Część wojskowa. Komentarz*. Warsaw: Wolters Kluwer.
- Marek, Andrzej. 2007. *Kodeks karny. Komentarz*. Warsaw: Wolters Kluwer.
- Ossowska, Maria. 2014. *Ethos rycerski i jego odmiany*. Warsaw: PWN.
- Świniarski, Janusz. 2012. "O niektórych poszukiwaniach aksjologii profesjonalnych Sił Zbrojnych." In *Obywatel w mundurze. Aksjologiczny wymiar funkcjonowania nowoczesnych sił zbrojnych*, edited by Henryk Spustek, Marek Bodziany, Mirosław Smolarek, et al., 141–68. Wrocław: Wydawnictwo WSO.
- Winik, Sebastian, and Maciej Nowak. 2019. "Degradacja w praktyce – problematyka podmiotowego rozszerzenia stosowania środka karnego." *Wojskowy Przegląd Prawniczy* 4:44–61.