

EDUCATIONAL AND CULTURAL ISSUES IN THE LEGAL PRACTICE OF THE NATIONAL PUBLIC PROSECUTOR'S OFFICE OF THE REPUBLIC OF POLAND IN 1919-1939

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Abstract. The aim of this article is to present the most important activities of the National Public Prosecutor's Office of the Republic of Poland in matters of education and culture, one of the many examples of the legal practice of the state organ of centralised legal representation of the material and public interests of the Polish state in the period of the Second Polish Republic. The legal practice of the National Public Prosecutor's Office included issuing legal opinions at the request of public authorities or other authorised entities, legal representation before private law or public law courts and in proceedings conducted by administration authorities, and cooperation in executing agreements in material matters of the state or of entities entrusted to the legal care of the Office. In cases concerning education and culture, the National Public Prosecutor's Office undertook all types of official activities. This study, based on an analysis of the annual reports of the President of the National Public Prosecutor's Office, jurisprudence and court rulings issued on the initiative of the Office, aims to show that the activity of the Office contributed to the thorough subjugation of the education system in Poland, which was reborn after the period of partitions and to the protection of cultural heritage. The study also intends to show that the Office's position in the system of the Polish state as well as the competences and reliability of the Office's attorneys contributed to the achievement of its effects (which were very much beneficial for the Polish state).

Keywords: Second Polish Republic; State Treasury; legal representation; material and public interests of the state.

INTRODUCTION

The National Public Prosecutor's Office of the Republic of Poland¹ was established in the organizational system of the reborn Polish state under the Decree of the Temporary Chief of State of 7 February 1919. As part of uniforming sources of Polish Law, the Legislative Sejm revoked

¹ Hereinafter: Office or NPPO.

on 31 July 1919 the decree on establishing the National Prosecutor's Office and enacted an act that replaced the thus far binding normative act [Buczyński and Sosnowski 2016, 119].² As part of the nationwide savings scheme carried out by the government to repair the State Treasury, the Office was reorganized in 1924 pursuant to a decree of the President of the Republic of Poland [Tkaczuk 2007, 288].³ The National Public Prosecutor's Office of the Second Polish Republic was a state body which, under statutory acts, provided on-going legal assistance to the Polish state and other entities treated equally with the state when it comes to material and public interests [Tkaczuk 2001, 151-60; Organiściak 2002, 114-54; Tkaczuk 2006, 725-37; Idem 2007, 285-302].⁴ The Office's broad scope of the legal subject matter may be studied on the basis of reports issued yearly by the President of the Office,⁵ reports from presidents of Branches of the Office and from delegates of the Office, department managers at the Office's branches and in case files maintained by officials of the National Public Prosecutor's Office of the Republic of Poland, which are kept in the Polish archives.⁶ The legal practice of the Office in the inter-war period covered activities taken up in many cases, which were grouped adequately due to their subject matter in reports of the President of the Office [Tkaczuk 2006, 729]. One of such reporting categories was education and cultural matters. This institution mainly

² Decree of the Chief of State of 7 February 1919 on establishing the National Public Prosecutor's Office of the Republic of Poland, Journal of Laws No. 14, item 181; Act of 31 July 1919 on establishing the National Public Prosecutor's Office of the Republic of Poland, Journal of Laws No. 65, item 390.

³ Decree of the President of the Republic of Poland of 9 December 1924 on changing the organizational system of the National Public Prosecutor's Office of the Republic of Poland, Journal of Laws No. 107, item 967.

⁴ Archive of New Acts – Presidium of the Council of Ministers, ref. no. 56-15, Document of 13 May 1919 – Principles of the Decree establishing the National Public Prosecutor's Office presented to the Minister of the Interior by the President of National Public Prosecutor's Office; order of the First Chamber of the Supreme Court of 7 February 1921, ref. no. C.932/20 – recital 6: The National Public Prosecutor's Office of the Republic of Poland shall be treated as a statutorily established permanent general representative of the State Treasury (“Decisions of Polish Courts” C, item 185).

⁵ Pre-war reports of the President of the National Public Prosecutor's Office of the Republic of Poland are dispersed. The review of acts in the archives, such as the Archive of New Acts in Warsaw or the State Archive in Poznań allowed me to collect individual reporting annals. The library of the Chair of the History of Law of the Faculty of Law of the University of Szczecin houses reports for the following years: 1919, 1920, 1921, 1922, 1926, 1928, 1929, 1930, 1931, 1933, 1934, 1935, 1936, 1937, and 1938.

⁶ Reports of presidents of branches of the National Public Prosecutor's Office, delegates of the National Public Prosecutor's Office and department managers and case files of individual cases may be found, for example, in archive units of, e.g. the Archive of New Acts in Warsaw: in the unit for the National Public Prosecutor's Office of the Republic of Poland in Warsaw (1919-1939); in the State Archive in Poznań in the unit for the National Public Prosecutor's Office of the Republic of Poland – Poznań Brach (1919-1939).

engaged in opinion-giving activity, but did not stray from legal representation exercised before common courts of law in the course of litigious and non-litigious proceedings. Its education-related field of activity included cases concerning primary, vocational, secondary and tertiary education schools.

1. PRIMARY EDUCATION CASES

When it comes to primary education, the Office issued legal opinions on the legal personality of schools or associations of schools in the former Prussian Partition and in the Upper Silesia and on school funds in the territory of the former Austrian Partition. The opinions also investigated the relation of Polish schools with communes and former manorial areas (great land ownership) and private persons, and in particular the obligation to bear the costs of maintaining schools, the scope of competence of state education authorities in relation to the competences of territorial self-governments, legal attributes of school supervision and personnel matters, equipment matters and teachers' work-related matters. The vast majority of these opinions were issued in cases concerning schools' property relationships. It interpreted legal acts concerning the establishment and maintenance of primary schools (school competition), it gave opinions on rules of protection of schools' ownership rights, schools' receivables in cash and in kind, their adjustment and the procedure to enforce them. Many opinions also addressed contracts of sale, contracts of exchange, lease contracts for school real estate, construction works contracts and donation agreements or school-related foundation agreements. Most of the opinions that pertained to primary schools were issued under the particular post-partition legislation.

Among the many opinions, those that concerned ownership of school real estate and also performances in kind for the benefit of schools were most significant. In the opinions issued in 1929, the Office pointed to the ambiguity of law, especially in terms of schools' relationships with municipalities and religious associations. When analysing these relationships against legal relationships of the former Polish Kingdom, the Office pointed to the need to carry out legislative activities intended to remove contradictions around the ownership of school real estate and the obligation to maintain it. School real estate in the territory of the former Polish Kingdom was by default the property of rural communities and the education-related legislation placed the burden of building and maintaining schools on communes.⁷ The

⁷ Act of 17 February 1922 on building public primary schools, Journal of Laws No. 18, item 144; Act of 17 February 1922 on establishing and maintaining public primary schools, Journal of Laws No. 18, item 143.

Office postulated that in order to solve these problems authorities should use relevant regulations stipulated for the Prussian Partition in the Act of 25 November 1925 on establishing and maintaining public primary schools.⁸ In 1936, on request of the Ministry of Religious Denominations and Public Enlightenment, the Office carried out an assessment of ownership relationships of school property in eastern and central voivodeships of the Republic of Poland and held that immovable property located in eastern areas in many different kinds of schools that had previously operated under the names of “town” schools, “parish-fund” schools, “initial” schools or “Eastern Orthodox-parish” schools, was property of a given commune. In turn, when it comes to ownership of school property located in the territory of the former Polish Kingdom, the NPPG Head Office in Warsaw explained that the so-called property of those former schools, both commune schools and community schools, should be considered property of the commune, or possibly of the community, if the so-called rural school outpost had not yet been taken over by the commune.⁹ However, in 1937, the Head Office came to the conclusion that the property of former Eastern Orthodox-parish schools that had existed before the Great War under the Russian Act of 1 April 1902 was transferred to the ownership of the State Treasury.¹⁰

In 1929 the NPPG Head Office gave its opinion on the matter of the legal existence of and procedure for exercising performances in cash for primary schools (that originated in the times of partitions) that encumbered manorial land ownership. In the opinion that analysed these relationships in the area of the former Polish Kingdom, the Office held that these legal performances still existed and were enforceable through administrative execution under the Order of the Administrative Council of the Polish Kingdom of 5 November 1844 and that the commune should be considered their administrator.¹¹ The Supreme Court confirmed the position of the Office in 1930.¹² In its opinion on these relationships against the legal system of the Austrian Partition, it came to analogous observations as those concerning the relationships in the former Polish Kingdom, despite legal doubts associated with the 1919 abolishment in this territory of manorial areas and of the school competition system.¹³ The Office based its position

⁸ Act of 25 November 1925 on amending the act of 17 February 1922 on establishing and maintaining public primary schools, *Journal of Laws* No. 126, item 898; Report of the President of the National Public Prosecutor's Office of the Republic of Poland for 1929 [hereinafter: SPPG and the relevant year], p. 78.

⁹ SPPG-1936, p. 113; SPPG-1937, p. 125.

¹⁰ SPPG-1937, p. 125.

¹¹ SPPG-1929, p. 78-79.

¹² SPPG-1930, p. 92.

¹³ Act of 26 July 1919 on joining manorial areas with communes, applicable in the territory of former Galicia, *Journal of Laws* No. 67, item 404; SPPG-1929, p. 78-79.

on the conviction that due to the private law source of this obligation and its hypothetical safeguards the change of education law norms into public-private did not cause their expiry.¹⁴ The rulings of the Supreme Administrative Tribunal issued in 1923 and 1927 had a profound impact on the position of the National Public Prosecutor's Office towards performances in kind for schools and on the rules of their enforcement.¹⁵ In 1934, the Supreme Administrative Tribunal confirmed the position of the Office on the legal character of performances in kind for the benefit of primary school that encumbered former manorial areas.¹⁶

When it comes to the legal personality of local schooling funds in the former Austrian Partition, the Office's Lviv Branch issued an opinion in 1934 for the Education Authority of the Schooling District in Lviv in which it explained that school funds were granted legal personality under a Galician national act of 24 April 1894, while pursuant to the provisions of the Ordinance of the Minister of Religious Denominations and Public Enlightenment of 30 May 1923 they were to keep their legal personality until a statute ordered and executed their abolition.¹⁷ The matters of School Supervision in the areas of eastern and central voivodeships were subject to numerous discussions in the Office. It mostly examined the legal character and the scope of competences of these institutions. In 1935 the NPPO Head Office issued an opinion to the question of the Ministry of Agriculture and Agricultural Reforms that relied on the Office's previously expressed views that school supervision authorities should be considered bodies of territorial self-government with powers for education, not independent legal persons.¹⁸

The activities of legal representation carried out by the Office on behalf of primary schools were performed by all its organizational units. Additionally, the scope of competences of the Office in Kraków and in Lviv accommodated matters of local school funds. This was because these organizational units of the Office took over the competence of the former Galician Office of the Treasury of optional representation of property administered by local school funds. Formally, the optional representation of the National Public Prosecutor's Office in these cases *de facto* became obligatory given

¹⁴ SPPG-1933, p. 135.

¹⁵ Judgement of the Supreme Administrative Tribunal of 31 October 1923, Register 7/22 and judgment of 27 December 1927, L. Register 532/26 (SPPG-1928, p. 111).

¹⁶ Judgement of the Supreme Administrative tribunal of 25 May 1934, L. Register 1322/31 and judgment of 14 September 1934, L. Register 4522/31 (SPPG-1934, p. 112).

¹⁷ Ordinance of the Minister of Religious Denominations and Public Enlightenment of 30 May 1923 on the enforcement of the Act of 17 February 1922 on establishing and maintenance of public primary schools, Journal of Laws No. 73, item 574; SPPG-1934, p. 110.

¹⁸ SPPG-1935, p. 101.

its constant engagement by school authorities. School supervisory authorities postulated that representation of the National Public Prosecutor's Office in matters of primary education be made obligatory. This postulate was justified by having to ensure effective protection of property of local school funds in relations with communes and by other local factors.¹⁹

When it comes to litigious proceedings, the majority of cases were those typical also to other divisions of state administration, such as ownership protection cases; leasing school buildings; construction works; cases pertaining to the employment relationship and employment relationship of teachers and cases for repairing various kinds of damages. The group of complex cases also included those associated with establishing performances for schools' benefit from owners of immovable goods, especially in former manorial areas in the territory of the former Austrian Partition.²⁰ Analogous proceedings were carried out in the Poznań Voivodship. The Office's Branch in Poznań sued communes and powiat divisions for the performance of material commitments towards primary schools made in the Prussian times.²¹ An example of proceedings for performances for the benefit of schools was a dispute brought to court in 1935 over recognition of the school's right to collect wood from the Komarnickie estate. The Lviv Branch of the National Public Prosecutor's Office relied in its defence on the argument that the obligation fell under private law in its source already and the Austrian legislation made it similar to a performance under public law only through granting certain privileges to this obligation (e.g. enforcement carried out under the administrative procedure). The Supreme Court in 1937 dismissed the Office's cassation appeal arguing that the performance obligation had not been made in the form of a notarial deed and the fact that the school had exercised this rights for decades did not result in its adverse possession of this right. The Supreme Court held that this disputed performance had fallen under public law until 1919 and since this character was not confirmed by Polish legislation, it became a regular obligation based on an agreement. In turn, since the period from before and after 1919 could not be summed up, this right was not adversely possessed.²² Under legal relations in the former Prussian District, the National Public Prosecutor's Office in Poznań failed to win the lawsuit against the commune before the Supreme Court over the disputed performance for the school. The key issue in this dispute was a declaration of validity of the commune's commitment to provide the performance. The Supreme Court held that since the document confirming the obligation failed to include signatures of the mayor,

¹⁹ SPPG-1929, p. 78.

²⁰ SPPG-1928, p. 111.

²¹ SPPG-1928, p. 112.

²² SPPG-1937, p. 127.

his deputy and a member of the municipal office, this meant that the legal act was invalid. However, the Office expressed a view that the validity of the commitment was determined by the municipal office's real intent, even if expression thereof featured formal shortcomings, that is absence of the required number of signatures.²³

When it comes to disputes over compensation that arose against the operation of school administration, the case handled by the Kraków Branch of the National Public Prosecutor's Office deserves a mention. The State Treasury was sued to compensate for damage caused as a result of bodily injury that a pupil had suffered during lessons. The Office relied its line of defence on this circumstance claiming that litigation was inadmissible in these cases. It argued that the organization of education and teaching of all citizens in primary schools, in the light of the Act of 11 March 1932 on the organization of schools, was a state's obligation under public law, and teachers' supervision over pupils was a public law act.²⁴ This is why the State Treasury did not bear liability under civil law for damages caused as a result of lack of teachers' supervision, because they arose as a result of the state authority's neglecting a public obligation. The Court of Appeals in Kraków recognized the Office's stance when dismissing the lawsuit.²⁵

In the field of non-litigious proceedings, the majority of cases pertained to land and mortgage registers, borders, adjustment, execution of particular legacies for schools and school foundations. Noteworthy is the action of the National Public Prosecutor's Office in Poznań, who collaborated in 1926 in transferring ownership of state real estate to municipalities with the intention for it to be used for the purpose of primary education.²⁶

2. SECONDARY EDUCATION CASES

When it comes to secondary and vocational training, the lion's share of opinions and proceedings concerned ownership and leasing of school property, communes' obligation to provide for junior secondary schools, teachers' personnel matters, execution of gifts and particular legacies for school purposes, school fees, compensation for injuries to health or lack of adequate insurance or return of squandered state subsidies for vocational training. The state's taking over of vocational training in the former Austrian

²³ SPPG-1937, p. 127-28.

²⁴ Act of 11 March 1932 on the organization of schools, Journal of Laws No. 38, item 389.

²⁵ SPPG-1938, p. 137.

²⁶ SPPG-1926, p. 79.

Partition in 1921, up until then administered by the Temporary Self-Governing Division, affected the number of cases examined.²⁷

One of the more interesting opinions issued in the question of real relationships existing between secondary schools and communes was the opinion of the Lviv Branch of the National Public Prosecutor's Office. In 1938 one of the communes turned to the Office for a legal assessment of the commune's claim to have real estate given to two state secondary schools for permanent use a few decades earlier returned to it due to the restructuring of the school system carried out in 1932. At a conference organized to examine the case, the National Public Prosecutor's Office deemed the commune's request unfounded. The opinion established that as long as a type of a secondary school was upheld, the question of changing the programme in these schools and reorganizing them could not be recognized as a basis for the commune's evading an obligation it had taken on.²⁸

The most notable activities that legal representation involved included disputes with the Lviv municipality over subsidies for state secondary schools²⁹ or similar disputes with communes or powiat communal associations in the Poznań province. When it comes to performances of communes in the post-Prussian area, the Supreme Court, in its judgement of 22 March 1929, held that the right to these performances was transferred onto the Polish State Treasury under Article 256 of the 1919 Treaty of Versailles.³⁰

Quite a lot of economic cases came from the Krzemieniec High School. The majority of proceedings were those for recovering receivables for administering the school's goods and undertakings and for recovery of dorm fees. There were also disputes over ownership of real estate given to the school by the state which had earlier been confiscated by the former Russian government from participants of national uprisings.³¹ The NPPO's case list related to matters of the Krzemieniec High School was reduced in 1933.³² The Council of Ministers, upon a request from the National Public Prosecutor's Office, accepted the draft regulation proposed by the Office which granted the School the possibility to independently handle matters pertaining to its

²⁷ Regulation of the Minister of Religious Denominations and Public Enlightenment of 8 February 1921 on the temporary organizational system of school authorities in the area of former Galicia, *Journal of Laws* No. 16, item 97.

²⁸ SPPG-1938, p. 135.

²⁹ SPPG-1928, p. 112.

³⁰ Judgement of the Supreme Court of 22 March 1929, ref. no. III. C. 39/29 (SPPG-1929, p. 92).

³¹ SPPG-1933, p. 137.

³² Regulation of the Council of Ministers of 19 December 1933 on court representation of the Krzemieniec High School, *Journal of Laws* No. 102, item 787.

property.³³ The Office retained its power to represent the School in cases involving state property whose administration was entrusted in the School.

In cases associated with government subsidies for vocational training, the most pressing issue was to secure an appropriate use of the subsidies by the subsidised entity. In 1934 the Office pointed out this problem to the Ministry of Religious Denominations and Public Enlightenment. It also presented to the Ministry a catalogue of terms the meeting of which was supposed to protect the State Treasury from squandering an education subsidy. The Office recommended that the payment of the subsidy be done possibly immediately before the moment it gets used and also directly to the hands of creditors of the subsidised institution and that the receipt of subsidy be signed by a few persons. To secure the subsidy, the Office also proposed that a deposit mortgage be established to allow recovery of funds if the premises for returning the subsidy were met and where the subsidised funds were to be used to purchase real estate, that the State Treasury be entered in the land and mortgage register as an owner and the real estate be given for use in return for a payment of only a minimum rent.³⁴ The following year, the Office drafted a specimen of a relevant obligation and mortgage deposit for the Ministry, advising at the same time that the declaration of securing the subsidy be made in the form of a notarial deed revealed in the land and mortgage register even before the subsidy is paid out.³⁵

3. HIGHER EDUCATION CASES

When it comes to higher education, the National Public Prosecutor's Office handled matters similar to cases pertaining to secondary education. Typical cases involved protection of ownership, lease, eviction from university buildings, execution of particular legacies and inheritance for academic purposes, collection of costs of treatment in university clinics or establishment and execution of grants, loans and credits given to students. The group of disputes over ownership included predominantly cases examined by the Poznań Branch, representing the University of Poznań, for returning the Żabikowo estate to the University and for the ownership of a complex of houses in Poznań.³⁶ The disputes closed in favour of the National Public Prosecutor's Office. It needs to be noticed, that these lawsuits, especially the one against the Building Association of Polish State Officials over the ownership of complexes in the Łazarz neighbourhood in Poznań

³³ SPPG-1933, p. 138.

³⁴ SPPG-1937, p. 124.

³⁵ SPPG-1938, p. 133.

³⁶ SPPG-1926, p. 80; SPPG-1928, p. 112.

purchased by the University from the defendant in 1920, were immensely complex and lengthy. Only in 1935 did the Supreme Court settle the case with a ruling in favour of the Office and the University.³⁷ The Supreme Court ruling was incredibly significant for settling another disputed case between the University in Poznań and the Building Association of Polish State Officials over ownership of buildings in the Wilda Neighbourhood in Poznań. In 1936 the Office closed the case through a settlement.³⁸ In 1922, the Lviv Branch of the National Public Prosecutor's Office carried out numerous opinion-giving and legal representation activities concerning the Lviv Polytechnic's taking over ownership of goods that had previously belonged to the Agricultural Academy in Dublany and regulation of obligations that encumbered this property.³⁹ When it comes to cases associated with the execution of particular legacies for academic purposes, special mention is due to the action of the Kraków Branch of the National Public Prosecutor's Office concerning the enforcement of the particular legacy from Adam Granicki's will covering half of the Błazkowo estate. The particular legacy made first for the State Treasury was given to the Jagiellonian University by way of substitution after the State Treasury had declined it.⁴⁰ The case was finalised in 1928 by appropriate proceedings for partitioning the estate.⁴¹ A similar situation was in the execution of a particular legacy for the Jagiellonian University pertaining to crude oil terrains in Błazowa.⁴²

When it comes to cases for enforcing various kinds of material assistance to students of tertiary education institutions granted under the Act of 30 October 1930 and the Regulation of the Minister of Religious Denominations and Public Enlightenment of 4 July 1924, the actions of the Office did not go further than implementing a monitoring procedure.⁴³ These cases were often brought before courts, but ended with a ruling of the court of first instance. The Office encountered difficulties in these cases only in the course of enforcement proceedings.⁴⁴ In cases relating to grants, difficulties arose in the context of the entry into force of the Act of 22 February 1937 on reliefs in the payment of due amounts on account of grants

³⁷ Judgement of the Supreme Court of 25 October 1935, SPPG-1935, p. 97.

³⁸ SPPG-1936, p. 110.

³⁹ SPPG-1928, p. 112.

⁴⁰ SPPG-1926, p. 80.

⁴¹ SPPG-1928, p. 113.

⁴² SPPG-1931, p. 118.

⁴³ Act of 30 October 1923 on state grants and other forms of assistance to academic youth, Journal of Laws No. 118, item 942; Ordinance of the Minister of Religious Denominations and Public Enlightenment of 4 July 1924 on the execution of the Act of 30 October 1923, Journal of Laws No. 66, item 645.

⁴⁴ SPPG-1935, p. 98.

and loans.⁴⁵ Pursuant to the act, stamp duty on assistance to students was reduced by 30% for persons whose taxable income did not exceed PLN 300. The Office had doubts about the rules on establishing the student's real income due to the secrecy of tax files, about the rules on granting reliefs to persons exempted from payment of income tax under special regulations, about establishing the moment of meeting the condition for being granted the relief or about the competence of courts and administration authorities to rule on granting the relief.⁴⁶ The National Public Prosecutor's Office presented these doubts in writing to the Ministry of Religious Denominations and Public Enlightenment. In the conclusion, it pointed out that a relevant executive act must be issued to regulate the disputable subject matter.⁴⁷ The executive act issued in 1938 vested the power to rule on reducing the debt in the academic authorities, but the Office believed that this executive act still did not clear the remaining doubts.⁴⁸

There were also court cases in which the National Public Prosecutor's Office was the adversary party to the academic school. Such a situation took place in the dispute brought by the Stefan Batory University in Vilnius against the State Treasury for the ownership of real estate in Vilnius.⁴⁹ In connection with this case, the Head Office of the National Public Prosecutor's Office issued in 1930 an opinion that addressed fundamental questions of legal personality of academic schools and their relations with the State Treasury.⁵⁰

The Office's opinions in the academic matters department focused on the competences of private academic schools,⁵¹ settlement between the State Treasury and the University of Poznań pertaining to properties located in Poznań's neighbourhoods of Sołacz and Gołęcin,⁵² the Poznań's Voivodeship Communal Association's giving to the University of Poznań of a building housing the university library in exchange for a subsidy granted by the State Treasury for the purpose of the Wielkopolskie Museum,⁵³ draft

⁴⁵ Act of 22 February 1937 on reliefs in the repayment of grants and loans, Journal of Laws No. 13, item 90.

⁴⁶ SPPG-1937, p. 122.

⁴⁷ Ibid.

⁴⁸ Ordinance of the Minister of Religious Denominations and Public Enlightenment of 18 August 1938 on the enforcement of the Act of 22 February 1937 on repayment of dues on account of grants and loans, Journal of Laws No. 66, item 493; SPPG-1938, p. 132.

⁴⁹ SPPG-1928, p. 79.

⁵⁰ SPPG-1930, pp. 92-93.

⁵¹ Opinion of the Head Office of the National Public Prosecutor's Office of 1927 (SPPG-1928, p. 113).

⁵² Opinion of the Poznań Branch of the National Public Prosecutor's Office for the Ministry of Religious Denominations and Public Enlightenment of 1929 (SPPG-1929, p. 79).

⁵³ Opinion of the Poznań Branch of the National Public Prosecutor's Office of 1933 (SPPG-1933,

provisions of the Ministry of Industry and Commerce on rules for granting grants to students of the Kraków Mining Academy,⁵⁴ matters of the National Grants Fund,⁵⁵ students' liability for damage caused during student riots,⁵⁶ and various contracts for the purchase of real property by tertiary education institutions.⁵⁷

4. CASES PERTAINING TO CULTURE

The Office's interference in administrative relations that regulated the culture area was associated, *inter alia*, with the 1921 opinion on amending the Decree of the Regency Council of 31 October 1918 on the protection of historical sites and monuments⁵⁸ and with the 1923 opinion on the binding force of the Decree in the territory of the former Austrian Partition.⁵⁹

Up until 1928, when the National Public Prosecutor's Office, pursuant to the Decree of the President of the Republic of Poland of 6 March 1928 on protection of historical monuments and buildings, was vested a statutory obligation of protecting the relevant interest of the State Treasury, the Office had handled numerous cases concerning historical monuments and buildings. One such case was the 1925 elaboration of the contract of purchase by the State Treasury from the Żółkiew Municipality of a wing of the John III Sobieski castle, conducting a procedure to take over from the Vilnius Orthodox Church Consistory of ownership of real estate in Vilnius (so-called Post-Basilian walls) associated with Adam Mickiewicz, issuing an opinion in 1924 on the statute of the Kiersnowki Artistic Collection Foundation, issuing an opinion in 1928 on legal matters pertaining to the legacy of Zygmunt Miłkowski and Jerzy Mycielski for the benefit of the National Museum in Kraków or, finally, conducting proceedings on collections left after Józef Igancy Kraszewski.⁶⁰ The Office issued many legal opinions in this period which addressed issues of expropriation of historical monuments and buildings.⁶¹

p. 136).

⁵⁴ Opinion of the Head Office of the National Public Prosecutor's Office of 1930 (SPPG-1930, p. 93).

⁵⁵ SPPG-1934, p. 115.

⁵⁶ Opinion of the Lviv Branch of the National Public Prosecutor's Office of 1934 sent to the Vice-Chancellor of the Lviv University (SPPG-1934, p. 115).

⁵⁷ For example, opinions on the contract for donation of real estate done by the Lviv Municipality for the Lviv University and the Lviv Polytechnic (SPPG-1938, p. 131).

⁵⁸ Decree of the Regency Council of 31 October 1918 on the protection of cultural and artistic historical sites and monuments, *Journal of Laws* No. 16, item 36.

⁵⁹ SPPG-1928, p. 113.

⁶⁰ SPPG-1928, p. 114.

⁶¹ *Ibid.*

After 1928, the Office gave opinions on various matters associated with the protection of historical monuments and buildings, their transport out of the country, re-evacuation of historical monuments and buildings from Russia under the Treaty of Riga, claims of successors for return of historical monuments and buildings confiscated from their ancestors, the State Treasury's acquisition of historical monuments and buildings or cases of nature reserves. In 1930, it issued an opinion on the contract of purchase of a collection of drawings made by prof. Stanisław Noakowski, legal relations concerning ruins in Bodzentyn and Sochaczew or the treasure found in the Horokhiv district.⁶² In the case of prof. Noakowski's legacy, upon a request from the Presidium of the Council of Ministers that acted in cooperation with the Management Board of the National Culture Fund, the Office issued opinions on 1933 on draft agreements that were to be executed between the Fund and museums on the latter being given for use part of the collection of prof. Noakowski's drawings.⁶³ In 1931 the Office took an active part in the works on establishing the Leon Piniński Art Collection Foundation. The Office's attorneys took part in a conference organized in this matter by the Civil Chancellery of the President of the Republic of Poland, in which, among other things, a draft foundation act was written.⁶⁴ In 1936, upon a call from the Ministry of Religious Denominations and Public Enlightenment, the Office wrote an opinion on the planned exchange of so-called "Puławy Manuscripts", property of the State Treasury, for "Crown Archives", property of the Princes Czartoryski Museum in Kraków.⁶⁵ In 1937, the Office issued an opinion on the rights of the State Treasury to the painting "Prussian Homage" by Jan Matejko. The Office proved the ownership right of the Polish State Treasury on the basis of declaring the Treasury a legal successor of the Galician National Division.⁶⁶

The Office also had an obligation to declare the historical character of real estate in land and mortgage registers. In 1931, the NPPG sent to the Ministry of Religious Denominations and Public Enlightenment a memo in which it presented legal requirements, competences of administrative authorities and a procedure for issuing certificates of the historical value of real estate and on revealing this information in land and mortgage registers.⁶⁷ This was also associated with the Office's opinion in which it expressed a view that church real estate was in the state's interest to the extent stipulated

⁶² SPPG-1930, p. 93.

⁶³ SPPG-1933, p. 138.

⁶⁴ SPPG-1931, p. 119.

⁶⁵ SPPG-1936, p. 115.

⁶⁶ SPPG-1937, p. 128.

⁶⁷ SPPG-1931, p. 119.

by the Decree of the President on the protection of historical monuments and buildings.⁶⁸ This view also gained recognition of the Supreme Administrative Tribunal.⁶⁹

CONCLUSION

The presented inter-war legal practice of the National Public Prosecutor's Office of the Republic of Poland in matters of education and culture allows the following conclusions:

1) the National Public Prosecutor's Office handled matters employing all kinds of official activities that were in its competence resulting from the legislation in force. Legal opinions dominated in its practice. Legal representation in litigious and non-litigious cases complemented its activity in the sphere of legal assistance given by the Office to the State Treasury;

2) the National Public Prosecutor's Office's legal assistance in education-related cases helped order the system of primary, secondary and academic education operating in the Polish state in 1919-1939, mostly when it comes to property-related relationships of schools of all levels and their legal status;

3) culture-related cases were not as engaging as those of education, but the NPPO's official actions in this realm were significant for securing the material and public interest mostly in terms of protection of cultural heritage;

4) given the importance of the education system and of culture-related matters for the Polish state reborn after years of partitions, the activity of the National Public Prosecutor's Office who provided legal assistance to state authorities and public entities in this sphere deserves much credit as it contributed to reinforcing the regained independence.

Translated by Agnieszka Kotula-Empringham

⁶⁸ Opinion of the Head Office of the National Public Prosecutor's Office for the Ministry of Religious Denominations and Public Enlightenment of 1934 (SPPG-1934, p. 116).

⁶⁹ Judgment of the Supreme Administrative Tribunal of 1934 (SPPG-1934, p. 116).

REFERENCES

- Buczyński, Krzysztof, and Paweł Sosnowski. 2016. *Prokuratoria Generalna. 200 lat tradycji ochrony dobra publicznego*. Edited by Leszek Bosek. Warszawa: Wydawnictwo Sejmowe.
- Organiściak, Wojciech. 2002. "Utworzenie Prokuraturii Generalnej w II Rzeczypospolitej." *Miscellanea Iuridica* 1:141-54.
- Tkaczuk, Marek. 2001. "Powstanie Oddziału Prokuraturii Generalnej RP w Poznaniu." In *Przez tysiąclecia: państwo – prawo – jednostka*, vol. II, edited by Adam Lityński, and Marian Mikołajczyk, 151-60. Katowice: Wydawnictwo Uniwersytetu Śląskiego.
- Tkaczuk, Marek. 2006. "Organizacja systemu ochrony i pomocy prawnej Skarbu Państwa w Polsce XX w." In *Podstawy materialne państwa. Zagadnienia prawno-historyczne*, edited by Daniel Bogacz, and Marek Tkaczuk, 725-37. Szczecin: Uniwersytet Szczeciński.
- Tkaczuk, Marek. 2007. "Akcja Oszczędnościowa i jej wpływ na reorganizację ustroju i zmianę kompetencji Prokuraturii Generalnej Rzeczypospolitej Polskiej w 1924 r." *Studia z Dziejów Państwa i Prawa Polskiego* 10:285-302.