Teka Komisji Prawniczej PAN Oddział w Lublinie, vol. XVII, 2024, no. 2, pp. 415-425 https://doi.org/10.32084/tkp.9221

OPERATION AND JURISPRUDENCE OF MUNICIPAL COURTS IN THE RADOM DISTRICT DURING THE GERMAN OCCUPATION (1939-1945)

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Abstract. The aim of this article is to analyse the functioning of municipal courts in the Radom district during the German occupation in the years 1939-1945. The paper aims to show how municipal courts, despite the restrictions imposed by the occupier, played an important role in ensuring basic legal order and resolving civil and criminal cases that concerned everyday social problems. The article analyses the jurisprudence of these courts, focusing on their efficiency, the length of proceedings, and the changing number of cases during the occupation. The research is based on archival material, using historical-legal methods and case law analysis, which allows for a better understanding of the impact of the World War II period on the activities of the Polish judiciary. The article also shows how municipal courts, despite the difficult conditions, contributed to maintaining the Polish legal system and national identity under the occupation.

Keywords: municipal court; judiciary; German occupation; Second World War.

INTRODUCTION

The municipal courts, established by the Decree of the President of the Republic of Poland of 6 February 1928 – Law on the system of common courts,¹ started their activity on 1 January 1929 and became an important element of the Polish justice system. The municipal courts dealt mainly with the settlement of minor civil and criminal cases. Operating at the level of the lowest instance, they played a key role in providing access to justice, especially in smaller towns. The rules of internal office of the municipal courts, were regulated, *inter alia*, by the Regulation of the Minister of Justice of 24 December 1928 – General Rules for the Internal Office of the Appellate, District and Grodzki Courts,² Order of the Minister of Justice of 1 December 1932 – Rules of internal office of appellate,



¹ Journal of Laws No. 12, item 93.

² Journal of Laws No. 104, item 934.

district and borough courts in criminal matters³ and Order of the Minister of Justice of 15 December 1932 – Rules of internal office of appellate, district and borough courts in civil cases.⁴ In accordance with the above regulations, the *grodzki* court kept clerical aids, which were used, among other things, to register cases, in the form of repertories.

In terms of organisation, *grodzki* courts could operate on a one-person basis or in larger formations, and could be divided into divisions in the event of a heavy case load. An important function of the municipal courts was also to provide judicial assistance to other authorities and to implement legal assistance. Over the years, the competences of the *grodzki* courts were gradually extended, which relieved the higher courts and made the *grodzki* courts a key element of the Polish judiciary at the local level [Składanek 2021, 266].

The Nazi invasion of Poland in September 1939 interrupted the normal functioning of the judiciary. As the German army approached, the municipal courts suspended their activities. If this was not possible, some of the judicial personnel were evacuated to the east or south-east, which seemed safe due to the scale of the war effort. It was not until the attack of the Soviet army on the eastern border of the Second Polish Republic on 17 September and the defeat of the Polish side in the September campaign that the functioning of the municipal judiciary was finally disrupted.

The purpose of this article is to present how the municipal courts functioned in the Radom district in the years 1939-1945 and to examine the impact of German occupation law on their activities. The analysis of the jurisprudence of the municipal courts allows to show how the scope of their competences, the nature of the cases decided and the effectiveness of their functioning under wartime conditions changed. The article also presents the social and legal context of the functioning of these courts, which, despite numerous difficulties, constituted one of the few elements of the preserved Polish legal system during the occupation. In doing so, archival materials and the laws in force in the General Government were used to analyse in detail the changes and challenges faced by these institutions during the years of German occupation.

1. BEGINNING OF THE OCCUPATION AND REORGANISATION OF THE JUDICIARY

When the German army crossed the Polish borders, Radom, due to its location, became the target of incessant air raids by the enemy air force, which also completely destroyed other towns where municipal courts operated,

³ Journal of Laws No. 110, item 909.

⁴ Journal of Laws No. 114, item 941.

including Przedbórz and Zwoleń. When it became obvious on 6 September that the German army would reach the Vistula line, there was an evacuation from Radom and its surroundings of most of the judges with their families. Most of them stayed in the Eastern Borderlands until 17 September. Although the deserted court buildings in Radom and other cities were tried to protect them from theft and devastation, the material losses that occurred were very serious [Piątkowski 2018, 72].

It should be noted at this point that the area occupied by German troops was divided into two zones. By virtue of Hitler's decree of 8 October 1939, part of the Polish lands were directly incorporated into the Third Reich, i.e. the Pomeranian voivodeship, the Poznań voivodeship, the Upper Silesian voivodeship, part of the Łódź voivodeship with Łódź, the western districts of the Kraków voivodeship, the northern part of the Warsaw voivodeship – the Ciechanów district, the Suwałki district and the western part of the Kielce voivodeship [Wrzyszcz 2011, 163-64]. This meant that the new German legal system (gradually introduced already during the period of military administration) was in force in these areas, and consequently that Polish common courts were liquidated. For the remaining areas which had not been annexed by the Third Reich, including the Radom district, the decree on the administration of occupied Polish areas of 12 October 1939 established the General Government with its seat in Kraków, together with the German occupation administration [Konieczny 1972, 100-107].

In the General Government the previous Polish justice system was restored, but with very limited competences. The basis for this was the decree of 26 October 1939 on the restoration of justice in the General Government⁵ and of 19 February 1940 on the Polish judiciary in the General Government.⁶ Although the Polish judiciary was a separate division, it was subordinated to the German judiciary, which could review the verdicts of Polish courts and arbitrarily take over cases pending before them. On the basis of para. 4 of the ordinance of 26 October 1939 on the reconstruction of the judiciary in the General Government, the previous Polish legal order was preserved in these areas, which was regulated by Polish laws and ordinances, unless the General Governor decided otherwise. Subsequent provisions of the aforementioned ordinance contained many changes to the provisions of criminal procedure. The provisions of substantive law remained in force as long as they did not interfere with the takeover of the administration by the German Reich and the exercise of military supreme laws [Bereza 2015, 105].

⁵ Ordinance on the reconstruction of the judiciary in the General Government of 26 October 1939, in: *Ordinances of the General Government issued on loose sheets*, Frenken, Radom 1940 [hereinafter: GG Ordinances], part B.I.1.

⁶ Ordinance on Polish Judiciary in the General Government of 19 February 1940, "Journal of Ordinances of the General Governor for the Occupied Polish Territories", Part I, No. 13, p. 64-68.

Due to the German occupation of part of the territories of the Republic of Poland, there was a rapid change in the organisation of the existing state administration, including the judiciary. By virtue of the decree of the General Governor for the occupied Polish territories of 26 October 1939 on the reconstruction of the judiciary in the General Government, a German and a Polish judiciary were established. The task of the German judiciary was to prosecute "attacks on the security and authority of the German Republic and Nation."7 The Polish judiciary could be allowed to try cases provided that the scope of the case being tried did not fall within the jurisdiction of the German court. The scope of the Polish judiciary was regulated by a relevant decree of the GG of 19 February 1940.8 According to its provisions, the entirety of criminal cases was excluded from the jurisdiction of the Polish judiciary,9 and the Polish provisions on conditional suspension of liberty sentences or fines and pardons were abolished. The applicable Polish law remained in force if it did not conflict with German law. The Polish population residing in the GG was subject to Polish courts, while citizens of German nationality were subject exclusively to the German judiciary.¹⁰ German courts had the right to review the verdicts of Polish courts. Polish laws and regulations applied to the execution of the Polish judiciary, unless the Governor General decided otherwise.¹¹ By virtue of the above-mentioned regulations, the labour courts were also abolished and their jurisdiction was transferred to the municipal courts. The Polish judiciary was subordinated to the supervision of the territorially competent District Chief, to whom the appointment of courts and changes of judicial districts also belonged. Judgments were handed down "in the name of the law" [Wrzyszcz 2020, 35]. Re-employed Polish officials and employees were required to submit a written declaration of obedience. The court heard cases in the composition envisaged by Polish laws. The Polish courts in the Radom district were activated and began their activities in November 1939. At that time, the District Court in Radom and the municipal courts subordinate to it started their work.¹² The first to resume work was the Radom district court,

⁷ Ordinance on the reconstruction of the judiciary in the General Government of 26 October 1939, part B.I.1.; "Official Gazette of the Head of the Radom District in the General Government for the Occupied Polish Areas", No. 1 of 1939, p.2.

⁸ Ordinance on Polish Judiciary in the General Government of 19 February 1940.

⁹ Although the legislation allowed them to be considered as long as the case was referred to the German authority for judgment, this provision remained dead.

¹⁰ Ordinance on the boundaries of the districts and court years of the German courts in the Radom District of 23 April 1940 by the Head of the Radom District.

¹¹ Para. 4 of the Ordinance on Polish Judiciary in the General Government of 19 February 1940.

¹² The following municipal courts were opened in the perimeter of the Radom District Court: Białobrzegi, Iłża, Końskie, Kozienice, Lipsko, Opatków, Opoczno, Ostrowiec, Przedbórz, Radom, Sandomierz, Skarżysko-Kamienna, Staszów, Wierzbnik and Zwoleń, "Official

and this took place on 17 November 1939. The institution retained its former seat, part of the pre-war panel of judges, as well as the area of jurisdiction covering both the city itself and many neighbouring municipalities. The prosecutor's office, mortgagee, notaries and lawyers resumed their work. Further, on 25 May 1940, the Court of Appeals in Radom started functioning, to which, by virtue of the Regulation of the General Governor of 19 February 1940 on Polish judiciary in the General Government, the district courts and township courts located in the Radom district were subordinate [Swajdo 2006, 52-54]. The operating municipal courts were under the supervision of the head of the Radom district.

2. MUNICIPAL COURTS IN THE RADOM DISTRICT IN THE YEARS 1939-1945

The fate of many members of the Radom judiciary from September 1939 and the following months remains largely unclear. Some were taken prisoner by the Germans, while others were detained by the Soviet authorities. Only a few managed to return to their previous places of residence, which often required illegally crossing the border between the occupation zones in the Bug region.¹³ On 9-11 November 1939, the occupiers carried out the first mass action targeting the intelligentsia circles, aimed at intimidating the Polish society before the upcoming Independence Day. Nearly one hundred and fifty people were arrested in Radom and its surroundings, and then imprisoned at Malczewskiego Street, including judges: Teodor Dedewicz, Eugeniusz Jakimow, Stanisław Kuczkiewicz, Teodor Tomaszewski and Tadeusz Warzycki, notaries: Marian Kwapisiewicz, Romuald Przyłuski and Włodzimierz Zakrzewski, as well as attorneys: Stanisław Berger, Władysław Ferencowicz, Zygmunt Glogier, Bronisław Hassenbaim, Roman Szczawiński, Bolesław Wasilewski, Kazimierz Wereszczyński, Wacław Wędrychowski and Marian Wegliński. Some of them left prison after several days, but others regained their freedom only in early 1940 [Piątkowski 2017, 52].

In addition to acts of a clearly repressive nature, a significant part of the extermination actions undertaken by the Germans had their anchoring in Nazi legislation, being implemented by an extensive judicial apparatus. As early as September 1939, a special court-martial began operating in Radom, which sentenced defendants primarily to prison terms and fines,

Gazette of the Head of the Radom District in the General Government for Occupied Polish Areas" No. 3 of 1939, p. 32.

¹³ For example, Opatów magistrate Stanislaw Czajkowski set off home from Wierchy on the Stochod River in an attempt, unsuccessful as it was, to save the money and court deposits he kept.

applying the principle, however, that minors were to be punished in the same way as adults "[...] if in terms of physical development they equalled a person of eighteen years."¹⁴ The power to punish by death was granted to ad hoc courts-martial, which operated at military units and therefore generally did not have permanent premises. The panel of judges consisted of the unit commander (or an officer authorised by him) and two soldiers. They dealt with cases of possession of weapons and military equipment, accusations of sabotage, etc. Information about sentences was often made public in the form of placards [Wrzyszcz 2008, 103-108].

The activity of lawyers was closely linked to the functioning of the courts. Each of them, in order to resume their practice under conditions of occupation, had to obtain permission from the German authorities every year, which was often a complicated and difficult process. It was readily apparent that the Germans sought to restrict access to the legal profession only to those who had not engaged in political activity before the war. This was evidenced by the questionnaires that lawyers had to fill in. From 1943 onwards, this document covered as many as twelve pages, on which detailed information was required not only about the lawyer himself, but also about his spouse, parents, grandparents and children, in order to confirm their Aryan origin. Lawyers were also required to provide details of their education, career, military service and membership of organisations between the wars.¹⁵ The questionnaires also contained a specific set of questions concerning the fate of the attorneys after 1 September 1939. Lawyers who found themselves in the Eastern Borderlands had not only to give the exact date of their return to the General Government, but also to describe in detail the circumstances under which this return was possible. It can be assumed that this information was verified in detail by the German police services. Every lawyer was aware that even the slightest suspicion of involvement in conspiratorial activities or the display of anti-German attitudes could result in a refusal to renew his or her professional permit, which would deprive him or her of a livelihood [Piatkowski 2017, 58].

The period of occupation brought serious casualties to lawyers associated with the courts of Radom and the region. Already in December

¹⁴ Journal of Regulations for Occupied Areas in Poland, No. 3, p. 7. A similar regulation was also issued by the Reich authorities. The Ordinance on Protection against Juvenile Serious Offenders of 4 October 1939 (Verordnung zum Schutz gegen jugendlische Schwerverbrecher, Reichsgesetzblatt 1939, Part I, No. 199, p. 2000) authorised the public prosecutor to bring indictments against minors aged 16-18 if they were physically and mentally well-developed and if the "protection of the German people" required it. Under it, minors were sentenced to the punishments prescribed for adults. See Wrzyszcz and Mielnik 2019, 89-114.

¹⁵ These included sports associations, associations for veterans of the Polish Legions, the Polish Military Organisation, General Haller's Army and national uprisings, the Riflemen's Association, the Polish Scouting Association and Masonic organisations.

1939. Germans murdered the former Vice President of the Radom District Court, Stanisław Bryła, near Lublin (a few months earlier he had participated in the defence of the city, contributing to the rescue of Jan Matejko's paintings The Battle of Grunwald and The Sermon of Skarga). In the spring of 1940, at Firlej and at other places of mass execution, the attorneys Roman Rytel from Radom and Jerzy Cybulski from Sandomierz, as well as the secretary of the attorneys Aleksander Utnicki, were shot, among others. Two years later, during the liquidation of the Radom ghetto, the Germans murdered retired judge Józef Bekerman, who was completely blind, with a shot to the occipital bone. Many lawyers were also sent to concentration camps, suffering death there. Already in 1940, the well-known court defender from Radom, Bolesław Wasilewski, and the lawyer from Iłża, Władysław Wielechowski, were deported to the Sachsenhausen-Oranienburg camp, and the judge of the Przedborze Municipal Court, Jerzy Biriukowicz, was deported to the Buchenwald camp. In the following years, among others, the Radomsko advocates Marian Świątkowski and Roman Szczawiński, as well as the trainee Henryk Taedling, were imprisoned in the Auschwitz concentration camp. Roman Mazanowski, an advocate from Białobrzegi, managed to regain his freedom; he was imprisoned for taking the defence of a Jewish boy beaten in the street[Piątkowski 2018, 128]. The list of losses should also include, among others, the judge of the Zwoleń Municipal Court Ksawery Kotliński, murdered in 1943 during a bandit attack on the Czarnolas land estate.¹⁶

Many lawyers were also involved in the activities of the anti-German military and civilian Conspiracy. For example, the President of the Radom District Court, Adam Bobkowski, was a lecturer in Latin at clandestine education courses, having been arrested twice by the Germans. In turn, the Radom lawyer Witold Lis-Olszewski was one of the founders of the local command of the National Military Organisation, and later a member of the Delegation of the Government of the Republic of Poland at Home. It is also impossible not to mention the figure of Józef Lachorski – a retired judge and mortgage writer at the Grodzki Court in Radom, who was very active in the social field as the chairman of the Polish Welfare Committee Radom-Powiat (Rada Opiekuńcza Powiatowa), which was the local representation of the Central Welfare Council. These and other examples testify eloquently to the patriotism of the environment in question [Piątkowski 2008, 85].

¹⁶ The bandits, having recognised the judge in him, shot him in cold blood. As it was later written, "The funeral took place The funeral was held in Zwoleń at the town's expense, and was attended by crowds in their thousands, manifesting their indignation and grief, as well as their honour and tribute. For Judge Kotliński, as confirmed by the opinion of the most serious representatives of the society of the town of Zwoleń, during his several years of judging in Zwoleń, holding the banner of a judge with dignity and high esteem, earned himself universal recognition and respect. He lived with his whole family in privation."

3. ANALYSIS OF THE JURISPRUDENCE OF MUNICIPAL COURTS DURING THE YEARS OF OCCUPATION 1939-1945

The municipal courts, established by the Presidential Decree of 6 February 1928, functioned as an important element of the general judicial system in Poland until 1950. Throughout this period, these courts dealt with civil and criminal cases at the local level, playing an important role in solving the everyday legal problems of citizens. However, the period of occupation between 1939 and 1945 posed a particular challenge to the municipal courts, both in terms of the number of incoming cases and in terms of the scope of their powers, which were drastically restricted by German legislation.

This article analyses data on key elements influencing the efficiency of the municipal courts in the Radom district, including the mastery of case impact, i.e. the ratio of the number of all cases dealt with in a given reporting period to the number of pending cases, the duration of court proceedings, calculated from the day the case was received to the day the final decision was issued, and the waiting time for a trial date.

Materials from the Archive of New Files in Warsaw,¹⁷ the State Archive in Radom¹⁸ and the State Archive in Kielce¹⁹ were used for the analysis. Due to the state of preservation of the sources, the analysis mostly took into account the activities of the municipal courts in Białobrzegi, Iłża, Kozienice, Radom, Skarżysko-Kamienna, Starachowice-Wierzbnik and Wierzbnik.

The analysis of the jurisprudence of the municipal courts during the occupation period allows for a deeper understanding of the functioning of these institutions in wartime conditions, when the Polish judicial system came under the control of the German occupier. In order to understand the impact of the war on the work of the municipal courts, it is worth tracing both the number of incoming cases, the type of cases adjudicated, as well as changes in the waiting time for their resolution and the level of backlog.

With the outbreak of the war, the number of cases arriving at the municipal courts fell markedly. Compared to the full period of activity of the municipal courts between 1929 and 1950, only 28% of cases were received during the German occupation. An example is the Radom Municipal Court, which before the war dealt with a large number of cases, and in the period

 ¹⁷ AAN in Warsaw, z. 285, ref. 7392; ref. 7396; ref. 7399; ref. 7402; ref. 7404; ref. 8090; ref. 8092; ref. 8095; ref. 8100; ref. 8110; ref. 7391; ref. 7392; ref. 7393; ref. 7399; ref. 7401; ref. 7398.

¹⁸ APR, z. 58, ref. 1447; APR z. 448, ref. 1731; ref. 17326; ref. 17429; ref. 17432; ref. 17433; ref. 17439; ref. 17444; ref. 17448; ref. 17451; ref. 17460; ref. 17461; ref. 17478; ref. 17485; ref. 17551; ref. 17569; ref. 17682; ref. 17685; ref. 17686; ref. 17700; ref. 17702; ref. 17705; ref. 17708; ref. 17723.

¹⁹ APK, z. 21/3285, ref. 1, ref. 2, ref. 633, ref. 988, ref. 1244, ref. 1946, ref. 1947, ref. 1948, ref. 1949, ref. 1950; APK z. 21/3046, ref. 3890, ref. 3894, ref. 3892.

1939-1945 recorded a significant decrease in their receipt, reaching 12,674 cases, of which 3665 cases remained backlogged. Similarly, in Kozienice the number of cases amounted to 1,600, of which 1,240 were backlogged, and in Wierzbnik 990 cases were received, of which 564 remained unsettled. The court in Skarżysko-Kamienna dealt with 3900 cases, of which there was a backlog of 526. These figures clearly show that during the war the number of new cases was decreasing and the backlog was increasing, which had a direct impact on the efficiency of the courts.

In civil cases, the most common issues dealt with were payment, eviction and interference with possession. Payment cases accounted for as much as 48% of all civil cases, while evictions accounted for 31% of cases. Cases concerning interference with possession accounted for about 21% of the total. Other types of civil cases, such as alimony, division of property, revocation of a clause or rent determination, appeared less frequently and had a marginal impact on the overall structure of case law during the period in question.

In the case of criminal cases, the surviving data shows that the most frequent adjudication was for offences against property, which accounted for 43% of all criminal cases. Offences of violation of bodily integrity were another dominant category, accounting for 26% of the cases dealt with. Offences of insulting officials accounted for 17%, and the remaining cases, such as offences against authorities and offices, included disobedience to authority, disruption of public order, theft, fraud or violation of sanitary regulations. Between 1939 and 1944, crimes against property accounted for between 40% and 50% of criminal cases, indicating the considerable scale of this type of crime during the war period. In contrast, offences against bodily integrity accounted for more than 20% of the cases dealt with during the occupation period.

One of the important indicators for assessing the efficiency of the municipal courts is the waiting time for the resolution of cases. Before the outbreak of the war, between 1929 and 1938, the settlement time in 73% of the cases closed within three months. However, during the occupation, especially between 1942 and 1944, this time increased significantly - only 55% of cases were adjudicated within a quarter of a year, and in the remaining cases the proceedings took longer. The marked decline in adjudication efficiency was the result of wartime organisational difficulties, as well as a reduced number of judges and a growing backlog.

The backlog of cases was a major challenge for the municipal courts, especially during the years of occupation. In the Radom Grodzki Court in 1939 it amounted to 26% of all cases, but in the following years, as a result of the escalation of the war, its number increased to 65% in 1942. In Kozienice, the backlog rate in 1942 was as high as 99%, and in 1944 – 93%.

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In Skarżysko-Kamienna, on the other hand, although arrears in 1940 were 46%, they declined steadily in subsequent years, reaching only 2% in 1944. A similar trend was observed in the municipal courts of Starachowice-Wierzbnik and Wierzbnik, where the backlog decreased as the war years passed, although in 1944 it still stood at 50%.

An analysis of the jurisprudence of the municipal courts between 1939 and 1945 shows that the war had a significant impact on the functioning of these institutions, both in terms of the number of cases dealt with and the time taken to resolve them. Although these courts tried to continue their activities under the difficult conditions of occupation, the reduced flow of cases, the increased waiting time for sentences and the growing backlog had a negative impact on their efficiency. In particular, the increase in the backlog between 1942 and 1944 and the limited scope of competence of the Polish courts under the German occupation affected their ability to handle cases effectively. Despite these difficulties, municipal courts played an important role in maintaining legal order in local communities, being one of the few Polish institutions functioning under the German occupation.

CONCLUSION

The period of German occupation posed an enormous challenge for the municipal courts in Poland, including the Radom district, which required constant adaptation to the changing legal and political reality. The introduction of the German legal system, the transformation of the structure of the courts and the limitation of the competences of Polish institutions meant that the municipal courts had to function under conditions of extreme dependence on the occupation administration. Nevertheless, their activities, although drastically limited, constituted an important part of the legal life of the local population. From an organisational perspective, the township courts were one of the few institutions that continued to work in a form similar to that before the war, albeit under changed conditions and under strict supervision of the occupier.

An analysis of the jurisprudence of these courts shows that, although their main competences were limited to less complex civil and criminal cases, they still had an important function in society. Dealing with cases of payment, evictions, violations of bodily integrity or minor offences against property was important to ensure basic legal order as well as stability in uncertain times of war. In many cases, the municipal courts operated at the limit of their capacity, facing a lack of staff, an overload of cases and direct interference from the German occupation authorities. It should also be noted that the municipal courts played an important role in protecting the Polish legal identity. Although their judgements could be challenged by the German courts and their activities were subjected to strict control, they retained a degree of autonomy, operating under Polish law as long as this did not conflict with German interests. Their functioning was a symbol of resistance to the imposed regime, as well as an attempt to preserve the continuity of the Polish legal system, even under such difficult conditions.

In conclusion, the functioning of the municipal courts during the German occupation is an example not only of the perseverance of legal institutions, but also of the determination of Poles in the struggle to preserve legal order and national identity. Their activities in the Radom district, despite many limitations and adversities, constitute an important element of the history of the Polish judiciary, which is worth highlighting in the context of Poland's difficult fate during World War II.

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