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**THE ANCIENT RZECZPOSPOLITA HIGHEST JUDICIAL BODIES  
IN THE JUSTICE SYSTEM OF THE ROYAL ESTATES (ON THE EXAMPLE  
OF THE SAMBIR ECONOMY OF THE XVIth – XVIIIth CENTURIES)**

**Abstract.** *The purpose of the research is to characterize the justice model's functioning at the highest levels of the judicial bodies in the Ancient Rzeczpospolita in the context of everyday legal practice in the royal estates (in particular, Sambir economy). The methodology of the research is based on the principles of historicism, scientificity, verification, as well as the use of general scientific (analysis, synthesis, generalization) and special historical (historical-typological, historical-systemic) methods. The scientific novelty is that for the first time the Ancient Rzeczpospolita highest judicial bodies activity was revealed through the prism of everyday practices in the field of a separate administrative and economic object's justice system, in this case – Sambir economy, part of the royal estates of the Ancient Rzeczpospolita. The Conclusions.* *The royal estates' population and administration (in particular, the Sambir economy) used the courts of higher instance actively, appealing to them directly, or appealing against the decisions*

of the local courts. The most popular was the Crown Court of Referendum, less often people turned to the Crown Court of Assessors. Some issues could be considered by the field commissions set up by the King's order in order to consider certain issues. Finally, the 'Grodzki' courts (Sąd Grodzki) of Przemysł Land, Lublin Crown Tribunal, and Radom Tribunal were involved in resolving the controversial cases. disputes. The practice of appeals to these courts was created at the turn of the XVIth – XVIIth centuries, but for a long time it remained disordered and uncoordinated. The Crown Treasury Commission was established in the XVIIIth century and took control over appeals to various courts.

**Key words:** justice, court system, the Referendum Court, the Assessors Court, the Crown Treasury Commission, Sambir economy.

## **ВИЩІ СУДОВІ ІНСТАНЦІЇ ДАВНЬОЇ РЕЧІ ПОСПОЛИТОЇ У СИСТЕМІ ПРАВОСУДДЯ КОРОЛІВСЬКИХ СТОЛОВИХ МАЄТКІВ (НА ПРИКЛАДІ САМБІРСЬКОЇ ЕКОНОМІЇ XVI – XVIII ст.)**

**Анотація.** *Мета дослідження* – охарактеризувати модель функціонування правосуддя на вищих щаблях судочинства Давньої Речі Посполитої в контексті повсякденної правової практики у королівських столових маєтках (зокрема, Самбірської економії). **Методологія дослідження** базується на принципах історизму, науковості, верифікації, а також на використанні загальнонаукових (аналіз, синтез, узагальнення) та спеціально-історичних (історико-типологічний, історико-системний) методів. **Наукова новизна:** уперше розкрито діяльність вищих судових органів Давньої Речі Посполитої через призму повсякденних практик у сфері судочинства окремо взятого адміністративно-господарського об'єкту, у даному випадку – Самбірської економії, складової частини королівських маєтків Давньої Речі Посполитої. **Висновки.** Населення та адміністрація королівських столових маєтків (зокрема, Самбірської економії) активно послуговувалися судами вищої інстанції, звертаючись до них безпосередньо, або апелюючи на рішення місцевих судів. Найбільшою популярністю користувався королівський референдарський суд, рідше – королівський асесорський суд. Окремі питання могли розглядатися виїздними комісіями, створеними з наказу короля для розгляду певних питань. Нарешті, до вирішення спірних питань залучалися гродзькі суди Перемиської землі, Люблінський Коронний Трибунал, Радомський Трибунал. Практика звернень до перерахованих судових інстанцій витворилася ще на межі XVI – XVII ст., але тривалий час вона залишалася непорядкованою і нескоординованою. У XVIII ст. була створена Королівська скарбова комісія. Саме вона почала здійснювати контроль за зверненнями до різних судових інстанцій.

**Ключові слова:** Правосуддя, судочинство, Референдарський суд, Асесорський суд, Королівська скарбова комісія, Самбірська економія.

**The Problem Statement.** The system of higher judicial institutions of the Ancient Rzeczpospolita (Commonwealth) was quite complex. It was formed for a long time during the XVth – XVIIth centuries and was characterized by a lack of a clear coherent structure and a clear division of competences between different instances. Hence, starting from the XIXth century, the legal historians were forced to address this problem constantly in order to try to characterize the functioning of the judicial institutions of the Ancient Rzeczpospolita (Commonwealth) comprehensively and reconstruct the mechanisms of their activities. In most cases, such attempts are limited to theoretical considerations, which are reduced to the competencies' delineation of each of the instances. In our opinion, the disclosure of the above-mentioned issue would be more fruitful if we use somewhat different methodological approaches – through the prism of studying the legal relations of individually selected objects, which were subject to the jurisdiction of these courts. In particular, such an object may be Sambir economy – an administrative, judicial and economic complex of estates owned by the King. The economy's administration, as well as its population, were constantly in contact with the higher courts and used them as the appellate instances. Therefore, the court system's study will help us to acknowledge how the Ancient

Rzeczpospolita higher judicial institutions system functioned, and most importantly, to answer the question of how effective it was and allowed to provide justice.

**The purpose of the article is** to characterize the justice model's functioning at the highest levels of the court system in the Ancient Rzeczpospolita in the context of everyday legal practice in the royal estates (in particular, Sambir economy).

**The Analysis of Recent Researches.** The Ancient Rzeczpospolita court system has a history of almost one and a half centuries of study. In general, the organization of their creation and operation, competence and efficiency of work became the subject of the scientific research for many times. Nowadays, there are both individual achievements and even whole areas, which are dedicated to the court system, hence, information is considered in detail. For example, Ignatius Thaddeus Baranowski (Baranowski, 1909), Jan Rafacz (Rafacz, 1948) wrote about the Referendum Court, and the court materials for the XVIIIth century were published in several volumes by A. Keckowa, V. Pałucki (Keckowa & Pałucki, 1955) and M. Woźniakowa (Woźniakowa, 1969, 1970). A separate monograph on the Assessor Court was published by M. Woźniakowa (Woźniakowa, 1990). The Crown Tribunal, whose activities were investigated by V. Bednaruk (Bednaruk, 2008), also received a separate paper. Obviously, this list of the researchers, who worked on the issue isn't completed. However, today there is a lack of work that would consider the activities of these institutions comprehensively through the prism of everyday practices of certain social groups and individual regions or settlements.

**The Basic Material Statement.** The system of higher judicial bodies in the Ancient Rzeczpospolita consisted of several components. One of them was formed of courts headed by the King or delegated Royal Commissioners in the person of the Chancellor, the Referent, and so on. These were the so-called "Zadvirni" Courts, which by the end of the XVIth century split into the Referential, the Assessor, the Relational Courts. The Sejm Court can also be included in this category with certain reservations. Furthermore, "Grodsi" and "Zemsky" Courts formed up a separate structure, which were headed by the Crown Tribunal. In addition, there were separate courts to deal with disputes in individual areas or for specific categories of the population. Radom Tribunal is the vivid example of such courts, which dealt with the army financing disputes, or the courts under the Crown Hetman, to whom the military was subject, and so on. All these courts to some extent served the population of the crown lands, including Sambir economy in the legal field (Rafacz, 1925, pp. 3–5).

The leading role among the Crown Courts was given to the Referendum Court. It considered the peasants' and other underprivileged groups' cases at first in their conflicts with the rulers of the kingdoms, in our case with Sambir administration. Later on, in the XVIIIth century, the Referendum Court dealt with the cases on the land boundaries, the legality of possession of one or another economic object, such as "viitivstvo", milling, "soltysivstvo", etc. Usually, among the parties to the conflict we came across the peasant communities, as well as privileged groups: "viitiv", "soltys", freemen, innkeepers, millers. The citizens and the communities, who came from the suburbs of Sambir, Staryi Sambir and Stara Sil also appealed to the court. Among the defendants were people, who lived in Sambir economy (from the government officials to the peasants); also among them could be found people outside that environment (the gentry from neighboring villages, church institutions, peasant communities of private and church property, burghers, etc.) (Woźniakowa, 1969, pp. 69, 110, 114, 119–124, 141, 144–155, 164–166, 175, 179, 179–182, 211–221, 223, 225, 227–228, 234, 235, 238–240, 252; Keckowa & Pałucki, 1955, p. 122). The latter usually acted as the defendants. The peasant communities, as a rule, were represented by the government officials of economy (key-holders statesmen,

vice-administrators, administrators, clerks) or specially designated representatives (captive-patrons (Woźniakowa, 1969, p. 274; Woźniakowa, 1970, pp. 295, 307, 335; CAHR, Crown Metrica, sygn. 3, p. 30). The Referendum Court could serve as the first instance to which the plaintiffs could apply directly, bypassing Sambir Castle Court and other Sambir Economy's courts. At the same time, the Referendum Court acted as an appellate court in relation to the decisions made by Sambir Castle Court (CAHR, f. "Metryka Koronna", c. KR 3, pp. 159–160; c. KR 9, pp. 91–92.; c. Kr 18, pp. 59–60, 107, 148–149). A specifically convened commission for this purpose was responsible for the execution of the sentence of this court. In addition, its composition was determined by the court. If the economy's administration was not a party to the process, the Commission included the Castle officials. In some cases, the responsibility was shifted and entrusted to the economy's administrator, vice-administrator or the nearest city court ('Grodski' Court), which was located in Przemyśl, Lviv, Zhydachiv (Woźniakowa, 1969, pp. 122, 146, 148, 219, 235).

Individual cases were referred to the Assessor's Court, usually cases concerning disputed ownership of the real estate in economy, as both parties had the appropriate privileges for it. For example, it was in the process between the owners Fedchuk and Pasevich of the voivodship in Yablinka Dubova, on the one hand, and Henryk Janson – on the other (Woźniakowa, 1970, p. 261), the Assessor's Court was entrusted with the interpretation and commentary of dispositive documents, which, of course, included royal privileges. Unlike the Referendum Court, the Assessor Court acted exclusively as an appellate institution. The Assessor Court dealt with the cases from both Sambir Castle Court and the Referendum Court (Woźniakowa, 1969, p. 119; Horn, 1976, pp. 113–116). In addition, the Assessor's Court also served as an appellate institution for the urban population of Sambir economy.

The economy's nobility, and not only them but also other nobility, who sued the economy's administration or its population, preferred the City Courts and Lublin Tribunal, it became clear in the XVIIth – XVIIIth centuries. At the turn of the XVIth – XVIIth centuries there was a gradual distinction between the owners of "viitivstva", liberties, "popivstva" by origin. As a result, "vity", freemen and priests or "popovichi" of noble origin put emphasis on their status affiliation in every possible way, as they sought to resolve the legal issues in the local City Court and "Zemskyi" (County) Courts (Smutok & Smutok, 2019). An appeal against local City Court and "Zemski" (County) Courts' decisions was accordingly lodged with the Crown Tribunal. Sambir economy's administration did not object to this when it came to conflicts over beatings, raids, material damage, theft of property and livestock, and so on. However, Sambir economy's administration kept a close eye on land ownership and everything that affected savings in one way or another. In the case of economy's debts, abuse and violation of taxation and duties, seizure of non-privileged lands belonging to the community, etc., the economy's administration and the Crown Treasury pointed to inconsistencies between the jurisdiction of City Courts and "Zemski" (County) Courts and Lublin Crown Tribunal concerning Sambir economy's population. For example, during a lawsuit between Medenychi communities area and Adam Humnytskyi, the owner of the neighboring village of Rudnyky, in 1720 – 1724 for disputed forests. The attempt, which was made in order to transfer the case to Lublin Crown Tribunal, bypassing the Referendum Court, led to the recovery of Humnytskyi fine of 500 hryven (Woźniakowa, 1969, pp. 173, 179). Such an attempt to use the services of the Tribunal in a case between Letnia village community and the owner of the Litnyanskoho "viitivstva" Dominik Bekersky for disputed lands and damage in 1729 ended in a categorical ban on such actions (Woźniakowa, 1969, p. 238).

For Sambir, Saryi Sambir and Stara Sil City Courts the highest appellate instances were the Magistrate of Lviv and the highest court of Magdeburg law in Kraków Castle or Commissioners from six cities. The existence of such higher appellate institutions was recorded in Groitsky's work "Porządek sądów i spraw mieyskich". M. Hrushevskiy translated the above-mentioned fragment into Ukrainian the following: "In Rus' from cities and towns appeal to Lviv Councilors, because Lviv is the first and most important city from the whole Rus' land; this is true, because the most important and prominent city in the province should serve as the head of other towns and villages (the author refers to the German city law); from the Councilors of Lviv they appeal to the Supreme Court (prawa) of Magdebus at the Krakow Castle, and from there to the Royal Majesty or Commissioners of six cities". However, the scientist was wary of determining "how big the appellate district of the Lviv Council really was at different times" (Hrushevskiy, 1994, p. 354).

Novyi Sambir was in the "appellate district of the Lviv council". The above-mentioned information was indicated by the copying by Novyi Sambir of the organization of management in Lviv, duplication of Lviv guild statutes by Sambir shops and permanent appeals to Lviv Magistrate with a request to interpret certain legal norms. For example, in 1584 the people of Sambir asked for an explanation concerning the division of the hereditary estates (Dörflerówna, 1936, p. 82). In the end, Novyi Sambir's residents' appeals to Lviv Magistrate reached our time. (CSHAUL, f. 43, d. 1, c. 156, pp. 322–324). At the same time, the cities, which belonged to economy appealed to the Supreme Court of German law at Krakow Castle. For example, in the 1590-ies the case of the inheritance between Sambir burgher Peter Rakhvalik and the city clerk Joseph Bachelor, after the City Courts' verdicts on the spot, the case was transferred to Lviv, and from there – to Krakow Castle (CSHAUL, f. 13, d. 1, c. 311, pp. 444–445).

However, the above-mentioned system of appeals, which developed in the late Middle Ages, was dumbing down and was being superseded by Crown Courts. Due to the ordinance on the Crown Tribunal establishment in 1578, there was the decline of the Court of six cities. Among other things, it outlined the competences of the Crown Courts. Thus, it turned out that the "Nadvirni" Courts coped with all the cases concerning the Crown revenues and took over the jurisdiction of the settlements of the Magdeburg Law and the Helminth Law. The advantages of "Nadvirni" Courts and the Assessor Court were obvious: in contrast to the Magdeburg Court of six cities in Kraków Castle, which covered only Małopolska territory, the Assessor Court operated throughout the Polish-Lithuanian Commonwealth. On the other hand, it was usually a matter of crown cities and towns, not private, so the appeal to the court did not cause remarks from most lawyers at the time (Woźniakowa, 1990, p. 39). The Crown Courts already heard cases between the burghers in the middle of the XVIth century. For example, the "Zadvirnyi" Court passed a final verdict concerning Sambir's case with the Orthodox Bishop Antony Radilovskiy on the ownership of certain real estate in the city (Dörflerówna, 1936, p. 74). Owing to the Assessor Decrees Register for 69 cities from the territories of Ruskoho and Lubelskie voivodships, which are stored in the Czartoryski Library in Krakow, we could state that the number of cases, which were heard by the Assessor's Court was steadily growing in the XVIIth century. As a result, 34 records out of 800 relate to Novyi Sambir. They are divided chronologically as follows: one record is dedicated to 1578 – 1583, 30 records are devoted to 1603 – 1696, 3 records – 1729 – 1746 (NMK, c. 135, pp. 1–187; Woźniakowa, 1990, p. 111).

There was a separate Radom Tribunal, to which the possessors of 'soltisiv'-elected economy and other persons appealed in the ownership's legality of this category of land,

the definition of the economic and legal controversial issues related to the status of 'soltis' (elected). The legitimacy of such appeals was sometimes questioned in a Referendum Court (Stańczak, 1973, pp. 34–35; Inkin, 1963, p. 350).

Furthermore, the existence of several higher courts with vaguely defined competencies created red tape and various kinds of legal conflicts constantly. For example, a conflict arose between the Soltys community and village Litynya community, Dublyanskyi area over the public lands' seizure by the Soltis and the refusal to pay taxes to Sambir Castle. The case failed to be resolved at the level of the Vice-Administrative Court and the Royal Treasury Commission, and the villagers appealed to a Referendum Court, which ruled in their favor. In response, the Soltys community challenged the verdict at Radom Tribunal and also won the case. There was a precedent – which of the sentences was more important? The problem was resolved administratively: the Royal Treasury Commission ordered the economy's administration to abide by the Referendum Court's decision, which was favorable to the Litynya community and the Crown Treasury, and to ignore the Tribunal's verdict. Even the complaint made by Tarl, the leader of the elected infantry, did not help, who claimed that the Soltis community was part of his regiment and paid "lanowe" (state land tax) (Stańczak, 1973, pp. 189–191; Woźniakowa, 1970, pp. 15, 19–21, 102, 161). In most cases, the preference was given to the party that had the real opportunity to enforce in practice the court's decision in its favor.

In addition, from the beginning of the Royal Treasury Commission establishment, the economy received the right to file their complaints against the decrees of the economic courts to the Royal Treasury in the name of the King. The Commission itself was not endowed with the judicial functions and did not consider appeals submitted directly to it, but transferred them to one of the economy's courts – either the Vice-Administrative or any other, which considered the same case previously, and obliged them to review the sentence (SLLNU–SMHPDRB, c. 565/III, pp. 12, 16, 47, 49, 53, 89, 167; c. 569/III, pp. 34, 45, 49, 51, 64, 67, 158, 159). In general, the Commission reserved for the savings population the right to file complaints against the actions of the Castle Administration (it was noted in one of the contract's clauses concluded between the Administrator and the Treasury (SLLNU–SMHPDRB, c. 569/III, p. 167) and if the case was decided in court, the Commission not only acted as a party to the proceedings but could also set up special field delegations in order to resolve the case on the spot (SLLNU–SMHPDRB, c. 569/III, pp. 233, 265). It happened that the re-examination was not successful, and then one of the parties could demand the case consideration in one of the above-mentioned courts: the Referendum Court, the Assessor Court, etc. To do this, it was necessary to obtain a mandate in the Treasury Commission. It should be noted that the Treasury Commission, given the importance of the dispute, the need to appeal to higher authorities, decided whether or not to grant the permission to continue the process (SLLNU–SMHPDRB, c. 564/III, pp. 23, 45, 47, 189).

In addition, the Commission's role, as a body that coordinated the economy's administration activities in the legal sphere, was quite noticeable throughout the XVIIIth century. Taking into consideration that the Commission monitored the progress of all more or less important lawsuits concerning the integrity of savings, profits from it, etc., in higher courts, and due to the Commission, the economy received all the necessary information and documentation, which was sent to the Crown Treasury's lawyers, who represented the Commission's interests in court. In fact, it was the Crown Treasury Commission, or rather its representatives, who acted as either the summoned or the claimant, taking a direct part in the process, while the administration was given the role of the "assistant": send relevant documents, etc. (CAHR, f. „Archiwum

Kameralny”, c. II/29, pp. 120–121; c. II/32, pp. 77–79; c. II/67, pp. 192–193, 194, 259–265, 292, 324–329, 335–338; c. 72, pp. 24, 49–51, 130–132, 154–155, 175, 215–219).

In order to carry out its policy in the field of justice, the Crown Treasury Commission resorted to the services of so-called “plenipotentiaries” or “patrons”. The origins of this phenomenon date back to the second half of the XVIIth century. Thus, in 1660 – 80-ies these functions were performed by Pavlo Patslavskiyi (“Plenipotent ekonomiczna w grodzie przemys. Od kilkunastu lat pracuiący”) (CSHAUL, f. 13, d.1, c. 435, pp. 176–180;). In 1698 – 1706, Jan Gasparski and Andriy Tymanovych held the position of plenipotentiary (SLLNU–SMHPDRB, c. 537/III, pp. 130–131, 397). Consequently, such individuals were given the necessary authority to represent and defend the interests of either the economy’s resident, a group of individuals, or the rural and urban community, the area, the country, and even the entire economy temporarily, mostly for the duration of a single case. At first, the population refused to use their services. However, in the 1720-ies and 1930-ies the situation changed, thanks to the Royal Treasury Commission’s active support, which disapproved various persons delegated from the population of the economy without the Castle authorities consent to appeal to the higher courts. All economy cases, which were transferred to higher courts passed through the plenipotentiaries, and the population reserved the right to choose temporary plenipotentiaries in private cases. The plenipotentiary cartridges began to be considered in this period as one of the key figures in the legal sphere, in the economy’s relationship with the rest of Rzeczpospolita’s judicial bodies. They were appointed by the Crown Commission and receive remuneration for their work first from the Crown Treasury, and from 1739 – from the economy’s treasury (SLLNU–SMHPDRB, c. 521/III, pp. 450–451; c. 564/III, pp. 23–24, 61–62, 312; Stańczak, 1973, pp. 197–198, 200–205).

**The Conclusions.** The royal estates’ population and administration (in particular, the Sambir economy) used the courts of higher instance actively, appealing to them directly, or appealing against the decisions of the local court (Starostynskiyi / Administrative, Pidstarostynskiyi / Vice-Administrator, “Vyitovsko-Lavnychyi”, etc.). The most popular was the Crown Court of Referendum, less often people turned to the Crown Court of Assessors. Some issues could be considered by the field commissions set up by the King’s order in order to consider certain issues. The practice of appeals to these courts degenerated at the turn of the XVIth – XVIIth centuries, but for a long time it remained disordered and uncoordinated. It was only in the XVIIIth century, after the Crown Treasury Commission establishment that appeals to various judicial institutions outside the economy were settled and supervised by the Crown officials from Warsaw.

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