THE ORGANIZATION OF COURTS IN THE POLISH PEOPLE'S REPUBLIC

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The Constitution of the Polish People's Republic recognizes that the power in a people's State is one and belongs indivisibly to the working people. Thus it recognizes the socialist principle of the unitary and indivisible nature of power. It rejects in consequence the Montesquieu division of power as failing fully to reflect reality[1]. Thus all the organs of the State are organs of the working people and should exercise their functions in their interests. But the indivisible character of power in the State and the character of law courts in a socialist State does not do away with their independence from other State organs as regards the function of administration of justice carried out by the courts. For the principle of the indivisibility of power does not prevent the division of competences between the various groups of State organs. The law courts constitute a separate group of state organs, a separate group with regard to other organs of the state authority, administrative and executive organs, organs of state control and organs of the prosecutor's office.

In accordance with art. 46 of the Constitution of the Polish People's Republic, "the administration of justice in the Polish People's Republic is exercized by the Supreme Court, voivodship courts, district courts and special courts". In accordance with art. 48 of the Constitution, "the courts stand guard over the system of the Polish People's Republic, protect the achievements of the Polish working people, watch over the people's rule of law, social property and rights of citizens, and punish offenders". If we should also take into account further provisions of the Constitution (art. 47-53), we may assume that the characteristic features of the courts within the meaning of our Constitution are the following:

1) activity tending towards at rendering concrete and at realizing legal norms in order to protect the principles of the people's rule of law,

2) the right to issue verdicts in the name of the Polish People's Republic,

3) the independence of the judges,

[1] St. Gebethner and others *Polskie Prawo Państwowe,* part II, Warsaw, 1961, p. 180.

4) participation of people's representatives as a principle,
5) trials in open courts as a principle,
6) guaranteed right to defence,
7) supervision of the Supreme Court over the issuance of verdicts,
8) eligibility of judges (as regards general courts and the Supreme Court).

As regards the legal state of affairs prevailing in Poland, the basic sources of law concerning the organization of law courts (apart from executive orders and rules), are: the above-mentioned provisions of the Constitution of the Polish People's Republic, and the Act of Parliament of February 6th, 1928 "Law on the Constitution of general courts" concerning general courts (uniform text J. of L.* of 1950 No 39, Chap. 360, modified: 1951, No 5, Chap. 41, 1952, No 1, Chap. 5, 1957, No 31, Chap. 133). The organization of military courts and of the military prosecutor's office is set up in the Decree of the Polish Committee of National Liberation of September 23rd, 1944 (J. of L. No 6, Chap. 29), and the organization of social insurance courts is regulated by the Law on social insurance courts of 1939 in the wording if the announcement of the Minister of Justice of June 21st, 1961 (J. of L. No 4, Chap. 215). The organization of the Supreme Court is regulated by the Law on the Supreme Court of February 15th, 1962 (J, of L. No 11, Chap. 54). As regards general courts we have adopted after the pre-war period a system of three instances. The first instance (for minor questions) were the municipal courts. The second instance in minor questions and at the same time the first instance in more important questions were the regional courts. The second instance in more important questions were the courts of appeal, and the third instance — the Supreme Court.

The organization of the courts of the Polish People's Republic has underwent a process of profound reforms and evolutions since the moment of the liberation of our state, which gradually adapted it to the principles of the new system. This process of improvement is continuing. The institution of jury was revised in the first period immediately following the liberation (in 1944), as well as the principle of collectively issued verdicts (in 1945 and 1948). Next, the most important questions from the political and economic point of view were taken out from the competence of general courts and transferred to that of special courts whose organization was immediately based on new socialist principles. Thus, for example, counterrevolutionary offences and economic offences, particularly dangerous for the construction of the system were transferred to the competence of military courts and of the newly created Special Commis-

* Journal of Laws.

sion for Struggle against Economic Abuses and Sabotage[2]. In the years 1944-1946 there were also special criminal courts for crimes pertaining to collaboration with Germans and to the betrayal of Polish nationality.

At the same time, the gradual transformation of general courts had begun. The 1950 reform in particular introduced deep changes in our system of courts, basing it on the principles of the socialist administration of justice. As a result of this reform, a new and uniform ''system" of general courts has been introduced, adapted to the administrative division of the country. A two-instance uniform system for both procedures (criminal and civil) has been introduced. The participation of assessors in the courts of the first instance under both procedures has been introduced as a principle.

But work on the reform of our court law is continuing. In this connection the Law of February 1962 on the Supreme Court should be mentioned. It is of great importance for the administration of justice. Our lowest, but at the same time very important and basic link in the system of general courts are the district courts. A district court is composed of a chairman, a vice-chairman, or vice-chairmen, and judges. The head of the court is the chairman of the district court. Bigger district courts are organizationally divided into divisions (civil and criminal). The Minister of Justice creates by way of order special divisions for juveniles at district courts (juvenile courts). Other divisions may be created by way of orders. The Minister of Justice may by order transfer to one district court the examination of criminal cases concerning juveniles, within the scope of the terms of reference of several district courts of the same voivodship court. In accordance with their functional competence, the district courts try criminal and civil cases belonging to their jurisdiction in accordance with the provisions of court procedure and other cases transferred to them by special laws. Above all, the district courts are the first instance in criminal and civil cases unless some cases are transferred to the jurisdiction of the voivodship courts in the first instance. The jurisdiction of district courts includes moreover:

1) execution procedure in civil cases,
2) imparting of judicial assistance,
3) trial of penal-administrative offences and
4) imparting legal advice to the working population.

The voivodship court is composed of a chairman, vice-chairman and judges. The chairman is the head of the court. Te voivodship court is

[2] St. Wlodyka *Organizacja Sądownictwa,* Cracow 1959, p. 108, K. Czajkowski, L. Schaff *Prawo Sądowe,* in the publication *Dziesięciolecie Polski Ludowej 1944—1994,* Warsaw 1955.

subdivided in divisions. General assemblies and administrative boards are functioning in the voivodship courts.

The voivodship courts try in the first instance criminal and civil cases belonging to their jurisdiction in virtue of regulations of judicial procedure. It examines also means of appeal from verdicts rendered by district Courts and other cases allotted to them by special laws.

Of civil cases the following questions belong to the jurisdiction of Voivodship Courts in the first instance:

1) concerning non pecuniary rights and together with them the sought pecuniary claims with the exception of questions, pertaining to the establishment of paternity and to divorce;

2) against the State Treasury for the compensation of damage caused by officials of organs of State authority and administration during the execution of the functions entrusted to them;

3) arising from relations concerning the defence of author's rights,, patents, commodity designs and marks;

4) pecuniary claims in which the value of the object under litigation exceeds 100,000 zlotys and one of the parties is the State Treasury or another juridical person subject to State economic arbitration.

Of criminal cases on the other hand, the voivodship courts try in the-first instance:

1) most important crimes against the State,
2) most important economic crimes,
3) crimes committed by fascist-hitlerite criminals,
4) crimes against life (manslaughter) and
5) certain crimes against the preservation of State secrets.

It is to be noted that each criminal case belonging to the jurisdiction of district courts may be transferred by the public prosecutor to the voivodship courts.

The Supreme Court is the sumpreme judicial organ exercising on the basis of art. 51 of the Constitution supervision over the activity of general and special courts (such as military courts and social insurance courts) as; regards the issuance of verdicts. This Court is sub-divided into chambers:: civil, criminal, labour and social insurance, and military. The Supreme Court is headed by the First Chairman of the Supreme Court and each of the chambers — by a Chairman of the Supreme Court. This Court also has a Bureau of Verdicts Issuance, and also a General Assembly and Administrative Board. The principles of internal organization are defined by rules issued by the Council of State.

The Supreme Court exercises judiciary supervision in a two-fold sense, namely: a) exercises ordinary judicial supervision through the examination of appeals from judgment of voivodship courts, issued in the first instance*

and from judgments of Military Courts, and also through the examination of complaints calling for re-trial, b) exercises a specific, constitutional judiciary supervision (reserved exclusively for the Supreme Court) by way of:

1) examination of extraordinary revisions,
2) issuing resolutions containing answers to legal questions,
3) issuing directions for the administration of justice and judicial practice.

The First Chairman of the Supreme Court renders account of the activity of the Supreme Court to the Council of State.

The Council of State elects all members of the Supreme Court for a period of 5 years.

The Law on the Supreme Court should be counted among the most important acts adopted in the course of the last several years in the domain of the administration of justice and among the very important State acts shaping our system. This Law constitutes a realization of the principles of our Constitution which establishes in art. 51 the principle of one Supreme Court and principle of the eligibility of members of the Supreme Court. In spite of these principles, before adoption of the Law a Supreme Military Court and a Social Insurance Tribunal have existed beside the Supreme Court. The judges of the Supreme Court, previously composed of two chambers (civil and criminal) were appointed.

The principle of one Supreme Court, complementing the socialist principle of uniform law, and the principle of the eligibility of judges, belongs to the fundamental principles of the socialist administration of justice. For uniform supervision of the judgments of all courts makes it possible to observe in a uniform and harmonious manner the principles of people's rule of law so important in the construction of a socialist system, while the election of judges is in principle superior, from the point of view of the independence of judges, to the system of appointment by administrative authorities. In this manner the Supreme Court has been transformed into the supreme judicial organ, exercising supervision as regards the issuance of verdicts over the activity of all courts in the Polish People's Republic, has fully obtained the position of a central independent organ, beside the supreme organs of state power and the supreme organs of state administration.

The Law on the Supreme Court of February 15th, 1962 introduces an entirely new relationship between the Supreme Court on the one hand and the Council of State and the Minister of Justice on the other. Essential changes are thereby introduced as regards the organisation of the entire system of courts. This Law has granted to the Minister of Justice a number of rights as regards the staff policy (such as for example the right to

present candidatures for the post of judges of the Supreme Court), the policy of the administration of justice (such as for example the right to present motions as to the directives of the administration of justice and of judicial practice) and of the defence of the rule of low (such as for example the right to present motions for extraordinary revisions). In this domain there exists a political responsibility of the Minister of Justice.

As we have already mentioned, the First Chairman renders account to the Council of State of the activity of the Supreme Court. The Council of State is vested with a number of rights with regard to the Supreme Court, above all the Council of State elects the Supreme Court. The Council of State issues rules for the Supreme Court, establishing the principles of the internal organization of work, defines the list of posts and remuneration groups. Thus, the Council of State wields decisive influencę in the establishment of the structure and internal organization of the work of the Supreme Court.

A characteristic feature of the organization of the administration of justice in the Polish People's Republic is the regulation of assistance rendered to courts by higher instance courts by way of clarifying legal problems giving to serious doubts and even by way of taking over of given cases for examination by themselves. Thus, for example, when a legal problem arises during the trial of a civil case in a district court, giving rise to serious doubts, this court may transfer the case for examination by a voivodship court. When, in turn, in a civil case, a legal problem giving rise to serious doubts arises during the examination of revision by a voivodship court, this court may transfer this problem for solution by the Supreme Court. In such a case, the Supreme Court may take over the case for examination by itself. The difference in criminal cases consists in that the Supreme Court has no right to take over the case for examination by itself.

Similarly, a panel (three judges) trying a case in the Supreme Court may submit a legal principle giving rise to doubts to seven-judge panel for solution. If such a decision is not inscribed in the so-called book of legal principles (kept in the Supreme Court), then the legal principle expressed in the decision is formally not binding on any other panel trying cases, except for the panel issuing a judgment in this concrete case with regard to which the legal question was formulated. In this situation such a decision is exercising an influence only in virtue of correctness and argumentation. If the legal principle has been inscribed in the book, then it is binding on other panels of the Supreme Court (but only of the Supreme Court) in that sense that if in another case any panel trying a case intends to depart from the legal principle inscribed in the book it has to present the given principle for solution by the entire

chamber, The principle adopted in this manner is inscribed in the book of legal principles. If a panel holding a trial in one chamber intends to depart from the legal principle inscribed in the book of another chamber, the question is solved by way of a decision of the two chambers. The chambers may submit a question to the General Assembly. Departure from a legal principle established by a chamber or the General Assembly may take place only by way of a new solution by the chamber or the General Assembly respectively.

Decisions by a 7-judge panel, by the entire chamber, by joint chambers or by the General Assembly may be made also in a different situation, namely when the Supreme Court clarifies, at the motion of the Minister of Justice, the Prosecutor General, the First Chairman, or a Chairman of the Supreme Court, legal regulations which are raising doubts or whose application had given rise to divergencies in the judicature. The decisions of the chambers or of the General Assembly are inscribed to book of legal principles. Such decisions are binding on the judging panels in the Supreme Court.

The situation is different when it comes to directives of the Supreme Court, which are binding on all courts, for the infringement of the directives may constitute a basis for waving aside or changing a verdict. The directives of the administration of justice and judicial practice are established by the Supreme Court either in General Assembly, or by one chamber, or still by the chambers together, at the motion of the Minister of Justice, the Prosecutor General or the First Chairman of the Supreme Court.

The directives established by the Supreme Court are aimed for ensuring uniformity of sentences issued by all courts and the conformity of these sentences with the principles of people's rule of law. From this point of view and looking into the past it should be stated that the institution of directives has on many occasions correctly fulfilled the task for the fulfilment of which it had been created. May we mention only the famous directives concerning art. 236 of the civil procedure code, which constitute very valuable material for the courts in their striving to arrive at the objective truth in trials. Directives in divorce cases have been of similar importance. These latter directives have pointed to the correct direction in verdicts issued in these cases which are so important from the social point of view.

In order to depict fully the structure of courts in the Polish People's Republic it should also be stated explicitly that administrative supervision over local courts belongs to the Minister of Justice, while judicial supervision belongs to the Supreme Court and that here the demarcation line is drawn very clearly. On the other hand, however, close cooperation of

these two institutions is required for the correct fulfilment of these functions. And so it is in fact. The judges of the Supreme Court help in practice the organs of the Minister of Justice in administrative supervision, taking part in local conferences organized by these organs, while the organs of the Minister of Justice are assisting the Supreme Court in carrying judiciary supervision by way of supplying the necessary materials.

One should also mention the cooperation between the courts and the prosecutor's office. The prosecutor acts not only under criminal, but also under civil procedure, where he may start any action and take part in every stage of a case instituted by anyone, if, in his opinion, this is required by the interest of the People's State.

Special courts to which belong the military courts and the social insurance courts have certain specific features distinguishing them from the general courts. But a closer description of their structure would trespass the cadre of the present article.