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FROM GALICIA TO VIENNA, AN EXAMPLE OF A USURY LAW IN THE HABSBURG MONARCHY

This article presents the legal regulations against usury in Austrian legislation in the second half of the 19th century. The measures taken had their origins in the National Diet of Galicia. Austria's political system and the division of competencies between the State Council and the national diets did not allow the National Diet of Galicia, with its seat in Lviv, to issue the appropriate laws. However, measures were taken within this body that indirectly influenced the passing of the law in 1877, which was forced in Galicia and Bukovina. The problem of usury and its negative consequences affected large territories of the Habsburg Monarchy at that time. For this reason, work on an analogous regulation, which was to apply to the whole Austrian part of the Habsburg monarchy, began shortly afterwards, also with the significant participation of Galician politicians, which took place in 1881. The Austrian-wide law was fundamentally modelled on earlier solutions dedicated to Galicia.

Keywords: *Usury. – Galicia. – National Diet of Galicia. – Austria.*

1. INTRODUCTION

Analysing the functioning of various legal institutions over the centuries, it is quite often possible to observe the influence of solutions applicable in one state on another. It can be equally interesting to try to analyse the cases where there were several law-making entities within one state. Such a situation occurred in the second half of the 19th century in Austria¹. Laws were made both in parliament (the Council of State) and at the level of the crown states in the Diet. It is already worth emphasising

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1 Stanisław Grodziski, *Sejm Krajowy Galicji*, t. 1–2, Kraków 2018, 68.

the equivalence of the two chambers to each other². The dominant tendency was for parliament to influence national legislation; however, there are also notable counterexamples³. One such example is the influence of the activities of the National Diet of Galicia against usury. The problem of the occurrence of usury in many countries on the European continent⁴ forced the need for activity on the legal side. This issue also affected the territories of the Habsburg monarchy at the time.

Members of the National Diet of Galicia were remarkably active and consistent in the legal battle against usury. In their numerous speeches, they compared usury, in terms of its negative social effects, to a cholera epidemic⁵. This is a wholly reasonable comparison, given the prevailing practices of the time, which often involved interest rates in excess of 200%⁶. At the time, it was a common practice in the press to refer to Galicia as a ‘classic usury country’⁷. They also drew attention to the fact that, as a result of usurers’ actions, victims often lost their property⁸, and in almost every case, their material situation significantly worsened⁹. This topic has already been analysed by academics in the 19th century¹⁰ as well as by contemporary academics¹¹. The following article will analyse

2 Stanisław Grodziski, 55.

3 Stanisław Grodziski, 55.

4 Rudolph C. Blitz, Millard F. Long. „The economics of usury regulation.” *Journal of Political Economy* 73.6 1965, 608–619, Charles R. Geisst, *Beggar thy neighbor: A history of usury and debt*, University of Pennsylvania Press, 2013, Mischa Suter, „Moral Economy as a Site of Conflict: Debates on Debt, Money, and Usury in the Nineteenth and Early Twentieth Century.” *Geschichte und Gesellschaft. Sonderheft* 2019, 75–101.

5 Stenograficzne Sprawozdania z Trzeciej Sesji Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkim Księstwem Krakowskim w roku 1865–1866, Kadencja I, sesja III, T. 1. Posiedzenie 1–40, 44.

6 *Dziennik Polski*, 1894, nr 193, 4.

7 *Głos Narodu : dziennik założony w r. 1893 przez Józefa Rogosza (wydanie południowe)* 1908, r. XVI, nr 436, 2.

8 Alegata do Sprawozdań Stenograficznych z Siódmej Sesji Trzeciego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkim Księstwem Krakowskim z roku 1876, Kadencja III, sesja VII, alegat 74. There were also similar opinions in the press. For example, see. *Gazeta Podkarpacka. Czasopismo polityczne i ekonomiczne*, 1875, r. I, nr 50, *Dodatek do Dziennika Lwowskiego*, 1868, r. II, nr 213.

9 *Dodatek do Gazety Samborskiej*, 1895 r. II, nr. 16.

10 Leopold Caro, *Der Wucher. Eine socialpolitische Studie*, Leipzig 1893, Julius Platter, *Der Wucher in der Bukowina*, Jena 1878, Lorenz von Stein, *Der Wucher und sein Recht, Ein Beitrag zum wirtschaftlichen und rechtlichen Leben unserer Zeit*, Wien 1880, Hermann Blodig jun., *Der Wucher und seine Gesetzgebung*, Wien 1892.

11 Andrzej Dziadzio, „Vertragsfreiheit in der Donaumonarchie. Das Gesetz für Galizien über das Wucherverbot.” *Journal on European History of Law* 9.2 2018,

the two laws of 1877 and 1881 against the background of the Austrian system at the time. The sources of this article include the laws published in the Journal of the Laws of the Kingdoms and Countries represented in the Council of State, the Alegata and Stenographic Reports of the individual sessions of the National Diet of Galicia, private compilations of law volumes, and selected titles from various newspapers published in Polish during that period.

2. COUNCIL OF STATE AND DIETS

The crucial date for the beginning of parliamentary change in Austria¹² was 20 October 1860¹³. It was on this date that the October Diploma was issued¹⁴. The various measures of the October Diploma were based on federalist tendencies¹⁵. The legislative bodies included the Emperor, the Parliament (Council of State), and the Diets. What was characteristic was that the October Diploma assumed a presumption of competence in favour of the national Diets. Therefore, matters reserved to the jurisdiction of the Council of State were enumeratively specified. These were as follows:

- (a) monetary and financial matters;
- (b) commercial matters;
- (c) banking activities;
- (d) the postal service;

216–222, Mischa Suter, „Usury and the problem of exchange under capitalism: a late-nineteenth-century debate on economic rationality.” *Social History* 42.4 2017, 501–523.

Bokwa Krzysztof, „Historia aktualna — austriacka regulacja odsetek i lichwy w XIX–XX w.” *Studenckie Prace Prawnicze, Administratywistyczne i Ekonomiczne* 21/2017, 31–46, http://repozytorium.uni.wroc.pl/Content/108623/PDF/04_Bokwa_K_Historia_aktualna_austriacka_regulacja_odsetek_i_lichwy_w_XIX_XX_w.pdf last visited on 10.09.2024.

- 12 Josef A Tzöbl, „Die Anfänge des Parlamentarismus in Österreich.” *Der Donaauraum* 7. JG 1962, 69–81, Peter Berger, „Der österreichisch-ungarische Dualismus 1867–1918 und die österreichische Rechtswissenschaft.” *Der Donaauraum* 13.3 1968, 156–170, Hans Sturmberger, *Der Weg zum Verfassungsstaat: Die politische Entwicklung in Österreich von 1792–1861*, Walter de Gruyter GmbH & Co KG 2019.
- 13 Jerzy Piwocki, *Zbiór ustaw i rozporządzeń administracyjnych*, t. I, Lwów 1899, 76–78.
- 14 Ernst Kolb, „Das Oktober-Diplom: Zum 100. Jahrestag der Einführung der konstitutionellen Monarchie in Österreich.” *Der Donaauraum* 6.JG 1961, 1–11. Kurt Richard Luther, Wolfgang C. Müller. „Consociationalism and the Austrian political system.” *West European Politics*, 15(1) 1992, 1–15. Hugo Hantsch, „Österreich und Mitteleuropa.” *Bohemia* 6.1 1965, 390–399.
- 15 Dariusz Jeziorny, „Czynnik spajające więzi państwowe Austro-Węgier przed 1914 r.” *Rocznik Instytutu Europy Środkowo-Wschodniej* 21.3 2023, 7–25.

- (e) telegraph;
- (f) railways;
- (g) military matters;
- (h) taxation matters;
- (i) increase in the price of salt;
- (j) borrowing of new loans;
- (k) sale, exchange, and encumbrance of state property.

Other matters, in accordance with the adopted division, were transferred to the competence of the Diets of the individual states¹⁶, although it was permitted for the Diet to voluntarily transfer some of its competencies to the Council of State¹⁷. Executive power, on the other hand, belonged entirely to the Emperor¹⁸. It is worth pointing out at this point that the author of the October Diploma was a Pole, Agenor Gołuchowski¹⁹.

The second key piece of legislation was the February Patent²⁰ of 26 February 1861²¹ and the *alegata*²². The *alegata* specified the size of the Chamber of Deputies, which was to consist of three hundred and forty-three members, with Galicia alone represented by thirty-eight representatives. At the heart of the provisions of the February Patent was centralism, thus standing in contrast to the solutions outlined in the previously mentioned October Diploma. Therefore, in line with this concept, a change took place, and the presumption of legislative competence was shifted in this case to the parliament – the Council of State. Parliament

16 There were 17 crown states in the Austrian part. Marian Małecki, *Wydział Krajowy sejmku galicyjskiego, Geneza, struktura i zakres kompetencji, następstwo prawne*, Kraków 2014, 86.

17 Stanisław Grodziski mentions that the Galician National Diet never decided on such a solution. Stanisław Grodziski, 108.

18 Andrzej Dziadzio, *Monarchia konstytucyjna w Austrii 1867 – 1914, Władza – Obywatel – Prawo*, Kraków 2002, 13.

19 Agata Strzelczyk, „Dyplomata, Polak, minister spraw zagranicznych. Agenor Gołuchowski młodszy w karykaturze wiedeńskich pism satyrycznych.” *Galicja. Studia i materiały* 7/2021, 238–264, Agata Strzelczyk, „In das Palais am Ballplatze zieht ein neuer Herr ein – reakcje prasy na nominację Agenora Gołuchowskiego młodszego.” *Saeculum Christianum. Pismo Historyczne* 27.1 2020, 205–220, Izabela Wasik, „Kompetencje Sejmu Krajowego Galicji w strukturze organów monarchii habsburskiej”, Zuzanna Kopania (red.), *Stosowanie prawa. Historia, praktyka i społeczeństwo*, Łódź–Kraków 2021, 24,

20 Fritz Fellner, „Das „Februarpatent „von 1861: Entstehung und Bedeutung.” *Mitteilungen des Instituts für österreichische Geschichtsforschung* 63.3–4 1955, 549–564.

21 Jerzy Piwocki, 78–80.

22 *Alegat* do Nr, 20 d.p.p. (t.j. do powyższego cesarskiego patentu z 26.lutego 1861), Stanisław Starzyński (red.), *Kodeks prawa politycznego czyli Austriackie Ustawy Konstytucyjne 1848 – 1903*, Lwów 1903, 166 – 170.

consisted of two chambers: the Chamber of Lords, coming from the imperial nomination, and the Chamber of Deputies. In the latter chamber sat representatives from the individual Diets²³.

In parallel, national statutes were then issued for the individual countries of the monarchy. The Statute of the National Diet of Galicia²⁴ regulated the most important issues related to the functioning of this body, such as its composition and powers. The National Diet of Galicia was to consist of one hundred and fifty members, ten of whom were so-called 'virillists'²⁵. The remaining members were elected within the framework of four curiae (the curia of large landowners, which was the most represented, the curia of chambers of industry and commerce, the curia of towns, and the curia of municipalities). The proceedings of the National Diet of Galicia were headed by a national marshal, appointed by the Emperor for a six-year term.

The competence area for the National Diet of Galicia was determined by §18 of the Statutes. Three basic scopes of issues were distinguished. The first category covered matters of national culture, public buildings, and charitable establishments maintained by national funds, as well as estimates and national accounts. The second one concerned municipal²⁶, church and school matters, the provision of water, supplies, and accommodation for the army. The third category included those matters relating to the welfare or needs of the country delegated to the National Diet of Galicia by special orders. The particular National Diet, including the National Diet of Galicia, was to deal with matters of national culture, the maintenance of public buildings, charitable establishments, and national expenditure. Above all, the National Galician Diet administered national property and looked after the state of the country's economic development, where tax matters were quite an important issue²⁷. In order to be valid, the National Diet of Galicia's resolutions required an absolute majority in the presence of more than half of all the members of this body.

23 The change came with the 1873 reform when general elections to the Chamber of Deputies of the Council of State were introduced. Ustawa z dnia 2 kwietnia 1873 o wyborze członków izby deputowanych do rady państwa, Dz.u.p., 1873, cz. XV, nr 41.

24 Jerzy Piwocki, 365–374.

25 These were people who were members of the National Diet of Galicia by their function, such as archbishops, bishops and the rectors of the Jagiellonian University in Krakow and the Jan Kazimierz University in Lviv, as well as the president of the Academy of Learning in Krakow. Initially, there were 9 people, with an increasing frequency finally up to 12 people. Małcki, 107–108.

26 For more on the functioning of municipalities in Galicia, see Izabela Wasik, „Funkcjonowanie gmin w Galicji na przykładzie ustawy z 1866 roku”, Lidia Kamińska (red.), *Własne, swojskie, obce – dyskursy inności, Monografia Towarzystwa Doktorantów Uniwersytetu Jagiellońskiego t. 3*, Kraków 2023, 55–75.

27 According to Stanisław Grodziski, the Diet of Galicia was most active specifically in the tax field. Stanisław Grodziski, 195–196.

The executive body of the National Diet of Galicia, on the other hand, was the National Department, which was headed by a national marshal. This body had an extremely important function in the system of autonomous bodies, having a significant influence on the development of Galicia, as Marian Mafecki's research emphasises. The National Department was primarily responsible for the ordinary administration of the national assets and funds, and, just as importantly, through its technical and organisational work, made it possible to hold sittings of the National Diet of Galicia. This division of powers, along with the inability of the National Diet of Galicia to pass laws on civil and criminal law, necessitated those legislative measures against usury be taken by the Council of State. Nevertheless, the members of the National Diet of Galicia felt obliged to express a position on matters of extraordinary significance to Galicia²⁸.

3. STEPS TAKEN IN THE NATIONAL DIET OF GALICIA AGAINST USURY

Members of the National Diet of Galicia tried quite actively to get involved in the fight against usury contracts, recognising the importance of the above problem and its negative social effects. As early as the 1860s, it was emphasised that the state of the peasants' legal consciousness at the time very often prevented them from making rational decisions regarding contracting liabilities. It was postulated that investment should be made in the development of credit institutions to protect the poorest. There were also requests for protective measures against usury, which can be described as a kind of curiosity from lawyers²⁹. It is also worth noting that the municipalities themselves asked the higher national authorities to take appropriate steps to combat this phenomenon³⁰.

Members of parliament were also very critical about the lengthiness of the actions taken by Council of State³¹ and the government³² in

28 *Czas*, 1874, r. 27, nr 237, 2.

29 *'credit (...) that would protect them from usury, foaming at the mouth and lawyers.'* (sic) (in polish: „kredytu (...), który by chronił ich od lichwy, pieniactwa i prawników (sic). Stenograficzne Sprawozdania z Trzeciej Sesi Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem w roku 1865–1866, Kadencja I, sesja III T. I. Posiedzenie 1–40, 123.

30 Stenograficzne Sprawozdania Galicyjskiego Sejmu Krajowego z Roku 1865. 18. Posiedzenie 3ciej Sesi Sejmu Galicyjskiego, Kadencja I, sesja III, 294.

31 Stenograficzne Sprawozdania z Siódmej Sesi Trzeciego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem w roku 1876, Kadencja III, sesja VII, 59

32 Stenograficzne Sprawozdania z Siódmej Sesi Trzeciego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem w roku

its struggle against usury, which also did not escape the attention of the press³³. Appropriate resolutions to fight against usury were addressed to the Council of State by the National Diet of Galicia at its meetings on 15 October 1874 and 12 May 1875. At the same time, the involvement of the Galician delegates³⁴ in this matter was emphasised, as reflected in press reports³⁵. Despite divisive differences, there was unity of efforts. In 1876, the appellate appeal to the government was renewed³⁶. In the meantime, members of the National Diet of Galicia also took other measures, such as those concerning inheritance tax³⁷. Even after the 1877 law for Galicia, the problem continued to be monitored, and proactive measures were taken³⁸. There was a lively interest in comprehensive regulation³⁹.

The activities continued in the following years, requiring further consistent reactions to changes in the law⁴⁰ and the analysis of the current

1876, Kadencja III, sesja VII 455.

33 *Czas* 1877, r. 30, nr 97, 1–2, *Czas* 1875, r. 28, nr 279, 1–2

34 Stenograficzne Sprawozdania z Siódmej Sesji Trzeciego Peryodu Sejmu Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem w roku 1876, Kadencja III, sesja VII, 142.

35 *Czas*, 1875, r. 28, nr 280, 1–2. In one report we can find the following statement: 'For the theoretical victory was completely on the side of the Polish speakers, as evidenced by the wavering arguments of the liberal speakers who, while supporting the committee's proposal, aiming in the end to do nothing, nevertheless admitted that something had to be done. (in polish: W jednej z relacji możemy odnaleźć następujące stwierdzenie: „Zwycięstwo bowiem teoretyczne zostało całkowicie po stronie mówców polskich, jak świadczy chwiejność argumentów liberalnych mówców, którzy popierając wniosek komisji, dążący w końcu do tego, aby nic nie zrobić, przyznawali jednak, że coś zrobić trzeba”), *Czas*, 1875, r. 28, nr 282, 1.

36 Alegata do Sprawozdań Stenograficznych z Siódmej Sesji Trzeciego Peryodu Sejmu Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1876, Kadencja III, sesja VII, alegat 26

37 A proposal was prepared in 1874 to the government on the necessity of a new inheritance tax regulation. Alegata do Sprawozdań Stenograficznych z Piątej Sesji Trzeciego Peryodu Sejmu Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1874, Kadencja III, sesja V.

38 For example, community credit unions, although in practice they had serious staffing difficulties, or credit societies, valued quite positively, began to be established. Alegata do Sprawozdań Stenograficznych z Drugiej Sesji Czwartego Peryodu Sejmu Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1882. Kadencja IV, sesja II, Alegat 7. In later years, various commercial associations were also formed, bringing together craftsmen. Alegata do Sprawozdań Stenograficznych z Czwartej Sesji Piątego Peryodu Sejmu Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1886/7, Kadencja V, sesja IV alegat 52, 25–29.

39 Protokół 7. posiedzenia, 4. sesji, IV. peryodu Sejmu galicyjskiego z dnia 24. września 1881, 4.

40 Sprawozdanie Stenograficzne z Rozpraw Galicyjskiego Sejmu Krajowego. 19. Posiedzenie 1. Sesji IX. Peryodu, Kadencja IX, sesja I, alegat 64, 872.

internal situation in Galicia⁴¹, as well as the functioning of the banks⁴², whose activities were also the subject of criticism in the press⁴³. Attention was also drawn during the meetings in attempts to avoid the provisions of the law prohibiting usurious loans⁴⁴, an issue which was frequently raised in speeches by individual members, even when not directly related to loan agreements⁴⁵.

4. LAW OF 19 JULY 1877 FOR GALICIA

The result of this work and effort was the law of 19 July 1877⁴⁶, which was in force in Galicia and Bukovina⁴⁷. It was an extremely short piece of legislation, consisting of eight paragraphs. Of great contribution to this project, amongst others, was a member of the National Diet of Galicia and the Chamber of Deputies, Andrzej Rydzowski⁴⁸.

The law made it a punishable offence (§1) to grant a loan in such a manner that the terms of the agreement would lead to the borrower being placed in a difficult financial situation (the law used the term 'economi-

41 Stenograficzne Sprawozdania z Piątej Sesji Siódmego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1899/1900, Kadencja VII, sesja V, 173–174, Stenograficzne Sprawozdania z Pierwszej Sesji Dziewiątego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1909 i 1910, Kadencja IX, sesja I, T. 2, Posiedzenie 37–84, 2672.

42 Stenograficzne Sprawozdania z Piątej Sesji Siódmego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1899/1900, Kadencja VII, sesja V, 1062, Kadencja VII, sesja V Stenograficzne Sprawozdania z Piątej Sesji Siódmego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1899/1900, 749.

43 *Kurjer Lwowski*, 1883, nr 105, 2.

44 , Stenograficzne Sprawozdania z Pierwszej Sesji Dziewiątego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1909 i 1910 Kadencja IX, sesja I, T. 2, Posiedzenie 37–84, 4658.

45 A statement by Mr Bielanski pointed out the problem of peasants buying grain on credit as part of the railway construction issue. Sprawozdanie Stenograficzne z Rozpraw Galicyjskiego Sejmu Krajowego. 29. Posiedzenie 3. Sesji VII. Peryodu Sejmu Galicyjskiego, Kadencja VII, sesja III, 1228.

46 Ustawa z dnia 19 lipca 1877, o środkach zaradczych przeciwko nieuczciwemu postępowaniu przy umowach o pożyczki. Dz.u.p. cz. XXV, nr 66.

47 Franz Wolf, „Die Bukowina-1775 bis 1918 bei Österreich.” *Der Donauraum* 21.3–4 1976, 169–185, Kurt Scharf, *Die Landschaft Bukowina: Das Werden einer Region an der Peripherie 1774–1918*, Wien 2010.

48 *Pro Memoria III. Profesorowie Uniwersytetu Jagiellońskiego spoczywający na cmentarzach Krakowa 1803–2017*, Jan Wiktor Tkaczyński (red.), Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego, 2018, 244, *Dziennik Polski*, 1881, r. XIV, nr 17, 2.

cally deprived'), as well as the lender⁴⁹ taking advantage of the borrower's circumstances or level of development, such as lack of experience or education. The prescribed punishment was an arrest term of one to six months or a fine ranging from one hundred to one thousand zlotys. On the other hand, in the event of a repeat sentence or if it turned out that the sentenced person could be attributed to 'professionalism'⁵⁰ in such activities, then the arrest sentence could be up to two years. However, the protection introduced under the provisions of the Act did not apply to the professional trader (borrower)-merchant (§7)⁵¹.

Within the framework of the criminal proceedings, it was also ruled that the concluded contract was invalidated, with the possibility of referring the case to the civil court, where it would be decided within the framework of proceedings concerning the legal consequences of the invalidation of the contract. It was specified that the civil court located in the place of the criminal court that ruled on such a contract, had jurisdiction. In addition, proceedings before the civil court regarding a claim resulting from such a contract were suspended if the same contract was analysed by the criminal court under the provisions of the Act under review.

A rather interesting solution contained in §6 of the Act was to allow the civil judge to depart from the rules of evidence and to rule according to an 'unfettered conviction' after conscientiously reviewing the evidence gathered in the process.

5. LAW OF 28 MAY 1881 FOR THE ENTIRE AUSTRIAN PART

After the enactment of the law for Galicia, a gradual improvement in the situation began to be noted through a decrease in usury cases⁵². In spite of this, the effects of the previous large-scale usury contracts uprooted the negative impact on the economic development of the peas-

49 According to Stanislaw Madeyski, in the law: 'a usurer is punished for undermining the ethical and social foundations of society and becoming a danger to the state'. (in polish: „lichwiarz jest karany za to, że podkopuje etyczne i socjalne podwaliny społeczeństwa i staje się niebezpiecznym dla rzeczy pospolitej”) *Czas*, 1881, r. 34, nr 31, 2.

50 It was pointed out that particularly in Galicia there were many 'professional' usurers. *Czas*, 1874, r. 27, nr 282, 1.

51 This law, referred to the understanding of this term according to articles 4, 5 and 6 of the Commercial Code of 17 December 1862 (Dz.u.p. 1861, cz. I, nr 1).

52 Alegata do Sprawozdań Stenograficznych z Trzeciej Sesji Czwartego Peryodu Sejmu Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkim Księstwem Krakowskim z roku 1880, Kadencja IV, sesja III alegat 28, 4.

antry⁵³. Furthermore, in some instances, additional forms of exploitation of the peasantry's challenging economic circumstances emerged as more prevalent⁵⁴. The problem was soon recognised throughout Austria⁵⁵ and solutions were being sought. Nevertheless, at first, the deputies in the Chamber of Deputies, as well as the economists of the time, doubted the effectiveness of the solutions provided by Galician Law, as was emphasised by Stanislaw Madeyski⁵⁶ during his speech to the parliament in Vienna⁵⁷. Models were sought in the law already in force for Galicia and Bukovina⁵⁸, and the matter was reported in the Galician press⁵⁹. Galician politicians were also involved in the drafting of this law⁶⁰.

For the entirety of the Austrian part, the law of 28 May 1881⁶¹ was in force. For the most part, its provisions were based on the existing laws for Galicia and Bukovina, slightly expanding upon them, as it consisted of §17. The act's provisions did not protect professional traders (lenders and borrowers) – merchants (§14)⁶².

Conduct involving the granting of a loan was criminalised in §1 when the lender took advantage of:

- (a) the recklessness of the borrower;
- (b) the essential needs of the borrower;
- (c) the 'infirmary' of the brains of the borrower;
- (d) the lack of experience of the borrower;
- (e) the 'touchiness' of the borrower's mind,

53 Alegata do Sprawozdań Stenograficznych z Czwartej Sesji Piątego Peryodu Sejmu Krajowego Królestwa Galicyi i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1886/7, Kadencja V, sesja IV delegat 25, 2.

54 Despite the legislation's enforcement, instances of exploitation persisted. For example, peasants were compelled to relinquish a portion of their crops. *Czas*, 1883, r. 36, nr 249, 1, Rolnik : organ urzędowy c. k. galicyjskiego Towarzystwa gospodarskiego, 1891, r. 24, t. 48, nr 10, 81.

55 The deputy from Carinthia Viljem (Wilhelm) Pfeifer postulated that the law passed for Galicia should also be extended to the other crown lands. *Dziennik Polski*, 1877, r. X, nr 98, 2.

56 *Czas*, 1881. r. 34, nr 30, 2.

57 Dorota Malec, „O życiu i karierze politycznej, naukowej i zawodowej Stanisława Madeyskiego (1841–1919)” *Państwo i Społeczeństwo* IV (4) 2004, 63–70.

58 *Gazeta Lwowska*, 1881, r. 71, nr 138, 4

59 *Gazeta Lwowska*, 1881, r. 71, nr 34, 5, *Czas*, 1879, r. 32, nr 69, 1.

60 *Czas*, 1881, r. 34, nr 32, 1.

61 Ustawa z dnia 28 maja 1881, o środkach zaradczych przeciw nierzetelnemu postępowaniu w czynnościach kredytowych. (Dz.u.p. 1881, cz. XXI, nr 47).

62 This law, also, referred to the understanding of this term according to articles 4, 5 and 6 of the Commercial Code of 1862 r. (Dz.u.p. 1862, nr 1).

and the actions taken by him or her were likely to result in the loss of property (the law used the term 'property ruin'). The threat of punishment included arrest from one to three months and a fine ranging from one hundred to five hundred zloty. The same punishment was also imposed on a person who, being aware of the circumstances of origination, acquired such debts. However, according to §4, if the lender engaged in the above-mentioned practices on a professional or permanent basis, then the punishment was aggravated, with arrest ranging from six months to two years, and fines from one thousand to three thousand zlotys, or the possibility of a sentence of the expulsion of such a person.

The second type of punishable activity was the conclusion of fictitious contracts, the creation of documents containing untrue circumstances, or obtaining a court decision or an arbitral award for a non-existing claim, or requiring the borrower to take an oath or other similar action. The punishment could then range from three to six months of arrest and a fine of five hundred to one thousand zlotys, with the possibility of an additional expulsion order.

The punishment was increased in the case of a repeat conviction and included, respectively, arrest from three months to one year and a fine from five hundred to two thousand zlotys, with the additional possibility of an expulsion sentence. Also new, in comparison to the law passed for Galicia and Bukovina, was the introduction of the possibility of converting a fine into an arrest if payment of the fine became impossible. It was assumed that ten zlotys corresponded to one day's remand in custody. Another innovative feature of §7 was the possibility to prevent the offender himself from incurring criminal liability if, before his act was discovered by the authorities, he reimbursed the overpaid amount with interest from the date of the contract.

The statewide law also introduced the criminalisation of the act of requiring a person to fulfil the terms of a loan contract taken out from a minor or a person who, if they vouched for the performance of the contract with their word of honour, could lose their official position. The penalty for such an act was arrest from eight days to three months. However, there was no mention of a fine. In the case of a repeat sentence or the convicted person engaging professionally or repeatedly in such activities, in addition to arrest, although in this case no maximum or minimum duration was indicated, there was also the possibility of expulsion. The jurisdiction in rem of the district courts was also specified for this case.

As in the law issued for Galicia and Bukovina, the contract was annulled during the criminal trial (§8)⁶³. Nor was the way closed to the

63 Newspapers frequently published reports on trials and the punishments that were handed down. For further details, please refer to the following example: *Dziennik*

possibility of the case being heard in civil court (§9). We can also count among the similarities the suspension of proceedings in the civil court for the duration of the criminal trial (§11), as well as the almost analogously worded possibility for the judge to decide civil cases based on an ‘unfettered conviction’ of their own, after conscientiously reviewing the evidence gathered during the proceedings. Again, attempts have also been made to avoid the law in practice⁶⁴.

CONCLUSION

The above case also illustrates the not-very-common practice of the indirect influence of the National Diet of Galicia on the shape of statewide law⁶⁵. Due to the structure of the Austrian system at the time, it was not possible for a law containing the fight against usury to be passed by the National Diet of Galicia. Despite this, the activities carried out, the discussions held, and finally, the resolutions sent out, provided the impetus for the Council of State to take appropriate steps. It is also worthwhile to conclude these considerations with an excerpt from the Law Commission’s position of 25 January 1895: ‘*The Galician Sejm was the first, or perhaps the only one, to demand the protection of the population against usury, and a relevant law was passed for our country*’ (in polish: „*Sejm galicyjski był tym, który pierwszy, a może sam jeden upomniał się o ochronę ludności przeciw lichwie, i dla naszego kraju wydano ustawę odnośną*”)⁶⁶. As the press described in later years, the enormity of the scale of this phenome-

Polski, 1894, nr 193, 1. In the trial described in the press, the penalties imposed on individual offenders ranged from seven days’ imprisonment and a 10 fine zlotys to one year’s hard labour and a 1,000 zlotys fine. In another trial, the sentence handed down was also one year’s imprisonment and a 1,000 zlotys fine. *Głos Narodu*, 1896, r. IV, nr 280, 5. In some cases, the percentage charged was also provided, and in this regard, there was considerable variation in practice. In 1899, the Sanok court handed down a sentence of five months imprisonment and an 800 zlotys fine for the practice of charging between 26% and 53% under individual contracts. *Przyjaciel Ludu : organ Stronnictwa Ludowego*, 1899, r. XI, nr 22, 350. Furthermore, instances of 50 % under individual contracts have been documented. *Głos Narodu : dziennik polityczny, społeczny i literacki*, 1894, nr 126, 6. The practice of justice has also been known to attain higher levels of remuneration, such as 120% per year. *Dodatek do nr 24 Dziennika Polskiego, Dziennik Polski*, 1899, nr 23, 1.

64 *Kurjer Lwowski*, 1884, r. 11, nr 74, 5.

65 In the process of drafting a law applicable throughout the entire Austrian empire, the various national departments enlisted the support of the Galician National Department. This undoubtedly elevated the status of Galicia within the monarchy as a whole. *Czas*, 1883, r. 36, nr 280, 2.

66 The above footnote is solely concerned with the discussion in the Austrian parliament. *Alegata do Sprawozdań Stenograficznych z Szóstej Sesyj Szóstego Peryodu Sejmu*

non had been brought under control by many efforts⁶⁷, and the law had served its purpose⁶⁸.

It is important to note that the enactment of legislation to combat usury was not a sufficient measure in itself. As a newspaper observation aptly highlighted, just as no criminal law can prevent theft and murder in the world, no law against usury can eradicate usury, either in Galicia or in Austria as a whole⁶⁹. Of course, the mere issuing of a law to combat the phenomenon was not enough. The work done by the various savings banks and associations⁷⁰ that developed in the second half of the 19th century in Galicia owes a huge lot to this. Furthermore, issues of economic inequality were also pertinent to practice⁷¹. In a time when the justice system was unable to guarantee the safety and security of citizens, there were instances when citizens took it upon themselves to apply justice according to their own perception of right and wrong⁷². To provide

Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkim Księstwem Krakowskim z roku 1894/5, Kadencja VI, sesja VI, alegat 227, 5.

67 *Kurjer Lwowski*, 1884, r. II, nr 2, 5.

68 *Czas*, 1879, r. 32, nr 239, 1, *Czas*, 1883, r. 36, nr 249, 1, *Czas*, 1879, r. 32, nr 89, 1.

69 *Przegląd polityczny, społeczny i literacki*, 1887, nr 282, 1. Furthermore, this issue also indicates that at the conclusion of 1886, Galicia was home to a total of 252 profit and economic associations.

70 Helena Żukowska, „Powstanie i rozwój Kas Stefczyka”, *Annales Universitatis Mariae Curie-Skłodowska. Sectio H, Oeconomia* 23 1989, 189–204, Krzysztof Broński, „Instytucje finansowe i ubezpieczeniowe jako podmioty ekonomii społecznej w Galicji—zarys problematyki” *Ekonomia Społeczna* 2/2018, 74–81, Ludwik Mrocza, „Spółdzielczość kredytowa F.W. Raiffeisena w rolnictwie chłopskim w Galicji”, *Rocznik Naukowo-Dydaktyczny WSP w Krakowie, Prace Historyczne XIX*, 193/1998, 39–66, Jolitta Nowakowska, „Różnice i podobieństwa między bankami spółdzielczymi a spółdzielczymi kasami oszczędnościowo-kredytowymi”, *Prace Naukowe WSZiP*, 37(1)/ 2016, 111–121.

71 In many cases, the percentage of shaping was found to be between 30% and 50%, or between 24% and 73%, as well as 100%, or 120%. For further details, please refer to the following examples: *Dziennik Polski* (wydanie poranne), 1902, nr 227, 2, *Głos Narodu*, 1899, r. VII, nr 145, 5, *Prawda : pismo ludowe poświęcone sprawom religijnym, narodowym, politycznym, gospodarskim i rozrywce*, 1898, r. III, nr 14, 8, *Dziennik Polski* (wydanie popołudniowe) 1901, r. XXXIV, nr 212, 2. In the early twentieth century, newspaper reports documented instances of 180% interest being charged under loan agreements. *Przyjaciel Ludu : organ Polskiego Stronnictwa Ludowego*, 1909, nr 37, 18. Additionally, several newspaper reports have documented instances where the percentage charged was as high as 480%. *Dźwignia Gospodarcza, Przemysłowa i Handlowa : czasopismo ekonomiczno-informacyjne : organ Towarzystwa Kupców i Przemysłowców, Tow. Kupców i Młodzieży Handlowej i Tow. Drobnych Kupców : organ Komitetu Wynalazców Polskich : organ nieoficyalny Towarzystwa Urzędników Prywatnych*. 1901, r. 8, nr 8, 7. In contrast, the most extreme case is a report from 1902 of a contract with an interest rate of 3476%. *Dziennik Polski* (wydanie popołudniowe), 1902, r. XXXV, nr 482, 3.

72 Such an incident occurred in 1899, for example, when a woman who was commonly regarded by the local population as a usurer was murdered. *Przyjaciel Ludu : organ Stronnictwa Ludowego*, 1899, r. XI, nr 22, 350.

a more comprehensive illustration, it is also necessary to consider a rather peculiar example from 1901⁷³. Nevertheless, experience has evidenced that usurious contracts have also been presented under the pretext of such associations⁷⁴. Furthermore, claims were made regarding the practical difficulties associated with obtaining a loan from credit unions. These included the obligation to pay an entry fee and various additional fees, such as administrative costs⁷⁵. It is also worth being aware that the measures once taken in the National Diet of Galicia influenced not only Austrian but also German law⁷⁶.

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- Alegata do Sprawozdań Stenograficznych z Piątej Sesji Trzeciego Peryodu Sejmu Krajowego Królestwa Galicji i Lodomeryi wraz z Wielkiem Księstwem Krakowskiem z roku 1874, L. 160, Kadencja III, sesja V.

73 A man convicted of engaging in usury was compelled to repay benefits he had illicitly received. He had previously offered one woman the opportunity to heal her sick husband through the use of witchcraft in exchange for the same amount he had been compelled to repay under the sentence. The woman, persuaded by the man's promises, provided him with the full amount. It is regrettable to note that the ailing individual, lacking access to medical treatment, ultimately succumbed to his illness. *Dziennik Polski (wydanie popołudniowe)*, 1901, nr 543, 3.

74 It has been observed that a considerable number of banking institutions and financial organisations have emerged, operating under the pretext of legal frameworks and engaging in practices that are tantamount to usury, with no discernible limits. In such cases, the slightest delay in action results in a significant increase in the associated percentages, which are challenging to quantify due to the opaque and largely uncharted accounting methodologies employed. *Obrona Ludu*, 1906, r. 9, nr 7, 3–4.

75 *Podhalanin : pismo poświęcone sprawom ekonomiczno-społecznym*, 1899, r. 1, nr 20, 3.

76 *Dziennik Polski*, 1881, r. XIV, nr 35, 2.

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МА Изабела ВАСИК*

ОД ГАЛИЦИЈЕ ДО БЕЧА, ПРИМЕР ЗАКОНА О ЛИХВАРСТВУ У ХАБЗБУРШКОЈ МОНАРХИЈИ

Сажетак

Овај чланак представља законске прописе против лихварства у аустријском праву у другој половини 19. века. Предузете мере потичу од Националне дијета Галиције. Аустријски политички систем и подела надлежности између Државног савета и Националне дијете нису дозволили Националној дијети у Галицији, са седиштем у Лавову (Лвив), да доноси одговарајуће законе. Међутим, у овом телу су предузете мере које су индиректно утицале на усвајање закона 1877, који се примењивао у Галицији и Буковини. Проблем лихварства и његове негативне последице погодиле су велике територије Хабзбуршке монархије у то време. Из тог разлога, рад на сличном закону, који је требало да се примени на читав аустријски део Хабзбуршке монархије, почео је убрзо после тога, такође са значајним учешћем галицијских политичара, 1881. године. Аустријски закон, у својој основи, био је заснован на ранијим решењима усвојеним у Галицији.

Кључне речи: *Лихварство*. – *Галиција*. – *Галицијска дијета (представничко тело)*. – *Аустрија*.

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