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Social insurance courts in the Polish People's Republic

The article introduces basic issues relating to the genesis, circumstances surrounding the creation, activity and finally the liquidation of the social insurance judiciary as it existed in Poland in the years 1945–1975. This institution was comprised of regional social insurance courts operating in selected voivodeship cities – as the court of first instance with the Social Insurance Tribunal in Warsaw [Trybunał Ubezpieczeń Społecznych w Warszawie] – as the court of second instance. The text discusses key issues related to the system, organization, and scope of material property as well as the judicial competence of the social security judiciary determining its character. Author also demonstrates that social insurance courts were the only administrative courts in existence in the Polish People's Republic before the creation of the Supreme Administrative Court [Naczelny Sąd Administracyjny].

Key words: administrative control, administrative judiciary, Polish People's Republic, social insurance, social insurance courts

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Introduction

The social insurance courts acting in Poland after World War II, in the period 1945–1975, should be considered of interest within the context of historical research (specifically, although not exclusively historical and legal research) for at least several reasons.

The post-war social insurance courts were the only institutions based on a normative act adopted in the period of the Second Polish Republic, *i.e.*, the Law on Social Insurance Courts,[1] which started to be in force during the period of the Polish People's Republic.[2] Thus in a system and in a social situation quite different from those in which the Act was passed, moreover, which acted in a formula almost unmodified in relation to the original, pre-war model until the end of the 1950s, and which were liquidated in the mid 1970s,[3] after almost 30 years of existence. This resulted in a number of unusual practices from today's perspective of law application, such as declaring (both by the executive authorities and by the courts) that some of the formally binding[4] provisions were null and void as a result of the entry into force of norms inconsistent with them, ones introduced post 1944, or only a general incompatibility of such provisions with the principles of the political system and legal order of the Polish People's Republic,[5] or the absence of institutions provided for by still binding pre-war regulations, which were not reactivated after World War II[6] or were quickly liquidated after a temporary restoration.[7]

Taking into account their jurisdiction, nature and position within the political system, social insurance courts (which, hereinafter also referred to as the courts, formed a network

1 Act of 28 July 1939 – the Law on Social Insurance Courts (Journal of Laws No. 71, item 476), hereinafter referred to as the Act.

2 Since the communist authorities had recognised the continuity of law enacted in the Second Polish Republic, the Act can be considered as formally remaining in force and having legal effects as early as in 1944, although the necessary executive acts were issued and the structures of the insurance courts were constructed in the years 1945–1948.

3 In principle, the Act expired on 1 January 1975 by virtue of Art. 84(1) in conjunction with Art. 98 of the Act of 24 October 1974 on regional labour and social insurance courts (Journal of Laws No. 39, item 231), except for the Social Insurance Tribunal [Trybunał Ubezpieczeń Społecznych], which was to operate under its provisions by mid-1975.

4 In the absence of an explicit repeal.

5 From contemporary studies see L. Schaff, *Polityczne założenia wymiaru sprawiedliwości w Polsce Ludowej*, Warszawa 1950, pp. 192–194, more broadly on this subject in a historical and legal context among others A. Stawarska-Rippel, *Prawo sądowe Polski Ludowej 1944–1950 a prawo Drugiej Rzeczypospolitej*, Katowice 2006, pp. 21–30.

6 The most vivid example of this tendency was the failure to restore the Supreme Administrative Tribunal [Najwyższy Trybunał Administracyjny] in spite of initially different announcements of the authorities, and even in spite of the adoption after 1944 of regulations providing for the existence of the Tribunal and for its control functions over the administration (*cf.*, among others, M. Nowakowski, *O odtworzeniu sądownictwa administracyjnego po II wojnie światowej* [in:] *Z dziejów administracji, sądownictwa i nauki prawa, prace dedykowane profesorowi Jerzemu Malcowi z okazji 40-lecia pracy naukowej*, ed. S. Grodziski, A. Dziadzio, Kraków 2012.

7 As was the case, for example, with the General Prosecutor's Office [Prokuratoria Generalna] of the Republic of Poland, which – in spite of its reactivation immediately after the Second World War – had been gradually deprived of its competence, and was finally liquidated in 1951, by virtue of the Decree of 29 March 1951 on the bodies of legal representation (Journal of Laws No. 20, item 159).

consisting of regional social insurance courts and the Social Insurance Tribunal [Trybunał Ubezpieczeń Społecznych], with bodies directly related to them, such as that of the office of the Public Interest Commissioner [Rzecznik Interesu Publicznego]) should theoretically be classified as administrative courts (of a special nature, as their jurisdiction was limited to social insurance cases). These were the only administrative courts active within the Polish People's Republic before 1980, when by the establishment of the Supreme Administrative Court[8] [Naczelny Sąd Administracyjny] a quasi-general administrative judiciary was created. On the one hand, the insurance courts were an example of an institution that was explicitly declared by the then authorities as useless or even harmful to a system created and then consolidated where it was unnecessary for there to be judicial control over administration bodies. On the other hand, they constituted the only courts prior to 1980, ones in which citizens of the Polish People's Republic had an opportunity to challenge the decisions of state administration bodies and before which a party to the administrative proceedings was formally equated with the body whose decision was contested.

Finally, these issues have not yet been the subject of a comprehensive and exhaustive study, either during the period of the insurance courts' existence, from 1944/45 – when the Social Insurance Tribunal and six regional social insurance courts were established – to 1975 – when these courts were abolished and replaced with courts of a civil-administrative ("mixed") nature,[9] or after their liquidation. The only contemporary attempt to comprehensively discuss a part of the issues related to insurance courts of the first instance is my monograph on regional social insurance courts *Okręgowe sądy ubezpieczeń społecznych,*[10] published in 2017.

In this context, it is necessary to mention the insignificance of theoretical and legal analyses concerning these courts. What is equally important, deliberations on this matter can be found almost exclusively in a few pre-war studies, published in the course of discussions and legislative work on the establishment of a uniform social insurance judiciary (among others by Zygmunt Zaleski,[11] Eugeniusz Modliński,[12] Tadeusz Lawendel,[13] Tadeusz Dybowski[14]), or studies published immediately after World War II during the courts' construction and organisation (*e.g.*, by again E. Modliński[15] or Jerzy S. Langrod[16]). The practical aspects of the courts operation, despite their undisputed role in the functioning of the post-war judicial system, were not the subject of any in-depth research and analysis during the entire period of their existence. The few post-war

8 Pursuant to the Act of 31 January 1980 on the Supreme Administrative Court and on the amendment of the Act – the Code of Administrative Procedure (Journal of Laws No. 4, item 8).

9 Established under the Act of 24 October 1974 on regional labour and social insurance courts.

10 M. Nowakowski, *Okręgowe sądy ubezpieczeń społecznych*, Kraków 2017.

11 Z. Zaleski, *Ustrój sądów ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.

12 E. Modliński, *Sądy ubezpieczeń społecznych w strukturze władz państwowych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.

13 T. Lawendel, *Istota sporu na tle ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.

14 T. Dybowski, *Ustawodawstwo polskie w zakresie ubezpieczeń społecznych w ostatnich latach*, Warszawa 1938.

15 E. Modliński, *Sądy ubezpieczeń społecznych jako szczególne sądy administracyjne*, Warszawa 1946.

16 J.S. Langrod, *Przedmowa* [in:] E. Modliński, *Sądy ubezpieczeń społecznych jako…*, *op. cit.*

writings from 1945–1975 initially focused on the description of the court organisation and procedural rules,[17] and later on the presentation of case law,[18] with the authors of most of the post-war studies devoted to social insurance courts being mainly practitioners (such as Stanisław Garlicki and also again E. Modliński), including the judges of these courts (such as Tadeusz Gleixner or Teodor Swinarski). Studies on labour law,[19] social insurance[20] or on organisation of courts/ law enforcement bodies of the Polish People's Republic,[21] published from the 1950s to the 1970s, often treated issues related to courts in a marginal way. Also in later studies (textbooks or occasional smaller publications, since other publications generally do not deal with court-related issues[22]), both of an administrative[23] and historical and legal nature,[24] courts are treated casually, with issues relating to them merely mentioned in passing.

At present, even given the above reasons, both as regards the characteristics of the institution as a whole and the many detailed threads, the social insurance courts of the discussed period remain an interesting, and at the same time undeveloped, research field, still one awaiting analysis. This publication, taking into account its nature and volume, does not aspire to a comprehensive presentation of the discussed subject, but aims to bring closer the selected, and at the same time representative problems, while only mentioning other issues (such as those related to the abolition of the courts and their replacement with the labour and social insurance courts) or even omitting them (such as issues related to proceedings before insurance courts, which – without harming the transparency of the text – seem to be negligible).

17 Z. Kopankiewicz, *Nowe sądy ubezpieczeń społecznych*, Warszawa 1947; S. Garlicki, *Prawo o sądach ubezpieczeń społecznych. Komentarz*, Warszawa 1950; S. Garlicki, E. Szeremeta, *Prawo o sądach ubezpieczeń społecznych. Komentarz*, Warszawa 1962.

18 T. Swinarski, *Tezy orzeczeń Trybunału Ubezpieczeń Społecznych*, Warszawa 1965; T. Swinarski, *Tezy orzeczeń Trybunału Ubezpieczeń Społecznych i Sądu Najwyższego w sprawie rent i zaopatrzeń*, Warszawa 1973; *Orzecznictwo Trybunału Ubezpieczeń Społecznych*, Warszawa 1974.

19 Among others J. Licki, *Prawo pracy PRL w zarysie*, Warszawa 1962; Z. Salwa, *Prawo pracy*, Warszawa 1966; W. Szubert, *Zarys prawa pracy*, Warszawa 1972.

20 Among others Z.K. Nowakowski, *Zarys prawa ubezpieczeń państwowych*, Poznań 1950; W. Szubert, *Ubezpieczenie społeczne* [in:] Z. Salwa, W. Szubert, M. Święcicki, *Podstawowe problemy prawa pracy*, Warszawa 1957; Z. Radzimowski, Z. Tarasińska, *Obowiązki uspołecznionych zakładów pracy w zakresie ubezpieczeń społecznych*, Warszawa 1974.

21 M. Waligórski, *Organizacja wymiaru sprawiedliwości*, Kraków 1952; S. Włodyka, *Organizacja sądownictwa*, Kraków 1959; S. Włodyka, *Ustrój organów ochrony prawnej*, Warszawa 1968; J. Waszczyński, *Ustrój organów ochrony prawnej w zarysie*, Łódź 1969; Z. Resich, *Nauka o organach ochrony prawnej*, Warszawa 1973.

22 The exception is the above mentioned monograph of M. Nowakowski, *Okręgowe sądy ubezpieczeń społecznych*, Kraków 2017 and several previous publications by the same author or also K. Kolasinski, *Postępowanie w sprawach ubezpieczeniowych* [in:] *Rozwój ubezpieczeń społecznych w Polsce*, part I: *Dwudziestolecie międzywojenne*, ed. C. Jackowiak, Wrocław 1991; R. Barra, *Z historii sadownictwa ubezpieczeń społecznych*, "Studia i Materiały z Historii Ubezpieczeń Społecznych w Polsce" 1987, Issue 5.

23 E. Ochędowski, *Prawo administracyjne*, Toruń 2013; *Prawo administracyjne*, ed. J. Boć, Wrocław 2010; *Polskie sądownictwo administracyjne – zarys systemu*, ed. Z. Kmieciak, Warszawa 2017; J. Jagielski, *Kontrola administracji publicznej*, Warszawa 2012; B. Adamiak, J. Borkowski, *Postępowanie administracyjne i sądowoadministracyjne*, Warszawa 2017.

24 M. Kallas, A. Lityński, *Historia ustroju i prawa Polski Ludowej*, Warszawa 2000; S. Płaza, *Historia prawa w Polsce na tle porównawczym. Część III. Okres międzywojenny*, Kraków 2001; J. Malec, D. Malec, *Historia administracji i myśli administracyjnej*, Kraków 2003; T. Maciejewski, *Historia administracji i myśli administracyjnej. Czasy nowożytne i współczesne (XVI–XX w.)*, Warszawa 2013; W. Witkowski, *Historia administracji w Polsce 1764–1989*, Warszawa 2007.

In the author's opinion, the findings presented in this study prove that when the Act was drafted and adopted – *i.e.*, in the period of the Second Polish Republic – the social insurance courts were intended to complement the already functioning system of administrative courts. On the other hand – basing both on normative acts and on case law – it is possible to prove the thesis that in the period of their functioning the social insurance courts exercised real control over the active legality of the insurance bodies under their jurisdiction, hence – in spite of the general negation of the idea of administrative courts by the authorities of the Polish People's Republic – they were of such a character.

Origin and establishment of social insurance courts

The post-war social insurance judiciary functions performed by regional social insurance courts and the Social Insurance Tribunal, were not in themselves a political or organisational novelty within the legal system of the Second Polish Republic and, consequently, within the legal system of the Polish People's Republic, directly referring to it.[25] Insurance courts or similar organisational forms existed on the Polish territory as early as in the 19th century under relevant Prussian and Austro-Hungarian legal acts. Courts with the jurisdiction over social insurance matters were absent only in the territories of the Russian partition, due to lack of relevant substantive legal institutions under Russian law.[26] In the interwar period, the bodies settling insurance disputes, those "inherited" from the partitioning powers, continued their activity,[27] while in areas where such bodies had not previously acted (the former Russian partition), appropriate institutions were established. At the same time, work continued on the dissemination and harmonisation of such "inherited" social insurance regulations, and ultimately on their unification, with such unified solutions including, *inter alia*, procedures related to the granting of benefits and to possible means of appeal against the decisions of entities competent in this respect.

It should be remembered that when Poland regained its independence in 1918, various functions classified as social insurance were performed on its territory by more than 1,000 institutions organised on various principles.[28] On the other hand, before the entry into force of the Act (which ultimately took place only after World War II), depending on the material and legal grounds of the dispute and territorial jurisdiction, disputes in the

25 Which, like most countries that were left under the political influence of the Union of Soviet Socialist Republics (USSR) immediately after World War II, declared the continuity of its pre-war legal order, taking into account, however, the repeal or adjustment of part of the existing legal norms (often by way of a new interpretation to address the changed situation) resulting from the primacy of new political principles over the letter of pre-war law.

26 Except for the Act of 23 June (6 July) 1912 on the insurance of workers against sickness, adopted before the outbreak of World War I and never fully implemented.

27 The Prussian system of bodies controlling social insurance decisions operated in Polish territory in an almost unchanged form until 1939, see E. Modliński, *Sądy ubezpieczeń społecznych jako…*, *op. cit.*, pp. 16–18.

28 K. Kąkol, *Ubezpieczenia społeczne w Polsce*, Łódź 1950, p. 27.

field of social insurance were resolved in the Second Polish Republic in various configurations of territorial and material jurisdiction and in different instances, by a number of institutions[29] applying a total of eight, often permeating, dispute resolution procedures.[30] Moreover, there were no procedural regulations for proceedings in insurance cases. Therefore, many of these entities used, often selectively, various regulations in force at that time, both ones "inherited" from the partitioning powers and those introduced by the Polish legislator. This caused chaos in the field of social insurance disputes, affecting all parties concerned.[31] The above mentioned conditions generated a pressing need for the establishment of uniform bodies settling disputes in the field of social insurance in its broadest sense, something reflected in the numerous opinions voiced in the interwar literature.[32]

First of all, as an additional motive, one important in the 1930s, for the intensification of work on the creation of a uniform system of social insurance courts, there emerged a need to establish permanent bodies settling disputes regarding the pension provision for war invalids and their families. Under the provisions of the Act of 26 March 1935 on the Invalidity Administrative Court [Inwalidzki Sąd Administracyjny],[33] these disputes were temporarily transferred to this court, which, however, was to operate only for five years (until 30 September 1940) before being liquidated. Secondly, such an intensification of work was motivated by the International Labour Conventions adopted by the International Labour Organisation (ILO),[34] a member of which Poland has been since its establishment.[35]

Legislative work on the establishment of a uniform jurisdiction for social insurance issues (or functionally similar bodies supervising the activities of institutions performing social insurance tasks) was carried out in Poland continuously until the early 1920s. A total of six draft Acts (from 1926, 1929, 1931, 1934, 1936 and 1937) were prepared and presented in the interwar period. They were aimed to regulate the social insurance judiciary in a uniform manner throughout the country. Only the sixth one – the draft Act on social insurance courts of 1937 – was passed by the parliamentary lower house of the

29 Among others, the arbitral courts [*sądy rozjemcze*] (in Warsaw, Lviv, Cracow and Lodz), the Arbitral Tribunal for Pension Insurance in Lviv [Sąd Polubowny dla Ubezpieczenia Pensyjnego we Lwowie], the Tribunal for Social Insurance Cases in Poznan [Trybunał dla Spraw Ubezpieczeń Społecznych w Poznaniu], the Higher Insurance Office in Katowice [Wyższy Urząd Ubezpieczeń w Katowicach], the Voivodship (Provincial) Insurance Office in Katowice [Wojewódzki Urząd Ubezpieczeń w Katowicach], the Temporary Arbitral Committee for Social Insurance [Tymczasowa Komisja Rozjemcza Ubezpieczeń Społecznych], the Voivodship (Provincial) Offices, the Minister of Social Welfare, the Supreme Administrative Tribunal.

30 See S. Garlicki, *Prawo o sądach…*, *op. cit.*, p. 6.

31 M. Baumgart, *Projektowane organa ubezpieczeń społecznych*, "Głos Sądownictwa" 1933, No. 9, pp. 548–549.

32 Among others *ibid*; *idem*, *Projektowane organa ubezpieczeń społecznych (cd.)*, "Głos Sądownictwa" 1933, No. 10; S. Fiedorczuk, *O ustawę postępowania ubezpieczeniowego*, "Przegląd Ubezpieczeń Społecznych" 1934, No. 4, pp. 226–227; E. Sisslé, *Rozstrzyganie sporów w zakresie ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1934, No. 8, pp. 448–449; E. Modliński, *Sądy ubezpieczeń społecznych w strukturze…*, *op. cit.*

33 Act of 26 March 1935 on the Invalidity Administrative Court (Journal of Laws No. 26, item 177).

34 In 1933, the ILO adopted six conventions on social insurance issues (Conventions Nos. 35–40), which required that the insured persons had the right to refer to "special tribunals […] specially cognisant of the purposes of insurance and the needs of insured persons," adjudicating with the participation of representatives of the insured persons.

35 The ILO was established on 28 June 1919 at the Paris Peace Conference, under Part XIII of the Treaty of Versailles (the so-called Constitution of the International Labour Organisation).

Republic of Poland [Sejm] on 28 July 1939, after minor modifications made during the parliamentary procedure, and published on 8 August 1939.[36]

The Act on social insurance courts was planned to come into force in part on 1 April 1940, however – due to the German and Soviet occupation – its actual entry into force and the establishment of the institutions provided for in the Act only took place after the end of World War II. Although different concepts were articulated in 1944–1945 (such as the temporary transfer of insurance cases to arbitral courts or administrative bodies[37]), in the first half of 1945 the authorities opted for the judicial model established in the Act and decided to quickly start its organisation. As a result, in August 1945, the Ministers of Justice and of Labour and Social Welfare issued an ordinance[38] under which six regional social insurance courts were established on 27 August 1945, along with determining the territorial jurisdiction (circuits) of individual courts.[39] The Social Insurance Tribunal, established in Warsaw by virtue of the Act,[40] did not require separate legal acts to be issued in order to start its activity.

Then the organisation of the activities of insurance courts of both instances started, judges were appointed from 1946 onwards, in 1947 all the regional courts established by virtue of the Ordinance of 20 August 1945 began to perform judicial activities, and in July 1947 the Social Insurance Tribunal started its sessions.[41] At the same time,[42] two more regional social insurance courts were established, which started their activity in 1948. Delays were mainly due to problems in recruiting judges and lay judges, as well as to the generally poor financial and organisational situation of the state institutions reconstructed after World War II.

Legal basis for the operation of social insurance courts

The Act on social insurance courts of 28 July 1939 contained an extensive[43] and relatively comprehensive regulation of issues related to the administration of justice in social insurance disputes. The Act governed the court system, regulating the court hierarchy,

36 The issues related to the preparation of subsequent draft Acts and the enactment of the Act itself have been described in the following: M. Nowakowski, *Prace nad ujednoliceniem sądownictwa ubezpieczeń społecznych w 20-leciu międzywojennym* [in:] *Vetera novis augere. Studia i prace dedykowane prof. W. Uruszczakowi*, Vol. 2, ed. S. Grodziski, D. Malec *et al.*, Kraków 2010.

37 *Cf.* M. Nowakowski, *Okręgowe sądy ubezpieczeń…*, *op. cit.*, pp. 102–103.

38 Ordinance of the Minister of Justice and of Labour and Social Welfare of 20 August 1945 on the establishment of regional social insurance courts (Journal of Laws No. 29, item 176).

39 Based on the borders of the then voivodships (provinces).

40 Art. 5(1)(2) of the Act.

41 See Z. Kopankiewicz, *Sądy ubezpieczeń społecznych. Uwagi i spostrzeżenia po roku doświadczeń*, "Przegląd Ubezpieczeń Społecznych" 1948, No. 5, p. 123.

42 Ordinance of the Minister of Justice and the Minister of Labour and Social Welfare of 10 February 1947 on the establishment of regional social insurance courts (Journal of Laws No. 28, item 113).

43 The Act consisted of 423 articles, which meant that it was a comprehensive regulation for pre-war standards. For comparison, *inter alia* the following acts adopted in the interwar period may be mentioned: the Ordinance of the Pre-

organisation, legal status of persons acting within the social insurance courts (judges, lay judges, court trainees, court experts), as well as issues related to proceedings before the courts, such as jurisdiction, applicable procedures, instances, legal solutions available to parties of the proceedings. The above regulations were partly complementary to the provisions of the Ordinance of the President of the Republic of Poland of 6 February 1928 – the Law on the organisation of common courts.[44]

The Act abolished all administrative and special courts, as well as institutions of a similar nature that had been functioning hitherto on Polish territory on the basis of regulations "inherited" from the partitioning powers and those issued in the interwar period, with jurisdiction to resolve disputes concerning the awards and decisions of social insurance institutions. They were replaced by unified, two-instance administrative courts, which dealt with disputes in the field of social insurance on an exclusive basis. In connection with the political changes followed by the reorganisation of insurance institutions, the scope of cases settled by the courts was further specified in the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.[45]

During the whole period of its validity, the Act was amended seven times (in 1946, twice in 1950, 1951, twice in 1960 and 1962). Moreover, in 1974, a number of issues relating to the application of the provisions of the Act after its expiry were regulated by the transitional and final provisions of the Act of 24 October 1974 on regional labour and social insurance courts, which formally repealed the Act (this, however, did not happen simultaneously with regard to all the provisions of the Act[46]).

The first four amendments[47] did not significantly modify the Act, introducing changes necessary due to the postponed starting date of courts' activities, liberalising the minimum qualifications of judges and lay judges, or strictly regulatory changes – such as the conversion of the amounts contained in the Act or derogations from the provisions covered by the newly introduced general acts concerning parties, witnesses, experts or lay judges in court proceedings before all kinds of courts.

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sident of the Republic of Poland of 6 February 1928, the Law on the organisation of common courts (Journal of Laws No. 12, item 93) consisting of 299 articles, the Ordinance of the President of the Republic of Poland of 22 March 1928 on labour courts (Journal of Laws No. 37, item 350) consisting of 40 articles, the Ordinance of the President of the Republic of Poland of 27 October 1932 on the Supreme Administrative Court (Journal of Laws No. 94, item 806) consisting of 132 articles or the interwar water law – the Water Act of 19 September 1922 (Journal of Laws No. 102, item 936) with 266 articles.

44 Ordinance of the President of the Republic of Poland of 6 February 1928 – the Law on the organisation of common courts.

45 Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts (Journal of Laws No. 11, item 70).

46 The provisions of the Act concerning the Social Insurance Tribunal remained in force until mid-1975, and the provisions of the Act governing the procedure were still to be applied in cases continued by the labour and social insurance courts.

47 Made by the Decree of 1 March 1946 amending the Law on Social Insurance Courts (Journal of Laws No. 12, item 76), the Act of 28 October 1950 amending the monetary system (Journal of Laws No. 50, item 459), the Decree of 26 October 1950 on consideration for witnesses, experts and parties in court proceedings (Journal of Laws No. 49, item 445), the Act of 8 January 1951 on consideration for lay judges for participation in court sessions and penalties for lay judges (Journal of Laws No. 5, item 41).

Hence, the Act was applicable in an almost unmodified version until 1960, when it was comprehensively amended by the Act on the amendment of the Law on Social Insurance Courts,[48] which changed one third of its provisions. The material scope of courts' activities was then partly modified (by limiting their jurisdiction as a rule only to disputes regarding cash benefits, and by excluding them from some scope of activities *e.g.*, cases related to protection against unemployment), and at the same time their functioning was adjusted to the numerous changes made in the Polish law system post 1945. The competence of a number of entities (the Minister of Justice, the Minister of Labour and Social Welfare, the President of the Social Insurance Institution, the President of the Council of Ministers, the State Council) was changed, assessors were admitted to work in courts, and finally many procedural provisions were changed (in terms of representation, evidence, justification of judgements and their enforceability). In addition, the institution of a complaint in defence of the law [*skarga w obronie prawa*], specific only for the social insurance courts, was abolished and replaced with an extraordinary complaint as a measure of appeal [*nadzwyczajna skarga rewizyjna*].

The Act on lay judges in common courts,[49] passed also in 1960, implementing the directive on the general participation of lay judges in the judiciary, raised by the Constitution of the Polish People's Republic of 1952[50] to the rank of a constitutional principle, regulated all matters relating to the status and rules of functioning of lay judges in all courts of the Polish People's Republic. The regulations contained in the aforementioned Act also applied to the lay judges of regional social insurance courts, which resulted in the need to amend the Act, taking into account, however, the institutional distinctiveness of the social insurance courts.[51]

The second significant change in the functioning of courts after the 1960 amendment was introduced by the Act on the Supreme Court,[52] which established the Labour and Social Insurance Chamber [Izba Pracy i Ubezpieczeń Społecznych] within the organisational structure of the Supreme Court. The statutory tasks of the Chamber included, *inter alia*, judicial supervision over court rulings, carried out through the Social Insurance Tribunal's right to refer legal issues to the Labour and Social Insurance Chamber of the Supreme Court and the right of the Minister of Justice, the Prosecutor General of the Polish People's Republic or the First President of the Supreme Court to lodge extraordinary reviews [*rewizja nadzwyczajna*] of final court rulings with that Chamber of the Supreme Court. In this way, the social insurance courts, with so far fully independent jurisdiction, were subject to supervision by the Supreme Court.

The provisions of the Act were supplemented by ordinances issued on the basis of statutory delegations, as a rule by the Ministers of Justice and Labour and Social Welfare acting in concert. In this mode, *inter alia*, initially six, then eight social insurance courts

48 Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.

49 Act of 2 December 1960 on lay judges in common courts (Journal of Laws No. 54, item 309).

50 Constitution of the Polish People's Republic passed by the Legislative Sejm on 22 July 1952 (Journal of Laws No. 33, item 232).

51 Art. 22 and 23 of the Act of 2 December 1960 on lay judges in common courts.

52 Act of 15 February 1962 on the Supreme Court (Journal of Laws No. 11, item 54).

were created, and finally eleven regional social insurance courts existed (after the establishing in 1959 of the regional social insurance courts in Bydgoszcz[53] and Rzeszów,[54] and in 1960 in Olsztyn[55]), court seats were designated and their territorial jurisdiction was determined. In this way, the internal organisation and the rules of internal procedure of regional social insurance courts, the Social Insurance Tribunal, and the Public Interest Commissioner were also regulated. But it is worth noting that the rules of internal procedure of the regional social insurance courts were only issued in 1963,[56] *i.e.*, 18 years after the creation of the first of them (until the relevant executive acts were issued, the provisions in force in the common courts were to apply to all institutions[57]). Separate ordinances governed numerous issues relating to the work of lay judges in regional social insurance courts, handling cases before the courts by representatives of trade unions and pensioners' organisations, as well as issues related to court trainees, assessors and court secretaries.

The system and organisation of social insurance courts

Pursuant to the provisions of the Act, regional the social insurance court constituted the court of first instance adjudicating in disputes in the field of social insurance (disputes regarding cash benefits from the old-age pension insurance of employees and their families and other cases delegated to them by separate provisions – according to the nomenclature of the Act introduced by the amendment of 17 February 1960). They were established by means of ordinances issued by the Ministers of Justice and of Social Welfare (after World War II the Minister of Labour and Social Welfare respectively), and could be abolished only by means of an act of Parliament. The ordinance establishing the regional social insurance court also indicated its seat, circuit, and until 1960 also the number of lay judges appointed for the court.

In 1945, the first six regional courts were established (in Warsaw, Bydgoszcz, Katowice, Cracow, Lodz and Poznan), then, due to the extension of Polish legislation to the so-called Recovered Territories [Ziemie Odzyskane][58] and modification of the structure of the country's basic territorial division in 1947, two more regional social insurance courts

53 Ordinance of the Ministers of Justice and Labour and Social Welfare of 6 November 1959 on the establishment of the Regional Social Insurance Court in Bydgoszcz (Journal of Laws No. 62, item 371).

54 Ordinance of the Ministers of Justice and Labour and Social Welfare of 18 November 1959 on the establishment of the Regional Social Insurance Court in Rzeszów (Journal of Laws No. 64, item 384).

55 Ordinance of the Minister of Justice of 7 November 1960 on the establishment of the Regional Social Insurance Court in Olsztyn (Journal of Laws No. 54, item 312).

56 Ordinance of the Minister of Justice of 18 June 1963 on the rules of the internal procedure of Regional Social Insurance Courts and the Social Insurance Tribunal (Journal of Laws No. 30, item 185).

57 Art. 400 of the Act.

58 By means of the Decree of 13 November 1945 on the management of the Recovered Territories (Journal of Laws No. 51, item 295).

were established in Wroclaw and Szczecin (at the same time the seat of the regional social insurance court was moved from Bydgoszcz to Gdynia). The boundaries of circuits were modified in 1947, 1949, 1950. In 1959, two more regional courts were established (in Bydgoszcz and Rzeszów), at the same time the boundaries of circuits of the existing courts were modified. The final number of courts and the boundaries of their circuits were determined in 1960 by the establishment of the regional court in Olsztyn. Thus a total of 11 regional social insurance courts were created. The increase in the number of courts in 1959–1960 was a consequence of the growing number of cases coming to them, which resulted in significant extension of the period of their hearing in the second half of the 1950s (as compared to previous years).

As regards the judicial functions, the regional social insurance courts consisted of professional judges (from which the president and deputy presidents of the court were selected) and lay judges, half of whom represented, according to the Act, employees and half – employers. As a rule, regional courts adjudicated by a three-person bench (one professional judge as president and two lay judges), and in cases enumerated in the Act, by one – professional – judge. Courts could be divided into divisions, created under the rules of internal procedure. In practice, all the functioning regional social insurance courts acted in divisions, created according to the criterion of the types of incoming cases. Moreover, the provisions of the Act allowed for the creation of local departments of courts[59] or for holding court off-site sessions.[60] However, no local departments of regional courts were ever created and only off-site sessions were organised (often only a dozen to a score or so per year).[61]

The Act imposed additional substantive requirements on candidates to be regional courts judges, this in addition to the requirements equal to those imposed on candidates for judges of common courts.[62] These were related to the period of work in judicial bodies or knowledge of social insurance issues (such as having three years' work experience of being at the least a municipal judge [*sędzia grodzki*] or regional assistant prosecutor [*podprokurator okręgowy*] in common courts, or five years' service in government administration at a referendary position in the area of social insurance or at an equivalent position in a social insurance institution).[63] These requirements were abandoned by virtue of the amendments introduced by the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts. The service relationship of judges of regional court was governed by the mentioned Act by reference to similar provisions of the Law on the organisation of common courts,[64] which were directly applicable. The Act declared[65]

59 Art. 93 of the Act.

60 Art. 94 of the Act.

61 See M. Nowakowski, *Okręgowe sądy ubezpieczeń…*, *op. cit.*, pp. 150–152.

62 Provided for in Art. 82 and 83 of the Ordinance of the President of the Republic of Poland of 6 February 1928, the Law on the organisation of common courts, which were applied respectively to the judges of social insurance courts.

63 According to Art. 47(2) of the Act.

64 Art. 57 of the Act.

65 In Art. 47 of the Act.

awarding judges (both of the regional courts and of the Social Insurance Tribunal) the attribute of independence and provided for the application in this respect of the relevant provisions of Art. 79–81 of the Law on the organisation of common courts, which guaranteed judges independence and them being subject only to Acts of Parliament. It also provided for the powers and guarantees to ensure that judges would hold office in accordance with this principle. From the perspective of today's research, a separate issue is to assess whether, and if so to what extent, formal guarantees of independence[66] were translated into the practice of holding office.

According to the provisions of the Act, lay judges, adjudicating in regional courts, represented a social factor, thus ensuring participation in the administration of justice of persons having experience and not legal knowledge. The introduction of non-professional judges to the model of social insurance courts resulted, *inter alia*, from an interpretation of the provisions of ILO conventions on social insurance.[67] The participation of lay judges was to be nominally limited to the assessment of the actual state of the case, while they were to be excluded from consideration of legal issues,[68] and therefore their participation was not provided for in cases decided by the Social Insurance Tribunal.[69] The legal status of lay judges of regional social insurance courts was governed by the provisions of the Act and numerous ordinances issued on its basis (which contained detailed provisions on the number of lay judges, their appointment and remuneration). Over time, there was a tendency to unify legal provisions concerning lay judges in social insurance courts and in common courts, first by adopting the common provisions for them and then by an increasing number of references to provisions concerning lay judges in common courts. According to the original solutions of the Act, lay judges were supposed to represent employees and employers, but as early as in the 1940s, this assumption was abandoned in favour of a guarantee for the appropriate "ideological" preparation of lay judges, who were to be appointed by the Minister of Justice from among candidates proposed by organisations sanctioned by the authorities. This process was intensified by the amendments to the Act introduced by the Act of 1960 on the amendment of the Law on Social Insurance Courts, under which lay judges were selected by voivodship national councils from among employees meeting the conditions for lay judges of common courts.[70] This meant a complete abandonment of the requirement of professional preparation and knowledge of social insurance issues (referred to in the Act as the "knowledge of the profession"[71]) that had previously applied to lay judges of social insurance courts. In this context, it should

66 Also included in Art. 52 of the Constitution of the Polish People's Republic of 1952, according to which judges were independent and subject only to Acts of Parliament (and – although this did not result directly from the Basic Law – to Decrees of the Council of State having the same force as Acts of Parliament).

67 ILO Conventions Nos. 35–40 of 1933.

68 Z. Zaleski, *op. cit.*, p. 367; Z. Kopankiewicz, *Nowe sądy ubezpieczeń…*, *op. cit.*, pp. 18–19.

69 M. Rybicki, *Ławnicy ludowi w sądach PRL*, Warszawa 1968, pp. 339–340.

70 Art. 72 of the Act as amended by Art. 1(38) of the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.

71 In the original wording of Art. 73 of the Act.

be noted that it was precisely the participation of lay judges in social insurance courts that was an important advantage for the communist authorities, and here equally for propaganda purposes, anticipating the process of the "democratisation of the judiciary" that was intensified in the 1940s, where the participation of non-professional judges was introduced in successive divisions of the judiciary. Finally, the Act of 27 April 1949 on the amendment of the Law on the organisation of common courts[72] established the principle that common courts adjudicated with the participation of independent lay judges, were subject only to Acts of Parliament. In 1952 it became a Constitutional Principle, introduced by Art. 49 of the Constitution of the Polish People's Republic.

The work of regional social insurance courts was managed by the presidents who performed both administrative and (under the supervision of the Minister of Justice and having regard to the independence of judges) supervisory functions, acting independently or with the help of deputies or appointed judges.[73] The duty of the president of the court was to supervise both the court in which the president was appointed and the judges and lay judges of that court.[74] The Act also provided for the possibility (but not an obligation) to appoint deputy presidents of regional courts, assuming that these positions would be created according to the actual organisational needs of the individual courts themselves.[75]

All regional courts had secretariats providing clerical services, consisting of court secretaries, clerical employees and other employees.

The Social Insurance Tribunal was established directly under the provisions of the Act, which designated Warsaw as its seat. It was a higher court in relation to the regional social insurance courts, and at the same time – in the period from its appointment to the entry into force of the Act of 15 February 1962 on the Supreme Court – the court of last instance in cases entrusted to the jurisdiction of social insurance courts. Therefore, the jurisdiction of the Social Insurance Tribunal included both the resolution of appeals against the judgements of regional courts, adjudicating in cases delegated to the jurisdiction of the Tribunal, as well as clarification of legal regulations that raised doubts or whose application resulted in discrepancies in the case law. The last of these powers was withdrawn from the Social Insurance Tribunal as of the date of entrusting the Supreme Court with judicial supervision over court rulings.

The Tribunal was composed exclusively of professional judges (from whom the president and deputy presidents were selected). It was divided into divisions, created according to the substantive criteria – the types of cases heard, according to their rules of internal procedure. Each of the divisions was headed by the President or Deputy President of the Tribunal.[76]

72 Act of 27 April 1949 on the amendment of the Law on the organisation of common courts (Journal of Laws No. 32, item 237).

73 Art. 28 of the Act.

74 Art. 31(1) of the Act.

75 Art. 11 of the Act.

76 Art. 22 of the Act.

As a rule however, the Tribunal adjudicated by means a three-person bench, while legal issues that raised serious doubts could be referred for resolution to a bench of seven judges, and if the bench intended to depart from the legal rule previously adopted by the Tribunal – only the General Assembly of the Social Insurance Tribunal could issue its ruling.[77]

The qualifications required of the judges of the Social Insurance Tribunal were in principle similar to those of the regional courts, with the reservation that five years' service as a judge of these courts was additionally needed.[78] However, this requirement was liberalised for half of the Tribunal's judges, who were alternatively required to be qualified as regional court judges, with ten years' service in government administration, at a referendary position in the field of social insurance or an equivalent position in a social insurance institution, or five years' period of work in the position of a regional court judge or as a regional deputy prosecutor.[79] Moreover, a professor of law at a Polish state university could be appointed as a judge of the Tribunal.[80] The amendment to the Act of 17 February 1960 liberalised the original requirements also for judges of the Tribunal, allowing for the appointment to this office of, among others, persons being the judges of regional courts or voivodship courts, regardless of how long they had held such a position.[81] All the judges of the Social Insurance Tribunal composed its general assembly.

The President of the Social Insurance Tribunal, similarly to the presidents of regional social insurance courts in the units they headed, performed both administrative and supervisory functions in the Tribunal, acting independently or with the help of appointed judges.

Irrespective of its judicial powers, in particular those resulting from the course of instances, the Social Insurance Tribunal had administrative control powers in relation to regional social insurance courts, and its judges acted as inspectors visiting regional social insurance courts.

The internal organisation of the courts (*i.e.*, regional social insurance courts and the Social Insurance Tribunal) was governed in part by the Act, while detailed matters were determined by the rules of internal procedure of the regional courts and of the Tribunal, which were issued in the form of ordinances by the Minister of Justice[82] (until 1960, issued in agreement with the Minister of Labour and Social Welfare[83]). In a number of matters concerning the legal status of judges of social insurance courts (including the requirements for taking up the position of judge, appointment to and resignation from this position, the rights and duties of judges, their delegation and disciplinary liability), the

77 Art. 19 and 20 of the Act.

78 Art. 48(1) of the Act.

79 Art. 48(2) of the Act.

80 Art. 49 of the Act.

81 Art. 48 of the Act as amended by Art. 1(35) of the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.

82 Art. 38 of the Act.

83 The change was introduced by Art. 1(14) of the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.

provisions of the Law on the organisation of common courts (*i.e.*, the Ordinance of the President of the Republic of Poland of 6 February 1928 – Law on the organisation of common courts) applied accordingly.

A separate presentation, both due to the specific nature of this institution, as well as its functions within the social insurance judiciary system, is required for the Public Interest Commissioner sitting at the Tribunal.

The institution of the Public Interest Commissioner was a new solution in Polish law, created in part in the same way as a prosecutor acting at the Supreme Court, in part based on models drawn from foreign legislation, *e.g.*, the French, where the Government Commissioner and their deputies functioned at the Council of State, and the German, where an institution similar to the institution of the Public Interest Commissioner was established – Kommissar zur Wahrnehmung des öffentlichen Interesses richten.[84] Its introduction to the Act can be attributed to the initiative of J.S. Langrod,[85] involved in the preparation of the recent draft texts of the Act, who postulated the creation of a body with quasi-prosecutorial powers, which would act as a guardian of the protection of the law in the framework of court decisions and would strive to establish a uniform and correct interpretation of its provisions.[86] The name of the institution was borrowed directly from J.S. Langrod's earlier proposal for the general administrative courts organisation.[87] The institution of "complaint in defence of the law", reserved by the Act for the Public Interest Commissioner was of similar origin. The following motives for introducing this institution were included in the justification of the last draft text of the Act:

> It is important that, in addition to the authority directly interested in the result of the proceedings, a factor independent of the current needs or views of the acting authority should also take part in the administrative dispute, expressing its free opinion on the matter from the point of view of the public interest defined in the Act. The advisability of interference of an outside factor in the insurance process is all the greater because, although insurance institutions, by their very nature, also represent the public interest, nevertheless, when managing material goods, they can more easily succumb to current fiscal or other needs, to the detriment of the violated right of an individual.[88]

The Public Interest Commissioner acted personally – as a single-person body or through their deputies, guarding the law and seeking to establish correct and uniform

84 E. Sisslé, *Rzecznik interesu publicznego*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6, p. 399; T. Lawendel, *O roli rzecznika interesu publicznego w postępowaniu przed sądami ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1939, No. 2, p. 71.

85 See *Sprawozdanie Komisji Prawniczej o zmianach wprowadzonych przez Senat w dniu 31 maja 1939 r. do uchwalonego przez Sejm w dniu 18 marca 1939 r. projektu ustawy o sądach ubezpieczeń społecznych* [the Report of the Committee on Legal Affairs on changes introduced by the Senate on 31 May 1939 to the draft Act on social insurance courts adopted by the Sejm on 18 March 1939], Sejm paper No. 251, 1939, p. 7.

86 See D. Malec, *Najwyższy Trybunał Administracyjny w świetle dotychczasowych badań*, "Zeszyty Naukowe UJ" 1992, Issue 141, p. 41.

87 Contained in the study of J.S. Langrod, *Kontrola administracji*, Warszawa–Kraków 1929.

88 E. Sisslé, *Rzecznik interesu publicznego…*, *op. cit.*, p. 400.

interpretation of legal provisions in the case law.[89] The Commissioner's primary role in proceedings before the courts was to express their views on how to resolve a dispute in a lawful manner regardless of the interests of any of the parties. The Commissioner, acting under the direction and supervision of the Minister of Social Welfare (then the Minister of Health and Social Welfare, and ultimately the President of the Social Insurance Institution), acted as a quasi-prosecutor, whose primary means of action was to participate, on the rights of the party, personally or through deputies, in cases pending before the courts. Moreover, until the entry into force of the Act of 15 February 1962 on the Supreme Court, the Commissioner had the exclusive right to lodge an extraordinary measure of appeal against all final decisions of regional social insurance courts, which constituted a complaint in defence of the law [*skarga w obronie prawa*].

The Commissioner also had a signalling function, as they were obliged to provide the Minister of Social Welfare (and then the Minister of Health and Social Welfare), based on the problems perceived in the course of performing their duties, with observations on the need for changes or additions to the existing legal regulations on social insurance.[90]

The Act required the Public Interest Commissioner and their deputies to have the same attributes and qualifications as judges of the Social Insurance Tribunal. Legal provisions concerning state officials (employees) were applicable to the Commissioner and their deputies; the Commissioner acted under the direction of the Minister of Social Welfare. The mode of the Commissioner's work was governed by the rules of internal procedure of the Public Interest Commissioner, issued in the form of an ordinance by the Minister of Social Welfare (and then the Minister of Labour and Social Welfare) in agreement with the Minister of Justice.

To complement the issue of the court system and its organisation, it should be recalled that by means of the Act of 15 February 1962 on the Supreme Court, this Court was provided with supervision over the courts, and for this purpose the Labour and Social Insurance Chamber of the Supreme Court was established. Its statutory tasks included, *inter alia*, judicial supervision over the court rulings, carried out through the right of the Social Insurance Tribunal to transfer any legal issues that raised serious doubts amongst the Tribunal to the Labour and Social Insurance Chamber of the Supreme Court and the right of the Minister of Justice, the Prosecutor General of the Polish People's Republic or the First President of the Supreme Court to submit extraordinary reviews of final court rulings to the Labour and Social Insurance Chamber of the Supreme Court. In this way, the fully independent system of social insurance courts was subject to supervision by the Supreme Court. Moreover, the Supreme Court had the competence to adopt resolutions containing answers to any legal questions submitted to it.

89 Art. 84 of the Act.

90 Art. 88 of the Act.

Jurisdiction of social insurance courts, specific procedural solutions of the Law on Social Insurance Courts

As part of the issue of courts jurisdiction, priority should be given to their material jurisdiction, which was one of the most important factors determining the nature of the social insurance courts.

The material jurisdiction of courts was regulated in Art. 1 of the Act in the form of a quasi-general clause, which provided for the inclusion in their jurisdiction of the administration of justice in social insurance disputes. This clause was supplemented by definitions clarifying the notion of social insurance disputes and social insurance institutions,[91] as well as by a catalogue of categories of cases excluded from the jurisdiction of social insurance courts.[92] The original wording of Art. 1 of the Act did not specify the nature of the benefits subject to social insurance disputes, making the courts competent in cases concerning benefits in kind as well as cash benefits. At the same time, the Act specified that:

> Complaints may be lodged with social insurance courts only against decisions of social insurance institutions which have legal consequences for employers, persons insured and their families and other persons concerned, as well as in the cases provided for in Art. 208(3),[93] if this law or other legislative acts do not exclude the right of complaint.[94]

Any entity performing tasks in this area was considered an insurance institution (and thus a public person), provided that it was legally empowered to decide on the rights and obligations of individuals subject to social insurance. On the basis of the Act, the social insurance dispute was understood in a broad sense, and included disputes concerning the obligation to submit to insurance, continue insurance, voluntary forms of social insurance, as well as the obligation to accept for insurance, and finally the amount of insurance contributions.[95]

The jurisdiction of courts changed as a result of an amendment made in 1960. The previous quasi-general clause was replaced with a new one, according to which the courts exercised justice in disputes over cash benefits in the field of retirement provision for employees and their families and in other cases referred to them by separate regulations.[96] Thus, disputes about non-cash benefits were excluded from the jurisdiction of the courts. These disputes had been excluded in many areas from their jurisdiction by

91 Art. 2 of the Act.

92 Art. 3 of the Act, which excluded from the jurisdiction of the courts disputes: concerning the private law, resulting from the supervision of social insurance institutions and between social insurance institutions (subject to different specific provisions).

93 Complaint about the silence of social insurance institutions [*skarga na milczenie*].

94 Art. 4(1) of the Act.

95 Judgement of the Social Insurance Tribunal TR 578/49; S. Garlicki, *Prawo o sądach…*, *op. cit.*, p. 15.

96 Art. 1 of the Act as amended by Art. 1(1) of the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.

special legislation already before 1960.[97] In the amendment, the legislator did not clarify the notions contained in this clause, while at the same time broadening the scope of cases excluded from the jurisdiction of social insurance courts.[98] The amendment also limited the scope of the activities of pension bodies, indicating that only their decisions were subject to appeal, which was identified with a decision within the meaning of Art. 97 of the Code of Administrative Procedure.

A significant[99] change in the scope of material jurisdiction of the courts took place under Art. 17(6) of the Act of 23 January 1968 on cash benefits due in the event of accidents at work,[100] in which the courts were entrusted with the task of handling complaints against all decisions issued on its basis, regardless of their public or private law nature. As a result of this solution, in addition to the benefits included to the social insurance field (pensions, supplementary allowances), the courts were entrusted with the resolution of disputes of a civil law nature concerning claims for compensation for permanent damage to health or the death of an employee[101] and for objects destroyed or damaged as a result of an accident.[102]

Throughout its validity, the Act excluded the possibility of appeal to courts against the decisions of insurance institutions taken on the basis of the discretion of the competent institution (referred to in the Act, in accordance with the then-current nomenclature, as "free discretion"), provided that the decision was within the limits provided by the law for its discretion. Initially, Art. 211 of the Act governed this issue, and since the amendment of the 1960 Act, it was Art. 3(1)(2) of the Act that introduced by the amendment.

In addition, during the period of the courts' existence, apart from their general jurisdiction in all matters of social insurance resulting from the Act, a number of special regulations extended[103] or limited[104] this jurisdiction temporarily or permanently.

97 T. Swinarski, *Nowelizacja prawa o sądach ubezpieczeń społecznych*, "Praca i Zabezpieczenie Społeczne" 1960, No. 5, p. 68.

98 The amendment resulted in the exclusion from the courts' jurisdiction of cases concerning the obligation to insure, assess and collect social insurance contributions, benefits from sickness and maternity insurance, and from family insurance.

99 But mainly in the organisational aspect (consisting in the transfer to courts with hitherto uniform – administrative – jurisdiction also of civil cases), because compensation claims accounted for a few percent of cases incoming to courts after 1968, see H. Szwajcak, *Sprawy wypadkowe w sądzie ubezpieczeń społecznych*, "Praca i Ubezpieczenie Społeczne" 1970, No. 6, pp. 16–18; M. Nowakowski, *Okręgowe sądy ubezpieczeń…*, *op. cit.*, pp. 181–182.

100 Act of 23 January 1968 on cash benefits in the case of accidents at work (Journal of Laws No. 3, item 12).

101 Art. 11 of the Act of 23 January 1968 on cash benefits in the case of accidents at work.

102 Art. 13 of the Act of 23 January 1968 on cash benefits in the case of accidents at work.

103 For example, disputes regarding old-age pension benefits between state railway workers in the former Prussian region and members of their families and the Polish State Railways under the Act of 15 June 1939 on the liquidation of the Pension Fund for state railway workers in the former Prussian region (Journal of Laws No. 55, item 347), disputes regarding benefits granted to Polish citizens in respect of insurance in foreign social insurance institutions under the Decree of the Council of Ministers of 28 October 1947 on amending and supplementing the Act of 28 March 1933 on social insurance and the Ordinance of the President of the Republic of 24 November 1927 on the insurance of white-collar workers (Journal of Laws No. 66, item 413), complaints against the decisions on benefits issued under the provisions governing social rights of: soldiers under the Act of 13 December 1957 on pension provision for professional and overtime soldiers and their families (Journal of Laws of 1958 No. 2, item 6, Civic Militia officers pursuant to the Act of 31 January 1959 on pension provision for Civic Militia officers and their families (Journal of Laws No. 12, item 70), *etc.*

104 For example, decisions of the Employee Medical Treatment Facility established by the Act of 20 July 1950 on the Employee Treatment Facility (Journal of Laws No. 36, item 334), disputes arising from sickness and mater-

The territorial jurisdiction of the courts can only be analysed from the perspective of the regional social insurance courts, since the Social Insurance Tribunal was uniformly competent throughout the country in the cases it handled. The Act, within the two-instance structure of the social insurance judiciary, provided for the establishment of a network of regional social insurance courts nationally, which were to be created by means of ordinances specifying their seats and circuits (and the number of lay judges). The jurisdiction of a specific regional court over a complaint was determined according to the registered office of the social insurance institution being sued (*i.e.*, whose decision was being challenged).[105] The regulation was intended to concentrate cases concerning the activities of a specific insurance institution in one regional social insurance court, which, by preventing one institution from conducting disputes in several or more regional courts at the same time, was to ensure for the uniform application of the law and to make it easier for insurance institutions to conduct cases before courts.

The general provisions concerning the territorial jurisdiction of regional courts did not apply when the Social Insurance Tribunal, by repealing a previously issued judgement of a regional court due to the fact that it had found a violation of important procedural provisions or the necessity to supplement the evidence to establish the facts of the case, referred the case to a regional social insurance court other than the one previously ruling the case.[106] The jurisdiction of the duly designated regional social insurance court was established at the time the complaint was lodged, and following that event, the court retained its jurisdiction over the case regardless of any subsequent events, including both a change in the registered office of the defendant institution and a change in the boundaries of the circuit of the regional court with which the complaint was lodged.[107]

As far as the procedure before the courts is concerned, the Act contained a comprehensive regulation, without making use of references to other legal acts, with the basic procedure before the courts being based on the principles of civil court proceedings – *i.e.*, the civil procedure as unified in 1930.[108] However, the Act provided for solutions unknown to judicial proceedings at that time, such as a complaint about silence on the part of the authorities or a complaint in defence of the law.

Probably the most significant legislative novelty contained in the Act was the right to contest the silence of an insurance institution, provided for in Art. 208(3) of the Act.[109]

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nity insurance, family insurance, concerning insurance contributions under the Decree of 5 February 1955 on transferring the performance of social insurance to trade unions (Journal of Laws No. 6, item 31), *etc.*

105 Article 95(1) of the Act in conjunction with Art. 109 of the Act, and after the amendment of the Act of 1960, with its Art. 95 in the newly established wording.

106 This was permissible under Art. 373 of the Act.

107 Art. 106 of the Act, see S. Garlicki, E. Szeremeta, *op. cit.*, p. 67.

108 Ordinance of the President of the Republic of Poland of 29 November 1930 – the Code of Civil Procedure (Journal of Laws No. 83, item 651).

109 Although similar solutions were included in the draft Act on the new administrative procedure, which was being prepared in the interwar period (*e.g.*, in chapter XI *Załatwianie spraw* [Settlement of matters] – the draft Act on administrative procedure of 1930, prepared by the Commission for Legislative Proposals at the Ministry of the Interior, see: "Gazeta Administracji i Policji Państwowej" 1931, p. 567); finally, they were not included in any other legal act adopted in the interwar period.

The Act provided for the possibility to lodge a complaint when the insurance institution (pension authority – in accordance with the nomenclature adopted in the amendment to the Act of 1960), despite the fact that the party concerned had submitted a claim, did not issue a decision within six months from the date of the correct submission of the claim by the party concerned (the so-called complaint about the silence of the authorities [*skarga na milczenie władzy*][110]). In such a situation, the Act allowed the insured person to lodge the complaint with the regional court, which handled it in the same way as a complaint against the decision of the insurance institution. The court informed the defendant institution of the complaint, served it with a copy and requested the submission of a case file. After the proceedings, the court issued a ruling on the substance of the case. Complaints about the silence could be lodged at any time up to the date of the announcement or service of the requested decision. If the insurance institution issued a decision after the complaint had been lodged with the court, the court discontinued the pending proceedings only if the decision fully complied with the complainant's request, otherwise it continued to hear the case.[111]

The Act (in the wording in force until 1960) also provided for a complaint in defence of the law [*skarga w obronie prawa*], unknown at that time to other judicial proceedings. The Public Interest Commissioner was entitled to lodge such a complaint. The procedure initiated by such a complaint was simplified and its primary objective was to issue a ruling quickly, hence it was conducted without the participation (or even notification) of the parties to the proceedings in which the ruling was issued, which was subsequently the subject of a complaint in defence of the law. The case was proceeded in a closed session after hearing the Public Interest Commissioner, and its effect – if the complaint was admitted – was only that the Tribunal determined in the content of its decision the circumstances of the infringement indicated by the Commissioner (consisting in an incorrect interpretation of the provisions of law), occurring in the proceedings that had already been concluded, without affecting the validity of the decision on which it was based.[112] The amendment to the Act of 1960 abolished a complaint in defence of the law, replacing it with an extraordinary complaint as a measure of appeal [*nadzwyczajna skarga rewizyjna*],[113] based on the model of an extraordinary review [*rewizja nadzwyczajna*] functioning in common courts.[114] The extraordinary complaint was abolished as early as 1962, and replaced with an extraordinary review lodged with the Supreme Court.

110 T. Swinarski, *O sądach ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1953, No. 7, p. 262.

111 S. Garlicki, *Prawo o sądach…*, *op. cit.*, pp. 102–103.

112 Except for the situation when the infringement consisted in the inadmissibility of proceedings before social insurance courts in a given case or when the case was adjudicated by a judge or a lay judge excluded by virtue of law – which implied the necessity to repeal the defective ruling.

113 The provisions of the Ordinance of the President of the Republic of Poland of 19 March 1928 the Code of Criminal Procedure (Journal of Laws of 1928 No. 33, item 313) and the Ordinance of the President of the Republic of Poland of 29 November 1930 – the Code of Civil Procedure, see T. Swinarski, *Nowelizacja prawa…*, *op. cit.*, p. 70.

114 Art. 1 (110)(111)(112) of the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.

The nature of social insurance courts

The social insurance courts acting under the provisions of the Act should be classified as a special division of administrative courts due to their structure, organisation, jurisdiction and competence, which is not contradicted by the non-reactivation of general administrative courts in Poland after World War II.

The operation of the social insurance courts was based on a comprehensive legal act governing the organisation of the social insurance courts, the position, rights and duties of judges in these courts, as well as the proceedings before them.[115] The courts were independent of the administration, independent in their judgements[116] (judges' independence was to be guaranteed by their irremovability, non-transferability, inviolability and accountability only before the disciplinary courts), professional (to the extent that they were composed of professional judges), resolving, as a result of complaints lodged by the addressees of administrative decisions,[117] disputes between administrative bodies and the subjects of their previous decisions.

Proceedings before the courts were of an adversarial nature – taking into account the structural limitations of the adversarial nature of the court proceedings that supervised the legality of an administrative body's activities, guaranteed equality of parties to the proceedings (with certain facilitations for persons lodging complaints against administrative decisions, expressed *e.g.*, in the mode and form of lodging a complaint[118]), which at an earlier stage of proceedings in a given case did not act as equal, and finally were conducted on the basis of a special procedure.[119] Proceedings before the social insurance court could not be initiated *ex officio*, either by a court or by another authority, and in particular could not be initiated by the authority whose decision was to be assessed by the court.[120] Proceedings could only be initiated by the addressee of the insurance institution's decision, and in some situations by the Public Interest Commissioner. Only these entities were also entitled to withdraw

115 Act of 28 July 1939 – the Law on Social Insurance Courts.

116 If one accepts the thesis about the real, and not only phoney independence of the judiciary in the period of the Polish People's Republic.

117 In 1968, the scope of the jurisdiction of social insurance courts was extended to include cases concerning compensation for accidents at work (*i.e.*, civil disputes), as a result of which the courts lost their purely administrative character. See S. Włodyka, *Ustrój organów ochrony prawnej*, Warszawa 1975, p. 144.

118 Which could be lodged by a party in writing (but also orally for the record in a municipal court [*sąd grodzki*], labour court or social insurance court), directly with the competent court (but if – except for the case filed orally for the record with the aforementioned courts – the complaint was lodged with the inappropriate social insurance court, social insurance institution or an authority supervising that institution, such a complaint was sent *ex officio* to the competent court, and the date on which the complaint was brought before the wrong institution was considered as the date of its lodging with the court), within two months of the announcement or service of the decision on the complainant (but also after the expiry of that period if the complainant has shown that they were not able to lodge the complaint within the prescribed period for reasons beyond their control).

119 Contained in Part II of the Act of 28 July 1939 – the Law on Social Insurance Courts.

120 T. Szymański, *Postępowanie przed sądami ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6, p. 393.

the complaint at any time (which could be done both in writing and orally for the record, similarly to lodging a complaint[121]).

Until 1962[122], the rulings of the Social Insurance Tribunal were final and binding on all parties to the proceedings – including the administrative body under supervision. The courts were entitled both to repeal administrative decisions (and, if necessary, reissue decisions, as well as direct guidelines for further proceedings to the administrative authorities) and to pass rulings amending administrative decisions (reformative), so they had powers currently qualified as broadly understood supervision.

The special nature of social insurance courts was determined by the clause outlining their jurisdiction, according to which the courts, as a rule, exercised justice "in social insurance disputes"[123] (which was clarified by a negative clause), after the amendment of the 1960s, formally limited to

> disputes over cash benefits in the field of retirement provision for employees and their families and in other cases referred to them by separate regulations.[124]

The actual scope of courts jurisdiction was determined by the Act, other provisions of statutory rank, as well as the case law of the courts themselves (in particular the Social Insurance Tribunal) and, after 1962, of the Supreme Court.

Taking into account the above features and jurisdiction, the social insurance courts may be situated in a wide range of different variants of administrative courts in operation or conceived within Polish territory in the 19th and first half of the 20th century. In particular, such a classification of courts is not contradicted by the reservation to their competence of rulings amending contested decisions (reformative) – which was also the competence of other Polish administrative courts.[125] The administrative nature of the courts is not contradicted by the fact that in 1968 they were entrusted with the jurisdiction over disputes of a civil law nature concerning claims for compensation for accidents at work. The above cases were a clear material exception to the jurisdiction of the courts, while at the same time constituting only a fragment of a number of public-law benefits provided for victims of accidents at work.[126] Referring such cases to these courts was intended to ensure a uniform procedure for pursuing claims under the Act.

121 M. Majewska, *Prawo skargi do sądu ubezpieczeń społecznych*, "Praca i Zabezpieczenie Społeczne" 1959, No. 7–8, p. 108.

122 When the Supreme Court's judicial supervision over courts was introduced.

123 Original wording of Art. 1(1) of the Act.

124 Wording of Art. 1(1) of the Act as amended by Art. 1(1) of the Act of 17 February 1960 on the amendment of the Law on Social Insurance Courts.

125 The Invalidity Administrative Court administrative courts operating in the interwar period in the former Prussian region, as well as (although to a limited extent) the Supreme Administrative Tribunal.

126 The Act provided for the following accident benefits: disability pension, survivor's pension, supplementary allowances to other social insurance allowances related to incapacity for work, and only in specific cases the compensation of a civil nature for permanent damage to health or for objects destroyed or damaged as a result of an accident and possibly the so-called compensatory benefit [*świadczenia wyrównawcze*].

Similarly to the courts – from a functional point of view – the jurisdiction of the Invalidity Administrative Court was determined in detail.[127] It ruled on cases which were subsequently included in the jurisdiction of insurance courts. It was competent to determine the facts of the case by supplementing the evidence, and regarding the complaint as justified, it could both repeal the contested decision (cassation) and replace it with its own (reformative ruling).[128] Just like regional social insurance courts, the Invalidity Administrative Court adjudicated by a bench composed of professional judges (*i.e.*, judges of the Supreme Administrative Tribunal, at which it operated) and lay judges (half of them representing the disabled and half – officials).[129]

Liquidation of social insurance courts

The social insurance courts in the formula presented above were abolished in 1974 under the provisions of the Act of 24 October 1974 on regional labour and social insurance courts. This Act merged the hitherto independent systems: of administrative courts in the field of social insurance and of common (civil) courts in matters related to employment relationships. The newly established regional labour and social insurance courts had to a large extent lost the character of administrative courts (apart from the substantive nature of some of the cases heard – upon complaints against the decisions of administrative bodies), because they operated on the basis of respectively applied provisions on common courts. The provisions on civil court proceedings were applicable to proceedings before them to the extent not regulated by the Act of 24 October 1974.

The initiative to abolish the courts did not surprise those associated with them, because actions aimed at abolishing these courts were undertaken in the 1960s. The form given in the course of parliamentary work on the draft Act on the Supreme Court adopted in 1962 to the chamber of this court supervising the labour and social insurance courts, *i.e.*, the Labour and Social Insurance Chamber, was the first visible manifestation of the tendency to unify the labour and social insurance courts. Plans for the comprehensive unification of the labour and social insurance courts were presented as early as in the 1960s, *inter alia* during conferences devoted to the issue of the case law of social insurance courts,[130] and in 1967–1968 they became the subject of legislative works and press discussion. The proposed changes in the social insurance and labour courts were presented as part of the 6th Resolution of the Congress of Trade Unions of 24 June 1967,[131]

127 In Art. 1(1) of the Act of 26 March 1935 on the Invalidity Administrative Court.

128 Art. 18 of the Act of 26 March 1935 on the Invalidity Administrative Court.

129 Art. 3 and 9 of the Act of 26 March 1935 on the Invalidity Administrative Court.

130 R. Kiełkowski, *Na marginesie projektu zniesienia Sądów Ubezpieczeń Społecznych*, "Praca i Zabezpieczenie Społeczne" 1968, Issue 12, p. 21.

131 Resolution No. VI XII of the Trade Unions Congress, Warszawa 1967, pp. 39–40.

postulating the merger of the social insurance courts system with the labour divisions of common courts. In 1967, the Commission for Labour Law Organisation at the Council of Ministers presented two proposals of abolition of separate social insurance courts by establishing a quasi-independent system of labour and social insurance courts, entrusting some cases to labour and social insurance chambers at voivodship (provincial) civil courts, and abolishing the Social Insurance Tribunal.[132] In spite of the critical opinions of both theoreticians[133] and practitioners[134] towards the concept of unification of the social insurance and labour courts, the basic assumptions contained in the 6th Resolution of the 12th Congress of Trade Unions of 1967, and then in the proposals of the Commission for Labour Law Organisation found expression in the governmental draft Act on regional labour and social insurance courts of 1974,[135] which was passed by the Sejm without significant changes.

The above mentioned Act merged the hitherto independent systems: of administrative courts in the field of social insurance and of common (civil) courts in some matters related to employment relationships, in chapter III *Przepisy przejściowe i końcowe* [Transitional and final provisions], repealing in full the Act of 28 July 1939 – the Law on Social Insurance Courts,[136] providing for the abolition from 1 January 1975 of all 11 regional social insurance courts in existence at that time,[137] and from 1 July 1975 the abolition of the Social Insurance Tribunal itself.[138]

The change in the way of dispute resolution concerning decisions in the field of social insurance made under the Act of 24 October 1974 modified the pre-existing model, replacing the two-instance court proceedings before the mixed courts with a procedure in which special judicial bodies (regional labour and social insurance courts) were to hear cases in only one (final instance).

As a consequence of this solution, the Act of 24 October 1974 adopted the mechanism of the allocation of judges of former social insurance courts, according to which, on the date of the abolition of the Social Insurance Tribunal, its judges were appointed as judges of regional labour and social insurance courts. The territorial jurisdiction of the court where the judges were appointed was designated by their place of residence on the day the Tribunal was abolished,[139] *i.e.*, 30 June 1975.[140] On the other hand, as of the day of the abolition of the regional courts, *i.e.*, 31 December 1974, their judges were appointed as judges of common *powiat* [district] courts, and the specific court

132 Proposals were presented by A. Mirończuk, *Zamierzenia ustawodawcze w zakresie prawa pracy*, "Przegląd Związkowy" 1967, Issue 6.

133 E. Modliński, *Podstawowe zagadnienia prawne ubezpieczeń społecznych*, Warszawa 1968, pp. 146–150.

134 R. Kiełkowski, *op. cit.*

135 Sejm Paper No. 166 of the Sejm of the 6th term of 1974.

136 Art. 84(1) of the Act of 24 October 1974 on regional labour and social insurance courts.

137 Art. 84(2) in conjunction with Art. 98 of the Act of 24 October 1974 on regional labour and social insurance courts.

138 Art. 84(3) in conjunction with Art. 98 of the Act of 24 October 1974 on regional labour and social insurance courts.

139 Art. 85 of the Act of 24 October 1974 on regional labour and social insurance courts.

140 However, since the Tribunal operated in Warsaw, most of the judges, with the exception of those delegated to the regional courts, became *ipso jure* the judges of the Regional Labour and Social Insurance Court in Warsaw.

was designated by their place of residence on the day of liquidation of the regional court in which they ruled.[141] However, the practice was to appoint in 1975 judges of the former regional social insurance courts to the newly created regional labour and social insurance courts, usually within the boundaries of the circuit of the former social insurance court.[142]

The Social Insurance Tribunal was abolished six months after the entry into force of the Act of 24 October 1974, *i.e.*, as of 1 July 1975. From that date onwards, the main competences reserved hitherto for the Tribunal, consisting in the hearing of appeals against decisions taken in the first instance by the bodies adjudicating in cases concerning cash benefits from social insurance (which had been done, before the reform, by regional social insurance courts, followed by quasi-judicial bodies[143]), were transferred to the regional labour and social insurance courts established by the Act of 24 October 1974. In exceptional cases, where the regional labour and social insurance courts were to adjudicate in cases concerning cash benefits from social insurance independently, as the first instance body, the tasks of the second instance body, functionally corresponding to those of the Social Insurance Tribunal prior to its liquidation, were performed by the Labour and Social Insurance Chamber of the Supreme Court. It also ruled in this capacity in the event if the Supreme Court took over the case for its own consideration because the regional labour and social insurance court had presented a legal issue "raising serious doubts". In labour and social insurance disputes, the Supreme Court retained all general competencies, provided by the Act of 15 February 1962 on the Supreme Court, in particular, to consider extraordinary reviews of final rulings, to establish guidelines for the administration of justice and judicial practice, to adopt resolutions containing answers to legal questions, and to point out to other courts obvious violations of statutory provisions when handling cases.[144]

Summary

The presented issues lead to the conclusion that from the time of their establishment in 1945–1948 until their liquidation in 1974–1975 the social insurance courts were the only administrative courts operating within the Polish People's Republic.

Their jurisdiction included almost exclusively the settlement of administrative disputes, and due to the nature of their activity they were the administrative courts of a special character, performing their tasks of reviewing the legality of social insurance

141 Art. 86 of the Act of 24 October 1974 on regional labour and social insurance courts.

142 M. Nowakowski, *Okręgowe sądy…*, pp. 307–308.

143 As the authorities investigating complaints in cases of social insurance cash benefits (pensions and other benefits) have been defined by S. Włodyka in: *idem*, *Ustrój organów ochrony prawnej*, Warszawa 1975, p. 145.

144 Art. 24 and 25 of the Act of 15 February 1962 on the Invalidity Administrative Court.

decisions issued by social insurance institutions. After World War II, when the Polish People's Republic made social insurance institutions fully public, the disputes concerning such decisions were of a purely administrative nature also because of the entity issuing the contested decisions. The courts were not deprived of their status of special administrative courts by the inclusion to their jurisdiction in 1968 of an exhaustive list of civil compensation claims.

The effect of the courts' activity allows one to formulate the thesis that in the Polish People's Republic they were not a surrogate of higher-level administrative bodies supervising the insurance institutions, but were in fact institutions situated outside the administrative structures and independent of them. Within the framework of their statutory competences, they controlled the decisions of insurance institutions under their jurisdiction (due to the identified infringements of law, regional social insurance courts repealed or changed about 30–50% of the decisions of cases appealed against and directed to them[145]).

The abolition of the social insurance courts did not cancel their legal acquis, and their case law, in particular the rulings of the Social Insurance Tribunal, has remained valid until today, which is reflected in the subsequent case law and doctrine. The theses of the rulings of the Social Insurance Tribunal were referred to long after the abolition of the discussed courts by, *inter alia*, the Supreme Court.[146]

Finally, it can be noted that the model of the judicial review of decisions of insurance institutions, introduced by the Act, seems in some aspects to be more accurate than the current one, in which common courts, acting on the basis of slightly modified general rules of civil procedure, resolve administrative disputes between social insurance bodies and the addressees of their decisions, which concern the legal defectiveness of these decisions. Contested decisions in the field of social insurance currently constitute the most numerous group of administrative decisions subject to the jurisdiction of common courts, in spite of the establishment of two-instance general administrative courts in Poland itself.

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145 *Rocznik statystyczny ubezpieczeń społecznych 1946–1985*, Warszawa 1985.

146 See, *inter alia*, the judgement of the Supreme Court – the Labour and Social Insurance Chamber of 12 December 1975, III PO 36/75, OSNCP 1976/5 item 119, the decision of the Supreme Court – the Labour and Social Insurance Chamber of 2 July 1976, III URN 27/74, LEX No. 16331, Resolution of the Seven Judges of the Supreme Court – the Labour and Social Insurance Chamber of 26 August 1976, V PZP 3/76, OSNCP 1976/11 item 235, *Państwo i Prawo* 1977/10, p. 161, Judgement of the Supreme Court – the Labour and Social Insurance Chamber of 21 February 1978, II URN 11/78, OSNCP 1978/9 item 170, Resolution of the Supreme Court – the Labour and Social Insurance Chamber of 22 December 1986, III UZP 53/86, OSNCP 1988/1 item 10.

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SOURCES

- Adamiak B., Borkowski J., *Postępowanie administracyjne i sądowoadministracyjne*, Warszawa 2017.
- Barra R., *Z historii sadownictwa ubezpieczeń społecznych*, "Studia i Materiały z Historii Ubezpieczeń Społecznych w Polsce" 1987, Issue 5.
- Baumgart M., *Projektowane organa ubezpieczeń społecznych*, "Głos Sądownictwa" 1933, No. 9.
- Baumgart M., *Projektowane organa ubezpieczeń społecznych (cd.)*, "Głos Sądownictwa" 1933, No. 10.
- Dybowski T., *Ustawodawstwo polskie w zakresie ubezpieczeń społecznych w ostatnich latach*, Warszawa 1938.
- Fiedorczuk S., *O ustawę postępowania ubezpieczeniowego*, "Przegląd Ubezpieczeń Społecznych" 1934, No. 4.
- Garlicki S., *Prawo o sądach ubezpieczeń społecznych. Komentarz*, Warszawa 1950.
- Garlicki S., Szeremeta E., *Prawo o sądach ubezpieczeń społecznych. Komentarz*, Warszawa 1962.
- Jagielski J., *Kontrola administracji publicznej*, Warszawa 2012.
- Kallas M., Lityński A., *Historia ustroju i prawa Polski Ludowej*, Warszawa 2000.
- Kąkol K., *Ubezpieczenia społeczne w Polsce*, Łódź 1950.
- Kiełkowski R., *Na marginesie projektu zniesienia Sądów Ubezpieczeń Społecznych*, "Praca i Zabezpieczenie Społeczne" 1968, Issue 12.
- Kolasinski K., *Postępowanie w sprawach ubezpieczeniowych* [in:] *Rozwój ubezpieczeń społecznych w Polsce,* part I: *Dwudziestolecie międzywojenne*, ed. C. Jackowiak, Wrocław 1991.
- Kopankiewicz Z., *Nowe sądy ubezpieczeń społecznych*, Warszawa 1947.
- Kopankiewicz Z., *Sądy ubezpieczeń społecznych. Uwagi i spostrzeżenia po roku doświadczeń*, "Przegląd Ubezpieczeń Społecznych" 1948, No. 5.
- Langrod J.S., *Kontrola administracji*, Warszawa–Kraków 1929.
- Langrod J.S., *Przedmowa* [in:] E. Modliński, *Sądy ubezpieczeń społecznych jako szczególne sądy administracyjne*, Warszawa 1946.
- Lawendel T., *Istota sporu na tle ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.
- Lawendel T., *O roli rzecznika interesu publicznego w postępowaniu przed sądami ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1939, No. 2.
- Licki J., *Prawo pracy PRL w zarysie*, Warszawa 1962.
- Maciejewski T., *Historia administracji i myśli administracyjne. Czasy nowożytne i współczesne (XVI–XX w.)*, Warszawa 2013.
- Majewska M., *Prawo skargi do sądu ubezpieczeń społecznych*, "Praca i Zabezpieczenie Społeczne" 1959, No. 7–8.
- Malec D., *Najwyższy Trybunał Administracyjny w świetle dotychczasowych badań*, "Zeszyty Naukowe UJ" 1992, Issue 141.
- Malec J., Malec D., *Historia administracji i myśli administracyjnej*, Kraków 2003.

- Mirończuk A., *Zamierzenia ustawodawcze w zakresie prawa pracy*, "Przegląd Związkowy" 1967, Issue 6.
- Modliński E., *Podstawowe zagadnienia prawne ubezpieczeń społecznych*, Warszawa 1968.
- Modliński E., *Sądy ubezpieczeń społecznych jako szczególne sądy administracyjne*, Warszawa 1946.
- Modliński E., *Sądy ubezpieczeń społecznych w strukturze władz państwowych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.
- Nowakowski M., *O odtworzeniu sądownictwa administracyjnego po II wojnie światowej* [in:] *Z dziejów administracji, sądownictwa i nauki prawa, prace dedykowane profesorowi Jerzemu Malcowi z okazji 40-lecia pracy naukowej*, ed. S. Grodziski, A. Dziadzio, Kraków 2012.
- Nowakowski M., *Okręgowe sądy ubezpieczeń społecznych*, Kraków 2017.
- Nowakowski M., *Prace nad ujednoliceniem sądownictwa ubezpieczeń społecznych w 20-leciu międzywojennym* [in:] *Vetera novis augere. Studia i prace dedykowane prof. W. Uruszczakowi*, Vol. 2, ed. S. Grodziski, D. Malec, A. Karabowicz, M. Stus, Kraków 2010.
- Nowakowski Z.K., *Zarys prawa ubezpieczeń państwowych*, Poznań 1950.
- Ochędowski E., *Prawo administracyjne*, Toruń 2013.
- *Orzecznictwo Trybunału Ubezpieczeń Społecznych*, Warszawa 1974.
- Płaza S., *Historia prawa w Polsce na tle porównawczym. Część III. Okres międzywojenny*, Kraków 2001.
- *Polskie sądownictwo administracyjne – zarys systemu*, ed. Z. Kmieciak, Warszawa 2017.
- *Prawo administracyjne*, ed. J. Boć, Wrocław 2010.
- Radzimowski Z., Tarasińska Z., *Obowiązki uspołecznionych zakładów pracy w zakresie ubezpieczeń społecznych*, Warszawa 1974.
- Resich Z., *Nauka o organach ochrony prawnej*, Warszawa 1973.
- *Rocznik statystyczny ubezpieczeń społecznych 1946–1985*, Warszawa 1985.
- Rybicki M., *Ławnicy ludowi w sądach PRL*, Warszawa 1968.
- Salwa Z., *Prawo pracy*, Warszawa 1966.
- Schaff L., *Polityczne założenia wymiaru sprawiedliwości w Polsce Ludowej*, Warszawa 1950.
- Sisslé E., *Rozstrzyganie sporów w zakresie ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1934, No. 8.
- Sisslé E., *Rzecznik interesu publicznego*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.
- Stawarska-Rippel A., *Prawo sądowe Polski Ludowej 1944–1950 a prawo Drugiej Rzeczypospolitej*, Katowice 2006.
- Swinarski T., *Nowelizacja prawa o sądach ubezpieczeń społecznych*, "Praca i Zabezpieczenie Społeczne" 1960, No. 5.
- Swinarski T., *O sądach ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1953, No. 7.
- Swinarski T., *Tezy orzeczeń Trybunału Ubezpieczeń Społecznych*, Warszawa 1965.

- Swinarski T., *Tezy orzeczeń Trybunału Ubezpieczeń Społecznych i Sądu Najwyższego w sprawie rent i zaopatrzeń*, Warszawa 1973.
- Szubert W., *Ubezpieczenie społeczne* [in:] Z. Salwa, W. Szubert, M. Święcicki, *Podstawowe problemy prawa pracy*, Warszawa 1957.
- Szubert W., *Zarys prawa pracy*, Warszawa 1972.
- Szwajcak H., *Sprawy wypadkowe w sądzie ubezpieczeń społecznych*, "Praca i Ubezpieczenie Społeczne" 1970, No. 6.
- Szymański T., *Postępowanie przed sądami ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.
- Waligórski M., *Organizacja wymiaru sprawiedliwości*, Kraków 1952.
- Waszczyński J., *Ustrój organów ochrony prawnej w zarysie*, Łódź 1969.
- Witkowski W., *Historia administracji w Polsce 1764–1989*, Warszawa 2007.
- Włodyka S., *Organizacja sądownictwa*, Kraków 1959.
- Włodyka S., *Ustrój organów ochrony prawnej*, Warszawa 1968.
- Włodyka S., *Ustrój organów ochrony prawnej*, Warszawa 1975.
- Zaleski Z., *Ustrój sądów ubezpieczeń społecznych*, "Przegląd Ubezpieczeń Społecznych" 1938, No. 6.

Sądy ubezpieczeń społecznych w Polsce Ludowej

Artykuł przybliża podstawowe zagadnienia związane z genezą, okolicznościami utworzenia, działalnością, wreszcie też likwidacją istniejącego w Polsce w latach 1945–1975 sądownictwa ubezpieczeń społecznych. Na instytucje tę składały się działające w wybranych miastach wojewódzkich okręgowe sądy ubezpieczeń społecznych – jako sąd pierwszej instancji oraz Trybunał Ubezpieczeń Społecznych w Warszawie – jako sąd drugiej instancji. W tekście omówiono kluczowe materie związane z ustrojem, organizacją, a ponadto zakresem właściwości rzeczowej i kompetencjami orzeczniczymi sądownictwa ubezpieczeń społecznych, które determinowały jego charakter. Autor również dowodzi, że przed utworzeniem Naczelnego Sądu Administracyjnego sądy ubezpieczeń społecznych były w Polsce Ludowej jedynymi sądami o charakterze administracyjnym.

Słowa kluczowe: sądy ubezpieczeń społecznych, sądownictwo administracyjne, kontrola administracji, ubezpieczenia społeczne, Polska Ludowa