

Marzena Bogus-Spyra

<https://orcid.org/0000-0001-9707-4484>
Jan Długosz University of Częstochowa

LAWYERS OF POLISH ORIGIN IN CIESZYN SILESIA: IDENTITY-RELATED DILEMMAS WITHIN A MULTIETHNIC MONARCHY

Abstract

Common denominators for the community of lawyers of Polish origin practising in Cieszyn Silesia in the nineteenth century included the same legislation of the Habsburg Monarchy, the organisational structure of its judiciary, the legal framework governing their professions and the qualifications required for legal practice. However, the group was marked by disparities concerning social background, economic circumstances, career trajectories, immediate community, the desire to embrace a specific culture, and national affiliation. Lawyers resided and practised within a region incorporated into a larger spatial unit, i.e. Austria-Hungary, and, therefore, were shaped by geographical, political, social and economic interdependencies. The overlapping ties between regional, national and state levels might compel lawyers to show a relative preference for dual identity, considering that their ethnic affiliation did not rule out a sense of emotional and political loyalty to the state. Lawyers' complex identities enabled simultaneous relationality and development across the levels of nation, region, country, and *empire*. The hypothesis that they experienced a dilemma over their identity, ambiguity regarding their national affiliation, or inner tension between their Polish patriotism and their Habsburg loyalty has not been substantiated. An analysis of available sources concerning a segment of lawyers from Polish-speaking family backgrounds suggests their tendency towards clearly defined national affiliation. However, this identification did not necessarily represent a continuation of their ethnic heritage. The available ego-documents indicate that this awareness typically crystallised during their school (gymnasium) and university years – a period in which communal influences and cultural or political factors shaped their choices in favour of pro-Polish, pro-Slavic, pro-Silesian, or pro-German options. This crystallisation of national affiliation did not compromise lawyers' access to protection by state authorities, their right to equal treatment under the law, and their cooperation across social classes, institutional frameworks, professional spheres and religious denominations. Conflicts and potential inter-ethnic barriers emerged when nationalisms gained prominence. Therefore, what is noticeable is the assimilation into the empire and

integration with an intentionally chosen nation, including a deep self-declared commitment to their 'own' community.

Keywords: lawyers, career path, Habsburg Monarchy, Cieszyn Silesia, empire, nation, ethnic group, nationalism, identity, ethnic affiliation

I

INTRODUCTION

In the second half of the nineteenth century, when a modern Polish national community was emerging in Cieszyn Silesia, Polish-speaking lawyers played a pivotal role in the process: out of the first three so-called national 'awakeners' (namely Paweł Stalmach, Andrzej Cinciała and Andrzej Kotula), the latter two were lawyers. This is hardly surprising. After all, as Miroslav Hroch notes, one of the essential factors in nation formation, particularly at the early stages of the process, is the presence of at least a few individuals who come from the ranks of a subordinate ethnic group (which was the case in Cieszyn Silesia) and are capable of attaining a higher level of education and social mobility while preserving their ethnic identity".¹ Polish-speaking intelligentsia in Cieszyn Silesia – composed almost entirely of individuals of plebeian origin – began to emerge from grassroots in the mid-nineteenth century, as a relatively small community. It was represented predominantly by members of the clergy and elementary school teachers. Over time, it expanded to include representatives of liberal professions, particularly lawyers.

Scholars who study this profession tend to focus mainly on the pro-Polish aspects of their initiatives, assuming that their national affiliation was a straightforward choice. However, life in a divided community is more complicated than living in a region where one dominant group imposes relatively uniform norms of conduct on others. In order to practice law, these individuals had to acquire skills and knowledge officially demanded by the profession and learn how to navigate a foreign culture (the German urban culture). This often forced them to make inconsistent choices with regard to their national affiliation. Under such circumstances, Polish national identity was merely one of the options to choose from.

¹ Miroslav Hroch, *Małe narody Europy. Perspektywa historyczna* (Wrocław, 2001), 158–9.

When investigating the question of inconsistency or ambiguity in the choice of national identity, which may also have been the case of lawyers of Polish origin, it is important to take into account some other factors that help frame our research problem in such terms. First, there is an ongoing scholarly debate about the significance of socio-spatial units in historical analysis. This debate seeks to show the connections and correlations between three spatial concepts: region, nation and state.² This paper adopts this perspective. It further posits that the interconnected spaces of regional and global histories do not have to undermine the traditional paradigm of national history. For the purpose of this discussion, the regional level constitutes an important spatial unit in the examination of social processes related to the activities of lawyers, as it precisely delineates the place and time of intersection between the boundaries of a large empire and those of small nations.

Secondly, when addressing the dilemmas of identity among Slavic lawyers, the concept of nation within a state of nationalities can by no means be overlooked³ The traditional perspective – viewing individuals as identifying with a particular nationality – may distort the presentation of their lived reality and of them being part of the prevalent cultural and linguistic relations.⁴ Some authors in the literature argue that dual national affiliation is impossible. However, an individual's identification with their ethnic group did not necessarily preclude a simultaneous sense of affiliation with the monarchy, which many regarded as homeland. It is important to note that Cieszyn Silesia (whose territorial foundation was the medieval Duchy of Cieszyn) did not, as a region, become part of the empire as a result of the

² Many historians move beyond a purely national narrative by highlighting the interactions of transnational and supra-regional history within the broader global history. Andrea Komlosy, *Globalgeschichte: Methoden und Theorien* (Wien-Köln-Weimar, 2011); Heinz-Gerhard Haupt and Jürgen Kocka (eds), *Comparative and Transnational History: Central European Approaches and New Perspectives* (New York, 2009); Jürgen Osterhammel, *Die Verwandlung der Welt: Eine Geschichte des 19. Jahrhunderts* (München, 2011).

³ Or rather 'a state of national tribes' [*Volksstämme*], as the term is used in Section 19 of the December Constitution of 1867; Hroch, *Male narody Europy*, 6–29.

⁴ For a discussion of the constructed concept of nation, see Anna Kobylńska, Maciej Falski, and Marcin Filipowicz, *Peryferyjność: Habsbursko-słowiańska historia nieoczywista* (Kraków, 2016).

partitions of Poland. In fact, after the death of Duchess Elizabeth Lucretia in 1653, it came under the rule of the Czech kings, namely the Habsburgs. Following the Silesian Wars, when these rulers lost most of Silesia, only the Duchies of Cieszyn and Opava remained within the realm of Austria, and later became known as Austrian Silesia [*Österreichisch-Schlesien*]. Therefore, it is understandable that, for the local inhabitants, the concept of homeland could vary widely, encompassing the entire Austria, only the Piast lands, or exclusively a small homeland linked to the concept of 'stela' (meaning 'coming from here'). Polish lawyers actively engaged with both German culture and their 'native' culture, and they spoke both languages. Were they members of these different spheres on an equal footing? Did they contemplate adopting one singular identity? The concept of 'nation' itself is far from unambiguous, particularly in instances when professional affiliation encouraged people to participate in a shared sphere of experience. Within this context, reference may be made to the concept of complex identities,⁵ which allows for the possibility of an individual identifying simultaneously with a nation, an immediate region, the crown land [Ger. *Kronland*] of Austrian Silesia, or the Emperor of Austria.⁶

Thirdly, the literature on the activity of Poles in Cieszyn Silesia constantly emphasises their nationalist endeavours,⁷ implying that all members of that community were involved in such efforts. However, Pieter Judson argues that conflicts based on ethnic antagonisms are the product of nationalistic policies pursued⁸ by small groups, and that such ethnic antagonisms are not necessarily expressed by the

⁵ Grzegorz Studnicki, *Śląsk Cieszyński: Obrazy przeszłości a tożsamość miejsc i ludzi* (Katowice, 2015), 20–45.

⁶ Rita A. Krueger, 'Mediating Progress in the Provinces: Central Authority, Local Elites, and Agrarian Societies in Bohemia and Moravia', *Austrian History Yearbook*, xxxv (2004), 49–79.

⁷ Józef Londzin, *Przyczynek do historii początków ruchu narodowego na Śląsku Cieszyńskim* (Cieszyn, 1926); Edward Buława, *Pierwsi szermierze ruchu narodowego na Śląsku Cieszyńskim* (Cieszyn, 1997); Anděln Grobelný, *Češi a Poláci ve Slezsku v letech 1848–1867* (Ostrava, 1958); Józef Chlebowczyk, 'Kształtowanie się świadomości narodowej i początków ruchu narodowego na Śląsku Cieszyńskim', *Kwartalnik Historyczny*, lxvi, 2 (1959), 425–57.

⁸ Gary B. Cohen, 'Nationalist Politics and the Dynamics of State and Civil Society in the Habsburg Monarchy, 1867–1914', *Central European History*, xl, 2 (2007), 241–78.

society as a whole.⁹ According to Judson, nation and empire are not only interdependent but also evolve in close contact with each other.¹⁰ The researcher also raises the issue of national indifference or non-national identities, as well as the active resistance of individuals to making any clear declarations about the affiliation with a nation of their choice.¹¹ Dan Gawrecki reached the same conclusions regarding the level of the region.¹²

Unlike other professional communities, such as teachers or village administrators, the professional community of lawyers under discussion has not yet been the subject of any scholarly research paper. In fact, it is unknown to what extent lawyers from Polish-speaking families, where bilingualism was the norm, were receptive to the influence of high culture¹³ or vice versa. It has not been established to what extent they rejected elements associated initially with German culture and, through their other activities, prepared what is termed 'a nation for self', thereby reinforcing divisions and boundaries within a linguistically mixed region. The question remains what was prevalent in their professional life: cooperation or interethnic barriers.

Drawing on the above theories and supporting the premise that the professional life of Polish-speaking lawyers was shaped by relational dynamics, this study aims to trace the professional path of Cieszyn Silesia lawyers – individuals with peasant roots who, in terms of linguistic affiliation, identified with the Polish-speaking community yet were fluent in German and were members of the middle class. Based on the assumption that the identity of these individuals was not

⁹ Pieter M. Judson, *Imperium Habsburgów. Wspólnota Narodów*, transl. Sławomir Patlewicz (Warszawa, 2024).

¹⁰ Ibid., 12–24, 332–73.

¹¹ In another publication, he observes that while seeking to transform local populations into polarised nations, nationalists often encountered bilingual inhabitants, accustomed to the mixing of cultures, who remained persistently indifferent to the identification with only one distinct group. Pieter M. Judson, *Guardians of the Nation. Activists on the Language Frontiers of Imperial Austria* (Cambridge, 2006), also id., 'Seeing the Habsburg Monarchy as a Global Empire in an Era of Self-Styled Nation-States', *Geschichte und Region / Storia e Regione*, xxx, 1 (2021), 223–9.

¹² Dan Gawrecki, *Jazyk a národnost ve sčítáních lidu na Těšínsku v letech 1880–1930* (Český Těšín, 2017).

¹³ For a discussion on the cooperation within another professional group, see Marzena Bogus and Janusz Spyra, *Nauczyciele oraz ich stowarzyszenia na tle dyskursu społecznego w modernizującej się Europie* (Toruń, 2019).

unambiguous, this study poses broader questions concerning their origin and roots, the motivation behind their choice of profession, their educational trajectories, the legal framework governing their professional practice, as well as questions about their efforts to sustain their linguistic community and to promote national revival, their attitudes to German culture in this context and, finally, their possible self-perception as citizens of a state of nationalities.

II ORGANISATION OF THE JUDICIARY

Lawyers practising in Cieszyn Silesia constituted a heterogeneous community in terms of social and ethnic backgrounds, territorial origin, functions within the judiciary, and, initially, also the level of expertise. Their common ground was the monarchy's legal framework and the organisational structure of the judiciary, i.e. their working environment. Until 1848, the judiciary operated in a centrally-governed feudal state with all levels subordinated to the Supreme Chamber of Justice [Ger. *Oberste Justiziellei*] in Vienna.¹⁴ The system was fully class-based, although following the abolition of peasants' personal serfdom by Joseph II, the General Civil Code [*Allgemeines bürgerliches Gesetzbuch für die gesamten deutschen Erbländer, ABGB*], promulgated on 1 June 1811,¹⁵ began to be applied consistently and with no variation to all residents of the state.¹⁶ Important changes to the organisation of the judiciary were enacted following the Springtime of Nations. The idea was to align the structure of the judiciary with the new state's division, and to separate its administrative and judicial functions. At the central level, the Ministry of Justice was established to oversee both the court system in the crown lands and in judicial districts (exercising first-instance jurisdiction), which operated independently of the state administrative

¹⁴ Małgorzata Moras, 'Reformy Józefa II (1780–1790) a rządy prawa', *Studia z Dziejów Państwa i Prawa Polskiego*, xvi (2013), 133.

¹⁵ Stanisław Grodziski, 'Uwagi z okazji jubileuszu austriackiego kodeksu cywilnego z 1811 roku', *Czasopismo Prawno-Historyczne*, lxiii, 2 (2011), 26–7.

¹⁶ Hermann Baltl and Gernot Kocher, *Österreichische Rechtsgeschichte von den Anfängen bis zur Gegenwart* (Leykam, 2004), 164; Stanisław Płaza, *Historia prawa w Polsce na tle porównawczym. Zarys wykładu. Polska pod zaborami* (Kraków, 1994), 175–8.

authorities.¹⁷ In Austrian Silesia, which became an independent crown land in 1849, with its National Diet seated in Opava,¹⁸ the judiciary system was legally codified by Francis Joseph I in his Regulation of 26 June 1849, whereby he established two district courts [*Kreisgericht*]: one in Cieszyn and the other in Opava, both subordinated to the Higher Regional Court in Opava [*Oberlandesgericht in Troppau*]. Additionally, 'County' courts [*Bezirksgerichte*] were established, with their seats in Cieszyn, Bielsko, Frydek (Frýdek), Skoczów, Jabłonków (Jablunkov), Strumień, Frysztat (Fryštát), and Bogumin (Bohumin), with the Cieszyn District Court as a jurisdiction of second instance for all of them.¹⁹ The newly established courts commenced their operations on 1 July 1850. In 1851, 'fiscal prosecution offices' [*Finanz-Prokuraturi*] were established and were tasked with day-to-day management of state assets and public funds. The Moravian-Silesian Financial Prosecution Office in Brno also exercised jurisdiction over Austrian Silesia. However, the majority of these changes were put on hold during the Neoabsolutist era.²⁰ The monarchy embarked on a path towards a rule-of-law state with the December Constitution of 1867, a collection of six statutes that addressed the general rights of nationals, established the Imperial Court, and regulated the functions of the judiciary, the executive, and the government.²¹ The judicial structure established in 1850 was reinstated and remained unchanged until the final days of the monarchy. The work of the judiciary relied on independent

¹⁷ Ryszard Tomczyk, 'Dyskusja nad reformą administracji publicznej w Austrii na początku XX wieku', *Historia Slavorum Occidentis*, xvi (2014), 120.

¹⁸ Cieszyn Silesia comprised three 'counties': Bielsko, Cieszyn, and Frydek (each encompassing between two and four judicial districts). As the population grew, the number of counties expanded. In 1914, there were five of them, namely Bielsko (urban areas), Bielsko (rural areas), Fryštát, Frydek (urban areas), and Frydek (rural areas).

¹⁹ District courts functioned as trial courts, or courts of first instance, for certain cases, e.g. in matters related to commercial entities.

²⁰ In 1855, county administrative offices [*Bezirkskamt*] were established, covering the existing judicial districts and endowed with a combination of administrative and judiciary powers. The Act of 11 May 1868 regulated the organisation of county courts [*Bezirksgerichte*], while the Act of 9 March 1869 established 'jury courts', attached to both district courts and national courts. Each jury panel included both professional judges and lay jurors.

²¹ Andrzej Dziadzio, *Monarchia konstytucyjna w Austrii 1867–1914: Władza – obywatel – prawo* (Kraków, 2001), 27.

members of legal professions, particularly judges, who were appointed by the emperor for life tenures.²² The above developments were further reinforced by the establishment of central courts, namely the Supreme Court of Justice, the Administrative Court, and the Imperial Court.²³

III

EDUCATIONAL REQUIREMENTS: DEGREES, EXAMINATIONS, PROFESSIONAL PRACTICE

One of the prerequisites for becoming a lawyer was, of course, the completion of secondary education. This posed a challenge for individuals from plebeian families, although in Cieszyn Silesia there were two gymnasias (secondary schools) where wealthier local peasants, often Lutherans, sent their sons to pursue education. One such individual was Andrzej Kotula, who attended the Lutheran Gymnasium in Cieszyn between 1836 and 1842. He subsequently completed a two-year course in philosophy in Bratislava, where he had the opportunity to come across the leaders of the emerging Slovak national movement, including Ľudovít Štúr. His schoolmate, Andrzej Cinciała, came from a less affluent peasant family. He graduated from the Lutheran Gymnasium a few years later (having interrupted his studies intermittently to earn additional income as a bookseller's assistant in Kraków, an economic writer in Kaczyce near Cieszyn, and finally as a clerk in Cieszyn). For both of them, attending school entailed clashes with urban life and the need to learn German – the language of instruction at the Gymnasium. Initially, they both regarded the dominant German culture as the superior and higher one,²⁴ and distanced themselves from the Polish-Cieszyn dialect spoken at home. However, identity changes

²² Ryszard Tomczyk, 'Proces karny w monarchii habsburskiej: od drugiej połowy XVIII wieku do 1918 roku', *Edukacja Humanistyczna*, xxviii, 1 (2013), 74.

²³ Later changes in the organisation of the judiciary were not made until the period between 1895 and 1897. The Act of 1 August 1895 defined the jurisdiction of the courts in civil matters. Later, the Act of 27 November 1896 introduced structural changes to the judiciary, including the establishment of 'industrial courts'.

²⁴ As Cinciała wrote of himself and several of his male friends: "all sons of peasants, all Lutherans, students at the Cieszyn Gymnasium, all of the same age and in the same class, all boarders, all Germans, although our parents did not speak a word of German", quoted from *Pamiętnik dra Andrzeja Cinciały notariusza w Cieszynie 1825–1898*, ed. Jan S. Bystroń (Cieszyn, 1931), 173.

occurred rapidly, as emphasised in Cinciała's recollection: "Kotula went to Pressburg (Bratislava) as a German, but there, once among Slovaks, he rubbed his eyes in disbelief".²⁵ In later years, Kotula recalled, *inter alia*, his friendly reception in Bratislava and the fact that no one there inquired about his nationality. In late 1843 and early 1844, Cinciała himself began to use German to make entries in his personal diary. However, they have not survived to the present day. His later diary notes, made between 1846 and 1853, are written in Polish. A turning point in Cinciała's life occurred when he was offered a job at Dr Ludwik Klucki's office. He later described this time as a period of national conversion, which he experienced, among other factors, through reading Polish books from Klucki's library. First of all, the kindness of his employer enabled Cinciała to complete his gymnasium education and subsequently pursue philosophy courses, and to engage in his first community activities. Among the most significant of these endeavours were the launch of the Society of Polish Language Learners [*Towarzystwo Uczących się Języka Polskiego*] and his editorial work on the first issues of *Tygodnik Cieszyński* [Cieszyn Weekly], the first Polish-language newspaper in the region.

However, the greatest challenge was to acquire the qualifications required to practise law, namely completing a law degree. The first regulations across the monarchy were introduced at the University of Vienna in 1753, followed by the University of Prague, a year later. At the end of the eighteenth century, law programmes at state universities lasted five years and covered a broad range of theoretical subjects.²⁶ In the ensuing decades, the duration of programmes and the allocation of subjects across semesters were subjects of an ongoing debate, and it was not until 6 November 1847 that the Court Chancellery approved a draft regulation introducing changes to the curricula of political and legal studies,²⁷ although discussions about the law programme continued until 1855. Upon completion of a law

²⁵ *Ibid.*, 174.

²⁶ For a detailed discussion on the subjects covered in each year of the law programmes, see Arthur Rasse, *Die Entwicklung der Juristenausbildung und der juristischen Berufsprüfungen in Österreich seit dem 18. Jahrhundert* (Wien, 2012), 28–9; Ryszard Tomczyk, 'Zmiany w nauczaniu prawa w monarchii habsburskiej. Początki wykładu uniwersyteckiego. Z historii prawa austriackiego', *Edukacja Humanistyczna*, xxx, 1 (2014), 78.

²⁷ For a detailed account of subjects, see Rasse, *Die Entwicklung*, 38–9.

degree, candidates seeking admission to the legal profession were required to pass a state examination, which varied depending on their intended career path.²⁸ The reformed law degree entailed four-year studies, with a slight reorganisation of subjects across programme semesters,²⁹ and the introduction of new speciality subjects, such as the compulsory lecture on the history of Austria. The universities offering legal education in Vienna, Graz, Salzburg, Innsbruck, Prague, Olomouc, Lemberg, Kraków and, later, Chernivtsi (from 1875) were all subordinated to the Ministry of Religious Denominations and Public Enlightenment. Further reforms to the legal education framework were introduced in 1893, with the enactment of a law on legal and political studies and government examinations,³⁰ and their specifics outlined in a relevant ministerial regulation.³¹

Once again, earning a degree proved less challenging for Andrzej Kotula, who studied law at the University of Vienna between 1845 and 1848.³² At the end of his studies, he was even a member of the Academic Legion [*Akademische Legion*]. Thanks to his connections with Stalmach and, through him, with Duke Jerzy Lubomirski, his university years came as a particularly significant formative period. In June, along with Stalmach, Kotula attended the Slavic Congress in Prague, where he publicly declared, for the first time, that the Polish inhabitants of Cieszyn Silesia belonged to the national community of Poles.

As for Cinciała, his legal studies in Kraków from 1848 to 1853, completed thanks to a semi-private scholarship and later his position as a tutor in the house of Counts Dzieduszycki, further reinforced his nation-oriented education developed during his gymnasium years. His time in Galicia also deepened the belief that being Polish was,

²⁸ Separate examinations were administered for judicial personnel, distinct from those required for officials of administrative and financial bodies, and separate examinations were administered for members of the diplomatic corps. Tomczak, 'Zmiany w nauczaniu', 81.

²⁹ For a list of subjects, see Rasse, *Die Entwicklung*, 77.

³⁰ *Reichsgesetzblatt* (lit. *Reich Law Gazette*, hereinafter: RGBL) (1893), 619–24. For a text in Polish, see *Zbiór ustaw uniwersyteckich ... z dodaniem niektórych innych ustaw i przepisów młodzieży uniwersyteckiej potrzebnych* (Lwów, 1903), 44–8.

³¹ Regulation of the Ministry of Religious Denominations and Public Enlightenment of 24 December 1893, in *Zbiór ustaw uniwersyteckich*, 48–60.

³² He studied law in Vienna together with Johann Demel, later a long-serving mayor of Cieszyn and a leader of the German liberal camp, and with Paweł Stalmach, who pursued his theological studies there.

by all means, a source of pride and fostered his engagement with further discovery of Polish history and culture.

IV

JUDGES, PROSECUTORS, NOTARIES AND ADVOCATES

Practising as a lawyer – a prestigious profession associated with public trust³³ – required that (in addition to meeting formal education and training requirements) candidates choose a specific, specialised professional development path. An individual holding a law degree could aspire to become a judge, a public prosecutor, a licensed legal adviser [Pol. *radca prawny*], an advocate, a notary, or an administrative official.³⁴ Until the mid-nineteenth century, the entry into these professions required a law degree, followed by a one-year traineeship in civil law and an equivalent traineeship in criminal law. Upon successful completion of a qualification examination, the candidate was appointed a junior court clerk [Pol. *auskultant*], subsequently promoted to a filling clerk [Pol. *aktuariusz*], a council minute-taker, a secretary and, ultimately, a judge. Thus, the education path was primarily practice-oriented. The Imperial Patent of 3 May 1853 established the internal organisation of the courts and their reporting hierarchy, introducing the principle under which only qualified individuals could be appointed as judges. The same Patent also codified the procedure regarding hiring, remuneration, leave entitlement, retirement pensions, etc.³⁵ In contrast, the December Constitution of 1867, a collection of six statutes, introduced the principle of judicial independence and regulated additional issues, of essence to legal professionals.³⁶

³³ Andrzej Krasnowolski, *Zawody zaufania publicznego, zawody regulowane oraz wolne zawody: Geneza, funkcjonowanie i aktualne problemy* (Warszawa, 2013).

³⁴ For more information about civil servants, see Ryszard Tomczyk, *Urzędnicy cywilni w Austrii (1740–1918). Studia z historii prawa i administracji* (Szczecin, 2012).

³⁵ RGBl (1853), 381–458. Further changes were introduced by the Act of 27 November 1896 which governed the court system; RGBl (1896), 643–62; Ryszard Tomczyk, 'Pragmatyka służbowa w Austrii. Od absolutyzmu oświeconego do wybuchu pierwszej wojny światowej', in *Tantum possumus, quantum scimus. Księga pamiątkowa dedykowana profesorowi Zdzisławowi Chmielewskiemu w siedemdziesiątą rocznicę urodzin* (Szczecin, 2012), 378–9.

³⁶ 'Jury courts' were established by the Act of 23 May 1873. For details, see Dziadzio, *Monarchia konstytucyjna*, 46–7 and 146–248.

The community of judges practicing in Cieszyn Silesia has not yet been the subject of analysis, despite being relatively sizeable – several judges typically worked in every district/county court. The District Court in Cieszyn employed 6 judges in 1877, and 30 judges and junior court clerks [*auskultants*] (including several with the title of counsellor at the Higher Regional Court in Brno) in 1914. Together, they formed a group of several dozen people with considerable standing. While the majority of judges diplomatically maintained their political impartiality, some would prioritise their political engagement. Nikodem Lipka (1791–1871) (ennobled in 1857), was born in Cieszyn (his father was a teacher) and became the president of the newly established District Court in 1849. He is remembered by the members of the Polish-aspiration movement as the first “to raise the banner of reaction against Polish nationality in Austrian Silesia”. During the inauguration of the jury courts in Cieszyn on 1 July 1850, he delivered a speech titled ‘Oslowieni’ [lit. salutations or greetings], which was printed together with the speech made by prosecutor Hubert. He used the address as an opportunity to articulate his views on the Silesian language,³⁷ and whenever he couldn’t find the right words, he incorporated borrowings from Czech official jargon, which he knew well as he had practised in Moravian courts.³⁸ On 6 July, he issued an appeal titled ‘The Department of the Society for Improvement in the National Language’, urging the officials to join this association.³⁹ Therefore, he was among the early advocates of the Silesian national community, which he depicted as residing between Moravia and Galicia.⁴⁰ Lipka represents a good example of ambiguity or uncertainty of self-identification – a phenomenon that emerged within the small community of judges in the mid-1850s. After 1867, this community also came to include individuals who actively supported Polish or Czech endeavours, including, for instance, in 1877, Jan Palasek, counsellor

³⁷ Zbigniew Greń, ‘Tożsamość śląska w systemie pojęciowym budzicieli polskiego życia narodowego na Śląsku Cieszyńskim w XIX wieku’, *Zeszyty Łużyckie*, lvii (2022), 151–83, 172–3.

³⁸ Before 1848, he had held the post of counsellor at the Commercial and Bill-of-Exchange Court [*Mercantilund Wechslergericht*] of the first instance in Brno, *Staatshandbuch* (1848), 547; *Tygodnik Cieszyński*, 4 (1 Feb. 1851), 29–30; Paweł Stalmach, *Jego życie i działalność*, ed. Ewa Grim (Cieszyn, 1910), 262.

³⁹ Cinciała, *Pamiętnik*, 93–4.

⁴⁰ ‘Z Cieszyna’, *Gwiazdka Cieszyńska*, xxiii (1870), 249.

at the Higher National Court,⁴¹ as well as Dr Jan Iwański,⁴² and, in 1914, Dr Andrzej Grodyński,⁴³ and Dr Jerzy Kisiała⁴⁴ at the District Court. It needs to be noted, however, that they were all born outside the region or (as in the case of Kisiała) that they remained active mainly after World War I.

The aforementioned Hubert was likely Josef Hubert, who was documented in 1851 as one of seven prosecutors serving in Austrian Silesia. At that time, two prosecutors worked in Cieszyn (the other being Dr August Weber) and one in Bielsko.⁴⁵ There is no available information regarding their public activities, which they likely refrained from, possibly out of concern about their professional careers.

V NOTARIES

Notaries in Austria were integrated into the state's judicial system as early as the reign of Joseph II.⁴⁶ However, the first comprehensive Austrian regulations governing the notary profession were introduced by the Imperial Patent of 20 September 1850, which laid down 'Notarial

⁴¹ Jan Palasek, Cinciała's gymnasium school mate, cf. Andrzej Cinciała, *Dziennik 1846–1853*, parts 1–2, ed. Marzena Bogus (Cieszyn, 2015), 65ff.

⁴² Jan Iwański (1849–1907) completed his studies in 1873 and earned a PhD in Law (LL.D.) in 1876. He worked in Cieszyn until 1881, cited after Janusz Spyra, *Pieniądz w służbie społeczeństwa* (Cieszyn, 2023), 86, 203.

⁴³ His real name was Andrzej Kusionowicz (1861–1925), born in Czchów. During his law studies, he lived in Cieszyn and served as the editor of *Gwiazdka Cieszyńska* from 1889 to 1890. He completed his law degree in Kraków in 1891, and subsequently worked at the office of Dr. Jan Michejda in Cieszyn. In 1897, he was appointed judge of the district court in Jabłonków (Jablunkov). This appointment was followed by a similar tenure in Strumień in 1903, and later by a position of judge at the District Court in 1907. In 1906, he changed his surname to Grodyński.

⁴⁴ Jerzy Kisiała (1881–1946) studied law in Vienna. He became a trainee judge at the District Court in Cieszyn, and subsequently a judge at the Municipal Court in Skoczów (from 1914). He was the first starost of Polish nationality in Cieszyn, see Józef Golec and Stefania Bojda, *Słownik biograficzny Ziemi Cieszyńskiej*, vol. 3 (Cieszyn, 1998), 122.

⁴⁵ *Schematismus des Kronlandes Schlesien 1851* (Troppau, 1851), 23.

⁴⁶ For a comprehensive study on the history of Austrian notaries, see Christian Neschwara, *Geschichte des österreichischen Notariats*, vol. 1: *Vom Spätmittelalter bis zum Erlass der Notariatsordnung 1850* (Wien, 1996); idem, *Geschichte des österreichischen Notariats*, vol 2: *1850 bis 1871 –Formierung eines modernen Notariats* (Wien, 2017).

Regulations' [*Notariats-Ordnung*].⁴⁷ The document defined the objectives of the profession, the scope of notaries' liability, and set out the requirements for entry into the profession (Austrian citizenship, impeccable reputation, proficiency in the languages of the relevant 'county', and successful completion of an examination for a licence to practise the profession of notary or advocate (the latter being regarded as more challenging). The number of positions corresponded to the division into judicial districts. Competitions for vacant positions were announced by Chambers of Notaries, while appointments were made by the Minister of Justice.⁴⁸ Each notary was licensed to practise exclusively in their designated judicial district. The notary was liable for whatever was agreed in any document authenticated with their signature, in the presence of two personally known witnesses, in one of the national languages. The subsequent Imperial Patent, dated 21 May 1855, further specified the requirements for entry into the profession: candidates had to be at least 24 years old, profess the Christian faith, and enjoy financial independence. Furthermore, they had to live in the judicial district where they intended to practice, and were required to have successfully passed a licensing examination to practise as a notary or an advocate.⁴⁹ Following a series of political reforms, new Notarial Regulations⁵⁰ were introduced by the Act of 25 July 1871. The objectives for the profession remained largely unchanged. However, in addition to passing an examination for a licence to practise as an advocate, a judge or a notary, candidates were required to have at least four years of professional experience in the judiciary, including two years of notarial practice. If the notary practiced in a district with a multilingual community, the Higher Court would decide on the language in which they had to conduct their official duties.

The notarial community in Cieszyn Silesia was relatively small, as there was one notary in each judicial district (with two practising in Cieszyn as an exception). The total number of appointments at any

⁴⁷ RGBI (1850), 1627–68.

⁴⁸ Paragraph 18 states that prior to taking the notarial oath, a deposit was required, which in Vienna amounted to 8,000 zloty. In towns with a population exceeding 30,000, the amount was 5,000 zloty. In towns hosting a court of first instance: 2,000 zloty, and, in all other locations, 1,000 zloty.

⁴⁹ RGBI (1855), 443–91.

⁵⁰ RGBI (1871), 161–204.

given time was therefore never greater than ten. It is important to note that the majority of those individuals from Polish-speaking families who entered the legal profession pursued notary career paths. In Cieszyn, this included Ernest Farnik (in 1857–80), Andrzej Kotula (1867–92), Andrzej Cinciała (1881–98), and later Antoni Kasprzak (1898–1923). This career choice was most likely influenced by several factors: the notarial examination was less challenging, the notarial profession offered specific financial advantages and greater stability, and, last but not least, the notary had to conduct their duties in the language spoken by the population of ‘their’ district. Given the limited number of available appointments, becoming a notary was not a straightforward task, and the case of Cinciała is particularly illustrative in this respect. Upon completing his degree, he declined the prospect of becoming an official (civil servant) as he did not wish to work in a subordinate role. Instead, he opted to become a notary or an advocate, planning to prepare for this practice while simultaneously working on his juridical doctorate (JD)⁵¹ dissertation (in Kraków or Cieszyn). His motivation was to serve the public.⁵² The trajectory of his career path was not straight all the way to the end – a topic that will be examined in more detail below.

VI ADVOCATES

Advocates constituted an elite group of individuals practising what was referred to as liberal professions. Liberal professions were regarded as symbolically prestigious but required solid education, self-discipline and a sense of diplomacy.⁵³ Practising advocates were licensed to represent their clients in all judicial, extrajudicial, public and private matters. On the one hand, being an advocate (or member of the Bar) was an official function embedded within the state’s legal system (and was subject to regulations which defined the rights and responsibilities of its members). On the other hand, this occupation was also a source of

⁵¹ Juridisch Doctorgrad (JUDr), Doctor of Law (LL.D.)

⁵² For a description of final examinations, see Cinciała, *Dziennik 1846–1853*, 747, 798–800, 803, 813, 817, and 820.

⁵³ Ernest von Koerber (1850–1919), a politician, the Prime Minister of the Government of Vienna, and trained lawyer, referred to advocates as ‘praetorians of justice’.

income.⁵⁴ The foundation for the Austrian advocate profession was laid down by three pieces of legislation. The first one was the provisional Law on the advocacy, which was enacted on 16 August 1849⁵⁵ and temporarily defined the requirements for entry into the profession (a JUDr degree [a doctorate of law – LL.D] was required, together with some experience of working at the office of a national advocate, in a court of law or in a fiscal administration agency, and a completion of an examination for a licence to practise). The second one was the Regulation of 29 July 1850, which set out the rules for official examinations for students pursuing degrees in law and political science.⁵⁶ The third one was the law regulating the framework for advocate traineeships and for the licensing examination.⁵⁷ The traineeship had to last four years and had to be completed primarily at the office of a practising advocate, including twelve months in a court of law and six months at the office of a public prosecutor. The completion of the traineeship was a prerequisite for eligibility to sit the advocate licensing examination.⁵⁸ In 1854, a new regulation was introduced, revising the rules governing both the traineeships and the licensing examination.⁵⁹ The Minister of Justice retained the authority to appoint advocates, with an average waiting time for appointment extending to approximately twelve years – a practice commonly referred to as ‘protectionism policy’.⁶⁰ Significant reforms to the profession were implemented through the 1868 legislation which established a disciplinary framework for advocates.⁶¹ Candidates were required to hold a degree in legal and political science from an Austrian university, a LL.D. degree, a seven-year traineeship, and to successfully pass a licensing examination. This

⁵⁴ Ernst Mischler and Josef Ulbrich, *Österreichisches Staatswörterbuch: Handbuch des gesamten Österreichischen öffentlichen Rechtes* (Wien, 1905), 30–1.

⁵⁵ RGBl (1849), 647–50. For a discussion of the advocate profession in the Austrian Empire, see Adam Redzik and Tomasz J. Kotliński, *Historia adwokatury* (Warszawa, 2012), 106–27.

⁵⁶ Regulation of the Minister of Religious Denominations and Public Enlightenment of 30 July 1850, RGBl (1850), 1369–80.

⁵⁷ Regulation of the Minister of Justice of 7 Aug. 1850, RGBl (1850), 1383–90.

⁵⁸ For a detailed account of the conduct of both oral and written examinations, see Tomasz Kotliński, ‘Kandydatura adwokacka w Galicji w latach 1849–1932’, *Palestra*, ix–x (2012), 243–51.

⁵⁹ Regulation of the Minister of Justice of 11 Oct. 1854, RGBl (1854), 993–5.

⁶⁰ Friedrich Kübl, *Geschichte der österreichischen Advokatur* (Wien, 1981), 112.

⁶¹ RGBl (1868), 274–82.

regulation granted them independence from the courts and broadened their access to the profession at a time when the number of advocates was rapidly growing. Practising advocates were prohibited from simultaneously holding the position of state official, notary or serving in any other professional capacity that was deemed incompatible with the objectives of the advocacy. Bar associations at that time were entrusted with overseeing advocates' compliance with law and professional standards. They also kept official registers of advocates.

Due to the high statutory requirements for entry into the profession, relatively few individuals who held law degrees and came from Polish-speaking families aspired to join the profession. In 1851, only 10 advocates were practising in the area under study, including six in Opava and two in Cieszyn (Ludwik Klucki and Anton Demel),⁶² although both had been licensed to practise earlier. By the early 1870, the Opava Bar's register of advocates already listed 25 professionals, including three in Cieszyn, three in Bielsko, and the remaining ones practising in other towns in the region. By 1888, the number of registered advocates had increased to 57,⁶³ with 12 in Cieszyn alone, including 10, such as Johann Demel von Elswehr and his son Leonhard, who represented the German community in their town and across the region. Germans constituted the vast majority (86%) among the lawyers practicing in Austrian Silesia. Czechs were represented by four lawyers (two in Frýdek and two in Opava). Among those associated with the Polish national movement were Alojzy Eisenberg, Mikołaj Klakurka, Joachim Kleinberg⁶⁴ and Jan Michejda, but only Michejda originated from Cieszyn Silesia.

VII IDENTITY-RELATED DILEMMAS AMONG LAWYERS OF POLISH ORIGIN IN CIESZYN SILESIA

In addition to justifiable concessions in their lives, lawyers practising in Cieszyn Silesia and aligned with the pro-Polish camp faced a major

⁶² *Schematismus des Kronlandes Schlesien 1851*, 46.

⁶³ *Amtsblatt zur Wiener Zeitung*, xii (1889), 74.

⁶⁴ Joachim Kleinberg was among the lawyers who completed their legal studies in Kraków and subsequently undertook the legal training required to obtain a license to practice in Cieszyn Silesia.

identity-related dilemma, which could be succinctly defined as an inner tension between their Polish patriotism and their Habsburg loyalism.⁶⁵ Such quandaries were prevailing across all the countries subordinate to the Viennese dynasty in the nineteenth century, but the legal community was expected to set aside any radical, nationally oriented demands, as its role required strict adherence to the law. According to the regulations governing their practice, lawyers should represent various social and national communities. In the case of the aforementioned 'awakeners' of plebeian origin, it is important to recognise that their integration into the nation⁶⁶ came as a gradual process shaped by their immediate community, their broader (extra-regional) contacts, and their affiliation with a new social stratum.⁶⁷

The people of Cieszyn Silesia exhibited both fascination with and strong resistance to the German language and culture, which were presented as universal, both functionally (the need to communicate in the official language) and spiritually. In this region of mixed nationalities and languages, with a significant percentage of the Czech population, Pan-Slavic tendencies, or more precisely, the ideas promoting cooperation among all Slavs, played a notable role. For a time, these tendencies served as a tactical response to the promoted pro-German assimilation.

A figure whose biography reflects a convergence of many different dilemmas is the aforementioned Dr Ludwik Klucki (1801–77). Although of Moravian origin, Klucki played a significant role in the birth of the Polish national movement in Cieszyn Silesia. Born in Hranice, he pursued his education in Brno, Klagenfurt and Ljubljana, ultimately earning a LL.D. degree after completing his legal studies in Pavia. He was sentenced to death for his ties with the Italian nationalist movement, but eventually spent only four years in prison. After completing his legal traineeship in Vienna, he worked

⁶⁵ This phrasing is borrowed from the title of the book by Stanisław Pijaj, *Między polskim patriotyzmem a habsburskim lojalizmem. Polacy wobec przemian ustrojowych monarchii habsburskiej (1866–1871)* (Kraków, 2003).

⁶⁶ Józef Chałasiński, *Młode pokolenie chłopów*, vol. 1 (Warszawa, 1984), 129.

⁶⁷ Stanisław Pigoń described the process as an integration into the intelligentsia, along with all its attendant implications; id., *Z Komborni w świat. Wspomnienia młodości* (Warszawa, 1983), 168.

as a justiciar in the village of Hukvaldy in Moravia.⁶⁸ Already in his teenage years, Klucki demonstrated an ability to reconcile his own beliefs with the need to navigate a reality shaped by political and geographical circumstances, as was the case during the rule of Chancellor Klemens von Metternich. In 1831, he settled in Cieszyn and established a law practice, as one of only two advocates (the other being the aforementioned Anton Demel) in Cieszyn Silesia. The two were not particularly fierce competitors, as Demel served primarily German clientele, while Klucki focused on Poles, including those living in neighbouring Galicia. Although a Slavophile, Klucki married a German woman, and German was the language spoken within the family. Nevertheless, he was fluent in Polish and preferred to use it when communicating with local peasants. His daughters also demonstrated eagerness to learn Polish. He issued documents in Polish for his non-German-speaking clients, and in a court setting, despite proceedings being conducted in German, he recorded the names of his clients and the names of their towns of residence in Polish.⁶⁹ Although he treated the employees at his office with almost fatherly care, his actual social circle comprised members of the local elite, with whom he maintained cordial relations: the starost of the Cieszyn District, members of the small local nobility, and Joseph Kalchegger von Kalchberg, Director of the Cieszyn Chamber (*er Kammer*). He skilfully balanced cooperation with Catholics and Lutheran, e.g. with the Dean of Cieszyn, Józef Paduch, and Rev. Andrzej Żlik.⁷⁰

Klucki regarded himself as 'Slav', believing that his homeland reached as far as the Slavic language,⁷¹ but did not overtly express his national beliefs. His position of trust within the management of the Cieszyn Chamber [*Der Kammer*] allowed him to launch *Tygodnik Cieszyński*, the first Polish-language magazine in Cieszyn Silesia.

⁶⁸ Józef Chlebowczyk, 'Klucki Ludwik', in *Polski Słownik Biograficzny*, xiii (1967), 15–6; Edward Buława, 'Ludwik Klucki (1801–1877) na tle rozwijających się ruchów politycznych i narodowych na Śląsku Cieszyńskim', *Pamiętnik Cieszyński*, xv (2000), 38–49.

⁶⁹ Edward Buława, 'Cieszyńskie uwikłania ideologii słowiańskiej przed rokiem 1848', *Pamiętnik Cieszyński*, vii (1993), 126–8.

⁷⁰ Ultimately, Żlik began attacking Klucki in *Nowiny dla ludu polskiego*.

⁷¹ From a letter to Alojzy Šembera, 7 Nov. 1844, cited after Milan Kudělka, 'Z obrozenské korespondence těšínské', *Slezský Sborník*, 1, 4 (1952), 567–8; Edward Buława, 'Ludwik Klucki (1801–1877)', *Kalendarz Cieszyński* (2001), 237.

He personally incurred the financial burden of the publication, which began its circulation in May 1848 (he resigned in March 1849, following the imposition of a security deposit requirement on political periodicals). Klucki's house initially served as the editorial headquarters of *Gwiazdka Cieszyńska* [Cieszyn's Little Star], the successor to *Tygodnik Cieszyński*, and also functioned as the venue of the Polish Library [*Czytelnia Polska*]. Klucki enjoyed considerable public esteem. He was elected Commander of the National Guard (he later resigned due to the actions of the Frankfurt faction), and when a decree was issued permitting the simultaneous holding of the offices of advocate and mayor, Klucki was appointed mayor of Cieszyn.⁷² During his tenure (1850–61),⁷³ he supported Polish aspirations, for example, by facilitating the introduction of Polish street names in Cieszyn. Additionally, amidst the Neoabsolutist era, he was able to negotiate some necessary concessions, including the final steps in establishing the Communal Savings Bank in 1859. He also became the president of the Popular Library [*Czytelnia Ludowa*], which was founded in 1861 and remained for many years the foremost institution of Polish national life. He continued to advocate for the strengthening of the Slavic identity of the regional population. In 1864, he handed the office over to his son Sobiesław. Ludwik Klucki, an advocate practising within a distinct legal framework and actively engaged in various spheres of communal life, demonstrated an ability to reconcile at times conflicting ideas, skilfully navigating a multifaceted reality. He permitted his sons to take their own paths. Sobiesław (Sobieslaus) became an active supporter of the German party in Cieszyn, for example in the National Diet in Opava, while his brother, Stanisław, chose Polish patriotism by relocating to Galicia, where he served as a Polish member of the National Diet.

Klucki's law office served as a formative place for individuals in the early stages of their identity-formation process. Among them was Andrzej Cinciała (1825–98), who, upon returning to Cieszyn in 1853, started practising as an advocate under Klucki's mentorship, while preparing to defend his LL.D. in 1858, and passing a notary licensing examination in 1859. However, knowing that he could not secure an independent position, in 1863, he agreed to become a substitute

⁷² *Przegląd Wypadków Politycznych*, 8 (31 Aug. 1850), 63.

⁷³ In the first election following the collapse of the Neoabsolutist era, Johann Demel, Anton's son, succeeded Klucki and held this position until his death in 1892.

for Dr Johann Demel, a rising star of Cieszyn and Austrian liberalism (by way of exception, the Ministry of Justice, allowed him to open a second notary office in Cieszyn). This cooperation was reportedly a reluctant compromise. During the Neoabsolutist era, Cinciała engaged in various joint activities with the Germans (e.g. theatre performances, organisation of the celebrations of the 1050th anniversary of the legendary founding of Cieszyn), while advocating for the Polish language to be granted an equal status with German. Following the political breakthrough, he was involved in the establishment of the Popular Library, where he worked as a secretary and a treasurer. Cinciała's tenure as substitute for Demel lasted two years, and thereafter he sought to obtain a notarial position in Skoczów. During a competition for this appointment, his rival made a slanderous report to the Minister of Justice, accusing Cinciała of being a Pan-Slavist. Therefore, in 1865, he had to accept the position of notary in Šilperk (now Štítý) in Moravia. In 1867, he managed to move to Fryštát, and in 1881, with the backing of numerous patrons, he came back to Cieszyn. Upon return, he re-engaged in nationalist activities within associations and made notable contributions by writing legal guides in Polish for the general public. He also authored collections of local proverbs and dialect expressions.

Andrzej Kotuła (1822–91), who preceded Cinciała in public engagement,⁷⁴ graduated in Vienna in 1848. Interested initially in natural science, he intended to teach this subject at a Lutheran secondary school,⁷⁵ and his decision to study law was likely influenced by his family's rational assessment of the legal profession's greater income-earning potential. His career path opened with the enactment of a 1849 ministerial decree under which he was appointed as *auscultant*, i.e. a junior court officer at Cieszyn county court. It was already then that he adeptly balanced his career at the court with communal activities. Following in the footsteps of Klucki and Cinciała, he actively advocated for making Polish the official language at public offices,

⁷⁴ The presented prominent figures are based on the author's original research, as detailed in the monograph: Marzena Bogus, *Kotulowie i ich działania oświatowe na Śląsku Cieszyńskim w XIX i XX wieku* (Ostrava, 2006), 117–52.

⁷⁵ He was disqualified as a candidate following his participation in the Slavic Congress in 1849, where Duke Jerzy Lubomirski delivered his memorial 'Why would Silesia, if Slavic in nature, desire union with Poland?' [*Dlaczego Śląsk, o ile jest słowiański, łączyć się chce do Polski*].

courts and schools in Cieszyn Silesia. He was also a translator of official documents. His earliest published work was a poster in German, Polish and Czech, announcing the edict of the Governor of Austrian Silesia, Joseph Kalchegger von Kalchberg, dated 15 October 1849, regarding the purchase of land by former subjects.⁷⁶ This initiative was part of a broader project aimed at translating documents related to the abolition of serfdom into a language accessible to the peasantry. Kotula was a member of the project team, along with Jerzy Kukucz and Paweł Stalmach, and was responsible for reviewing the translations. In this respect, the 'awakeners', possessing the proficiency in literary Polish, became involved in activities comparable to Nikodem Lipka's efforts to create the Silesian language, as their translations were rendered in the dialect used in the Cieszyn District.⁷⁷ Kotula wrote for *Tygodnik Cieszyński* and was also the main author of the constitution (or statutes) of the Library of the Nation of the Cieszyn Land [*Biblioteka Ludu Kraju Cieszyńskiego*]. In 1854, he was transferred to Hungary, where he worked as a land registry clerk in Ipoly-Ságh, and became a fully qualified notary. Upon returning to Cieszyn Silesia, in the early 1858, he became a notary in Fryštát, a town located several kilometres from Cieszyn, which enabled him to support locally emerging nationalist initiatives. He held this position for a decade. In 1867, he successfully competed for the position of notary in Cieszyn.⁷⁸ He would join nearly all newly established institutions, and often draft their founding documents or statutes. He was equally involved in cultural and educational projects,⁷⁹ refining his proficiency in the native language, and producing poems and articles for newspapers. As a proponent and activist of Polish societies, he based their legal frameworks on Austrian laws, in line with the political and social realities of the day, careful to keep their initiatives in delicate balance. While critical of the German civic loyalty,⁸⁰ he emphasised the equality among all nations and nationalities, asserting that the respect

⁷⁶ Buława, *Pierwsi szermierze*, 138.

⁷⁷ Cinciała, *Dziennik*, 68–69, 668.

⁷⁸ Reportedly, he owed the appointment mainly to a letter of recommendation from Countess Franciszka Larisch, whose influence ultimately surpassed the authority of the Minister of War, Cinciała's contender for the same position. Cf. *Pamiętnik dra Andrzeja Cinciały*, 115–6.

⁷⁹ *Gwiazdka Cieszyńska*, xxii (1869), 280.

⁸⁰ *Ibid.*, 12.

for national rights fostered freedom as the foundation of Austria's greatness.⁸¹ This perspective reflected the experience of the region's inhabitants and their life within the empire. As previously noted, Kotula worked closely with slightly younger Cinciała. The two shared not only their humble peasant origins and schooling but also similar career paths and, last but not least, the profession (facilitated thanks to their 'German' contacts), a job that offered their families a relatively wealthy life and secured proper education for their children (this was particularly important for Kotula, the father and stepfather of seven). Both were held in high regard in Cieszyn. An analysis of records from their notarial offices reveals that in addition to Polish clients, they also served German and Jewish businessmen, and provided services to German financial institutions. This indicates their ability to manage various expectations. It is also noteworthy that both notaries were Lutherans who constituted the minority in Cieszyn Silesia (and accounted for 25–30 per cent of the population). This affiliation entailed the obligation to show religious solidarity and engage in works for the benefit of the Protestant community. In 1861, Cinciała was elected to the presbytery of the Lutheran Church in Cieszyn, while Kotula was a long-time member of a broader representative body of that organisation. Within their religious community, they encountered fellow Protestants who did not necessarily share their political views. Nevertheless, despite their national identities, they continued to work for the benefit of the entire Protestant community. In turn, Dr Jan Michajda (1853–1927), the first Polish advocate in the region,⁸² had to deal with interdenominational animosities within the Polish national camp. Together with his brother Franciszek, a pastor in Nawsie, Michajda led the Polish-speaking Protestant minority in the area.⁸³ Like the lawyers discussed above, Michajda came from a peasant family.

⁸¹ Buława, *Pierwsi szermierze*, 180.

⁸² Formally, the first was Dr Alojzy Eisenberg (1830–1913), who earned his LL.D. at the University of Graz in 1855. On behalf of the Polish national camp, he served as a member of the National Diet in Opava (between 1861 and 1866, and between 1871 and 1872), and was actively engaged in some debates, including those on the status of Polish as the national language. Professionally, he practised as an advocate in Biała and, from 1880 onward, in Bielsko.

⁸³ Ludwik Brożek, *Michajda Jan (1853–1927)*, in *Polski Słownik Biograficzny*, xx (1975) 668–9; Milan Myška (ed.), *Biografický slovník Slezska a severní Moravy. Nová řada*, Seš. viii (20), (Ostrava, 2006), 30.

Upon completion of law studies in Kraków and Vienna, he obtained a LL.D. in 1877 and opened a law practice in Cieszyn in 1882. In addition to his professional practice, he was involved in extensive communal and political work. In the early twentieth century, he was a member of almost all of the dozens of Polish associations and institutions. He held management positions within these organisations and provided them with professional advice. The praise and approval he earned in these roles (combined with his prosperous legal practice) contributed to his election as a member of the National Diet in Opava (1890–1918) and the Parliament of Vienna (1901–7, 1911–18). This advancement was possible through his, at times challenging, cooperation (particularly during parliamentary campaigns) with the then leader of Polish Catholics, Father Józef Londzin – a topic extensively discussed by the authors of his biographies. In his parliamentary activities, he stood out for his effectiveness and aptitude for compromise. These qualities contributed to his appointment as the only Slavic MP to serve on the National Department, the permanent executive body of the Silesian Diet. Among his notable initiatives was the formation of a coalition of Polish, Czech and German MPs in the Silesian Diet in 1890, in an effort to improve the status of folk teachers. As a result, the Act on the Maintenance of Folk Schools was amended in 1901, and teachers' salaries were raised significantly.⁸⁴

It appears that questions of national identity did not present significant dilemmas for the aforementioned lawyers, especially after their university years, during which they transitioned from identifying as 'Germans' from Cieszyn to becoming defenders of their fathers' nation. One notable exception – though likely not the only one – is Jan Santarius of Orłowa. A younger associate of Cinciała, also a member of the Society of Polish Language Learners, Santarius underwent a shift in his national identification following the completion of his education. Allegedly forced by his father to pursue university studies in Vienna, in 1861, he became a court official in Cieszyn, later in Skoczów and Widnawa, before being ultimately appointed a notary in Bogumin (in 1872). It is possible that, in his case, the influence of his professional peers in the capital or a pragmatic assessment of the 'right' career contributed to a reversal of the identity transformation pattern, observed in the previously discussed cases. All in all, Cinciała

⁸⁴ Bogus and Spyra, *Nauczyciele oraz ich stowarzyszenia*, 292–6.

did not hold a positive view of him, remarking that “the work I did to teach him Polish was wasted, because he became German and was hostile to the people”.⁸⁵

CONCLUSION

Living and working in a state of multiple nationalities definitely posed greater challenges than the existence in an ethnically homogeneous society. Nevertheless, the cultural traditions of the Habsburg Empire, with its multitude of languages and ethnic loyalties, including religious affiliations and civil rights, enabled its inhabitants in the second half of the nineteenth century to make their own identity choices. Within this multi-ethnic community, a balance could be negotiated among various interests (political, social, economic and ethnic),⁸⁶ while the geographical expanse of the empire and the freedom to travel within its borders, including for educational purposes, offered people an opportunity to broaden their horizons. The expertise and the intellectual circles with which the aspiring lawyers from Cieszyn Silesia associated influenced their choice of a particular ‘ethnic framework’. However, the assumptions regarding the dilemmas around ambiguous identity, dual identification, potential national indifference or even non-national identity have not been substantiated in the research examining the sources and ego-documents of selected lawyers. Indeed, connections and interdependencies existed between spatial concepts and the political conditions prevailing within regions, nations, and states, which individuals needed to navigate competently. However, the choice of the legal profession, and, therefore, higher education and a clear sense of direction in life, contributed to the crystallisation of their views (ethnic affiliation), allowing for acceptance of cultural dualities and participation in both German and Polish regional and supra-regional heritages. Polarisation could occasionally influence career choices, shaped by family circumstances. Moreover, there were cases of individuals who would change their national

⁸⁵ *Pamiętnik dra Cincialy*, 65.

⁸⁶ Gerald Stourzh, *Die Gleichberechtigung der Nationalitäten in der Verfassung und Verwaltung Österreichs 1848–1918* (Wien, 1985); Emil Brix, ‘Habsburg Lessons for Europe’, in Martin Eichinger, Stefan Karner, Mark Kramer, and Peter Ruggenthaler (eds), *Reassessing History from Two Continents: Festschrift Günter Bischof* (Innsbruck, 2013), 293–304.

(ethnic) affiliation in adulthood, but such shifts represented simply the choice of a specific option. Some lawyers from Polish-speaking family backgrounds chose to identify with the German nation (e.g. Jan Santarius). Some opted for Silesian ethnic affiliation (Nikodem Lipka) or transformed the youthful sense of belonging to German culture into an unambiguous affirmation of 'Polishness' (Andrzej Kotula, Andrzej Cinciała). This process of identity crystallisation occurred as early as at the choice of law school (Kraków, Lemberg, Vienna, Pressburg) or during university studies (engagement with a particular community, opportunities to follow the intended career path, participation in a spiritual or political culture of their choice). While it was a statutory requirement that all lawyers be citizens of the monarchy, this did not affect their sense of national (ethnic) affiliation. Indifference to this issue may have been more common among the less-educated classes; however, among the intelligentsia, comprising the above-described judges, advocates and notaries, no such attitude was observed. It needs to be noted, though, that these conclusions are drawn from the research into a subset of the population of Polish-origin lawyers (based on the sources available). The documents reveal the relational nature of their business, and this dynamic extends beyond individuals from Polish-speaking family backgrounds. Their profession was characterised predominantly by a sense of cooperation (J. Demel, a committed German, employed A. Cinciała, a vocal Polish activist). When tensions did arise, they were the result of radical nationalist positions rather than the product of inter-ethnic barriers. All in all, the rationality common to this profession can be summarised by the maxim *Plus ratio quam vis* (Reason is superior to force). And to end, please note that based on surviving sources, the analysis was limited to only a subset of the legal community.

Translated by Dawid Mnich

Proofreading by Joanna Ruszel

SELECTED BIBLIOGRAPHY

- Baltl Hermann, and Gernot Kocher, *Österreichische Rechtsgeschichte von den Anfängen bis zur Gegenwart* (Leykam, 2004).
- Bogus Marzena, *Kotulowie i ich działania oświatowe na Śląsku Cieszyńskim w XIX i XX wieku* (Ostrava, 2006).

- Cinciała Andrzej, *Dziennik 1846–1853*, parts 1–2, ed. by Marzena Bogus (Cieszyn, 2015).
- Hroch Miroslav, *Małe narody Europy. Perspektywa historyczna* (Wrocław, 2001).
- Judson Pieter M., *Imperium Habsburgów. Wspólnota Narodów* (Warszawa, 2024).
- Neschwara Christian, *Geschichte des österreichischen Notariats*, vol. 1: *Vom Spätmittelalter bis zum Erlass der Notariatsordnung 1850* (Wien, 1996).
- Pamiętnik dra Andrzeja Cinciały notariusza w Cieszynie 1825–1898*, ed. Jan S. Bystron (Cieszyn, 1931).
- Rasse Arthur, *Die Entwicklung der Juristenausbildung und der juristischen Berufsprüfungen in Österreich seit dem 18. Jahrhundert* (Wien, 2012).
- Stourzh Gerald, *Die Gleichberechtigung der Nationalitäten in der Verfassung und Verwaltung Österreichs 1848–1918* (Wien, 1985).
- Tomczyk Ryszard, 'Proces karny w monarchii habsburskiej: od drugiej połowy XVIII wieku do 1918 roku', *Edukacja Humanistyczna*, xxviii, 1 (2013), 67–79.
- Tomczyk Ryszard, 'Zmiany w nauczaniu prawa w monarchii habsburskiej. Początki wykładu uniwersyteckiego. Z historii prawa austriackiego', *Edukacja Humanistyczna*, xxx, 1 (2014), 73–88.

Marzena Bogus-Spyra – history of education in nineteenth-century Austrian Silesia; professor at Jan Długosz University of Częstochowa; e-mail: m.bogus@ujd.edu.pl