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Legal Reforms of Agrarian Relations in the Duchy of Warsaw between 1807 and 1809

Reformy prawne stosunków agrarnych w Księstwie Warszawskim w latach 1807–1809

ABSTRACT

The article analyses the reforms of agrarian relations, which were carried out during the first years of the Duchy of Warsaw, created as a result of the peace treaties of 1807. The legal status of peasants was at that time initially regulated in a general way by the provisions of the Constitution granted by Napoleon Bonaparte on 22 July 1807. These provisions were then made more specific with the promulgation of the Decree of 21 December 1807, which brought about the abolition of serfdom and allowed peasants to move within the territory of the Duchy. According to the Decree, the land was the property of the lord and a peasant leaving the village should return the land to the lord along with the crops, the buildings and the livestock. This meant that after the Decree came into force, there was a possibility of unlimited eviction of peasants, as well as increasing serfdom burdens. It should be noted, however, that due to the considerable depopulation of the country at that time and the emerging difficulties in providing manpower for the manor house, eviction was used relatively rarely. Nevertheless, later on, the reform carried out by this Decree was said to "remove peasant's boots along with his shackles". In this article, the author analyses the provisions of this Decree in the context of regulations resulting from the Constitution of the Duchy, Napoleonic Code and the Decree of 23 February 1809 introducing a temporary organisation of rural communes. The reflections on peasant reforms in this period were supplemented by an analysis of the socio-economic situation in the lands forming the Duchy and selected statements that appeared in the relevant literature on the peasant question from the past till the present.

Keywords: Duchy of Warsaw; serfdom; peasants; legal reforms

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INTRODUCTION

As a result of the decisive victory of Napoleon Bonaparte against the troops of the Fourth Anti-French Coalition in the Battle of Friedland on 14 June 1807,[1] the Prussian troops were routed and the Russian troops retreated across the Neman River, while Tsar Alexander I was forced to make peace with Napoleon.[2] Under the provisions of the Franco-Russian peace treaty of 7 July and the Franco-Prussian peace treaty of 9 July 1807, the Duchy of Warsaw was created from most of the Polish lands seized by Prussia during the partitions.[3]

This country, according to Joachim Lelewel,[4] could not boast full independence,[5] and it would not be an exaggeration to describe it as dependent on the French Empire.[6] This dependence was primarily political,[7] but this did not change the fact that, in addition to this political dependence, there was also economic dependence, which was largely created on a planned basis, as a result of the political dependence

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[1] See M. Kukiel, *Dzieje wojska polskiego w dobie napoleońskiej 1795–1815*, vol. 1, Warszawa 1918, pp. 191–194; idem, *Wojny napoleońskie*, Warszawa 1927, pp. 164–165; R. Bielecki, *Historia wojen napoleońskich*, Warszawa 2001, pp. 180–182. About the participation of Poles in this battle, see J. Pachoński, *Wojskowość polska w dobie Legionów i Księstwa Warszawskiego 1795–1815*, [in:] *Zarys dziejów wojskowości polskiej do roku 1864*, ed. J. Sikorski, vol. 2, Warszawa 1966, p. 317; E. Kozłowski, M. Wrzosek, *Dzieje oręża polskiego*, vol. 2, Warszawa 1973, p. 70.

[2] See E. Tarle, *Napoleon*, Warszawa 1946, pp. 151–155; G. Lefebvre, C.H. Pouthas, M. Baumont, *Historia Francji*, vol. 2, Warszawa 1969, pp. 158–159; J. Baszkiewicz, *Historia Francji*, Wrocław 1999, pp. 392–393.

[3] See M. Kallas, *Ustawa Konstytucyjna Księstwa Warszawskiego z 1807 r.*, [in:] *Konstytucje Polski. Studia monograficzne z dziejów polskiego konstytucjonalizmu*, ed. M. Kallas, vol. 1, Warszawa 1990, p. 109. About the political and legal concepts of building the Duchy of Warsaw proposed by Adam Czartoryski's circle, see M. Zarychta, *Propozycje ustrojowe Adama Jerzego Czartoryskiego i jego otoczenia (1813–1815)*, "Przegląd Historyczny" 2006, no. 4, pp. 495–511.

[4] For more about Lelewel's interest in the history of the state and law, see J. Adamus, *Lelewel jako historyk prawa*, "Czasopismo Prawno-Historyczne" 1962, vol. 1, pp. 9–34. Marceli Handelsman emphasised that Lelewel was "the first truly modern historian in Poland". See M. Handelsman, *Joachim Lelewel: próba charakterystyki twórczości*, "Przegląd Historyczny" 1937–1938, no. 1, p. 336.

[5] See J. Lelewel, *Trzy konstytucje polskie 1791–1807–1815*, Poznań 1861, p. 83.

[6] Cf. W. Sobociński, *Historia ustroju i prawa Księstwa Warszawskiego*, "Roczniki Towarzystwa Naukowego w Toruniu" 1963, vol. 1, pp. 96–97; K.K. Daszyk, *Między rozbiorem pierwszym a... szóstym. Dzieje polskie lat 1772–1815 w refleksji historiograficznej Joachima Lelewela*, [in:] *Studia z dziejów wsi polskiej na przełomie XVIII i XIX wieku*, eds. T. Kargol, B. Petryszak, K. Ślusarek, Kraków–Lwów 2015, pp. 24–28. On the attitude of Poles to the Treaties of Tilsit, see M. Kallas, *Konstytucja Księstwa Warszawskiego. Jej powstanie, systematyka i główne instytucje w związku z normami szczegółowymi i praktyką*, "Studia Iuridica" 1970, vol. 3, pp. 20–21.

[7] Cf. Hugo Kołłątaj's deliberations on the establishment of the Duchy of Warsaw, contained in particular in Chapter II (*Co sądzą obcy i nasi krytycy o Księstwie Warszawskim*) and Chapter III (*Jakie przyczyny znagliły Wielkiego Napoleona do odmiany polityki w Europie, i do wprowadzenia nowego jej układu*) – *Uwagi nad teraźniejszym położeniem tej części ziemi polskiej, którą od pokoju tylżyckiego zaczęto zwać Księstwem Warszawskim*, Lipsk 1810, pp. 80–94, 95–112.

(debt towards France based on fictitious entitlements or military conquest, inclusion in the continental blockade system).[8]

J. Lelewel noted that the creation of the Duchy and Napoleon's simultaneous donation of large land estates on its territory qualified for recognition as the fourth partition of Poland. What is more, this outstanding 19th-century Polish historian concluded that during the period of the Duchy of Warsaw there was also the fifth partition of Poland, because "as a result of the peace concluded in Vienna, [in the year] 1809, on 14 October, Galicia, known as New Galicia, together with Zamość (…) was attached to the Duchy of Warsaw. (…) Napoleon left old Galicia to Austria, except the Tarnopol *Oblast*, i.e. a part of former Podolia, which he returned to Russia [allied with France at that time]. That is how Napoleon squandered Polish lands for the benefit of Russia, it was the fifth partition of Poland".[9]

It is also worth recalling at this point that the Polish phrase *sumy bajońskie* (literally "Bayonne sums" – huge amounts of cash) dates back to the period of the Duchy of Warsaw. This phrase, which gained a proverbial meaning in Polish, originally referred to the sums which Napoleon Bonaparte charged to the Treasury of the Duchy of Warsaw for the following: the loan granted to the Duchy of Warsaw, the transfer of Prussian treasury property, the transfer of the captured cannons as well the sums mortgaged on land estates in the Duchy which was due to the Prussian treasury.[10]

It is hard to disagree with the above statements about Napoleon, who made the Duchy of Warsaw a base for his further warfare. We find confirmation of these facts as early as on 30 June 1807, when 30 imperial decrees were issued, which included individual land grants for 27 French and 3 Polish marshals and gener-

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[8] W. Sobociński, *Księstwo Warszawskie a Cesarstwo Francuskie: zależność faktyczna i prawno-międzynarodowa: rezultaty przeobrażeń wewnętrznych*, "Przegląd Historyczny" 1964, no. 1, pp. 47–48; idem, *Historia ustroju i prawa Księstwa…*, pp. 18–19. Karl Marx wrote that, "the Duchy of Warsaw, small, without any position in Europe, felt the burden of its economic dependence, high enumeration of the officials; it was under the civil rule of Saxony and military rule of Napoleon; many of its land estates were given away to French generals, huge taxes were imposed on the Duchy" – K. Marx, *Przyczynki do historii kwestii polskiej (Rękopisy z lat 1863–1864)*, Warszawa 1971, p. 691.

[9] J. Lelewel, *Polska odradzająca się, czyli dzieje polskie od roku 1795 potocznie opowiedziane*, [in:] idem, *Dzieła*, prepared by J. Dutkiewicz, M.H. Serejski, H. Więckowska, vol. 8, Warszawa 1961, p. 51. Cf. K. Marx, *op. cit.*, pp. 384–385. For Friedrich Engels, the creation of the Duchy of Warsaw was the fourth partition of Poland. See F. Engels, *Nowy rozbiór Polski*, [in:] K. Marx, F. Engels, *Dzieła*, vol. 5, Warszawa 1962, pp. 63–64, note 52; idem, *Debata polska we Frankfurcie*, [in:] K. Marx, F. Engels, *op. cit.*, p. 376.

[10] See F. Skarbek, *Dzieje Księstwa Warszawskiego*, vol. 2, Warszawa 1897, pp. 85–101; M. Handelsman, *Napoleon i Polska, 1808: Konwencya Bajońska*, "Przegląd Historyczny" 1912, no. 1, pp. 75–92; idem, *Napoleon i Polska, 1808: Konwencya Bajońska: (dokończenie)*, "Przegląd Historyczny" 1912, no. 2, pp. 215–236; B. Grochulska, *Bajońskie sumy*, [in:] *Encyklopedia historii gospodarczej Polski*, vol. 1, Warszawa 1981, pp. 19–20.

als (Prince Józef Poniatowski, General Jarosław Dąbrowski and General Józef Zajączek; later also Prince Sapieha and General Wincenty Krasiński received donations in Poland).[11]

Despite the abolition of personal servitude, various fees and levies contributed to the disastrous situation of the population in the Duchy of Warsaw, which were severely devastating the already fragile income of the population,[12] especially the peasants.[13] The great damage was already caused by the warfare itself.[14] Apart from the *kontyngent liwerunkowy* (compulsory food deliveries) collected in kind from 1809 (mainly in grain), which constituted more than 10% of the treasury's revenue,[15] and changed to a monetary fee already in the period of the Kingdom of

[11] See W. Sobociński, *Księstwo Warszawskie…*, p. 56. According to the provisions of these decrees, generals Dąbrowski and Zajączek were to receive estates worth one million francs, generating an annual income of 50 thousand francs. This donation was not encumbered with any reservations or conditions, they were to have full unrestricted ownership of the estates. See M. Senkowska-Gluck [Monika Haman], *Donacje napoleońskie w Księstwie Warszawskim. Studium historyczno-prawne*, "Studia nad Historią Państwa i Prawa. Series II" 1968, vol. 13, pp. 176–177. The second series of decrees was issued after the war 1809, when on the basis of imperial decrees of 16 January 1810 French donatories received significant complexes of national and post-ecclesiastical estates in the formerly Prussian part of the Duchy. These donations, as Władysław Sobociński (*Księstwo Warszawskie…*, pp. 56–57) emphasised, were clearly referred to as "feuda" or "fiefs" of the French Empire and their situation was analogous to the huge fiefs without state sovereignty created in the Kingdom of Naples and in the Venetian dominions. Monika Senkowska-Gluck [Monika Haman] (*op. cit.*, p. 13) is right to point out that Napoleonic donations were a tool for creating a new social elite, which was related to the fact that social egalitarianism, which was the legacy of the French Revolution, was incompatible with the Napoleonic concept of France. It was because Napoleon saw this egalitarianism as a threat of disintegrating society and thus he wanted to consolidate the nation around certain authorities, create new elites which would give society (amorphous in his view) the proper structure and support the dynasty established by him.

[12] See Wojewódzka Biblioteka Publiczna im. Hieronima Łopacińskiego w Lublinie [Hieronim Łopaciński Public Voivodeship Library in Lublin], "Statystyka Księstwa Warszawskiego 1808 r.", manuscript no. 1176; H. Grossman, *Struktura społeczna i gospodarcza Księstwa Warszawskiego na podstawie spisów ludności 1808–1810*, Warszawa 1925, pp. 29–31, 75–77.

[13] For further assessment of corvée in the Duchy of Warsaw, see S. Borowski, *Kształtowanie się rolniczego rynku pracy w Wielkopolsce w okresie wielkich reform agrarnych 1807–1860*, Poznań 1963, pp. 152–154. It should be remembered that during the Revolution in France the Decree of June 1793 adopted by the National Convention abolished all services the feudal lords were entitled to and all rights of compensation or redemption for them. See J. Kodrębski, *Wielka Rewolucja Francuska a własność. Od własności feudalnej do własności kapitalistycznej*, "Czasopismo Prawno-Historyczne" 1986, no. 1, p. 85.

[14] Cf. H. Grossman, *op. cit.*, pp. 32–33.

[15] Cf. M. Konarski, *Legal Aspects of Organising the Administration of Food for the Army in the Duchy of Warsaw between 1807 and 1812*, "Biuletyn Stowarzyszenia Absolwentów i Przyjaciół Wydziału Prawa Katolickiego Uniwersytetu Lubelskiego" 2020, vol. 17(1), pp. 99–128.

Poland (in 1817), one should point out to various levies, the obligation to provide fodder for military horses[16] and high prices of many products (e.g., salt).[17]

It is not possible to mention at this point all the burdens that the population of the Duchy had to bear in connection with the obligation to provide the supplies for the army. Let us recall, for example, that in 1800 there were 254,300 head of cattle in the department of Kalisz, in 1807 the cattle population decreased to 233,200, and in 1811 there were only 211,900 head of cattle. This situation was caused by the demanding commissioning orders of the military authorities and the taxes that continued to increase, which led to the financial ruin of many land estates.[18]

Nevertheless, in view of the above, it should be remembered that ultimately, during the Napoleonic period, the Polish nation experienced, as Marian Kukiel put it, "one of the deepest internal transformations brought by history".[19]

THE SOCIO-ECONOMIC SITUATION IN THE DUCHY OF WARSAW

As a result of the Partitions of Poland, the Polish lands did change fundamentally in economic terms, one might even safely say that they even went back to the previous period – that of King Stanisław August Poniatowski.[20] The country's

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[16] Independently of the deliveries under *kontyngent liwerunkowy*, requisitions were made during the war in accordance of the Decree of 27 March 1812. See Dziennik Urzędowy Departamentu Płockiego [Official Journal of the Płock Department] no. 100 of 27 March 1812, no. 74 of 29 February 1812 (additional deliveries). As early as in 1809 considerable levies of grain and fodder were imposed, and in 1811 they were increased several times, see Dziennik Praw Księstwa Warszawskiego [Journal of Laws of the Duchy of Warsaw, hereinafter: DPKW], vol. 1, no. 10, pp. 251–252, 109–110. Cf. Wojewódzka Biblioteka Publiczna im. Hieronima Łopacińskiego w Lublinie [Hieronim Łopaciński Public Voivodeship Library in Lublin], "Odezwy prefektów do Prażmowskiego w kwestii żywienia wojska", manuscript no. 1144. For more about treasury revenues, see W. Sobociński, *Historia ustroju i prawa Księstwa…*, pp. 141–147.

[17] One should remember that the monopoly on the sale of salt was the second universal consumption tax imposed by the nobility on their serfs. See W. Kula, *O charakterze gospodarki chłopskiej w Polsce XVIII w. Charakter „wyżywieniowy" czy produkcja towarowa?*, "Czasopismo Prawno-Historyczne" 1975, no. 2, p. 207; R. Kowalczyk, *Polityka gospodarcza i finansowa Księstwa Warszawskiego w latach 1807–1812*, Łódź 2010, pp. 145, 231–239.

[18] See B. Grochulska, *Handel zagraniczny Księstwa Warszawskiego. Z badań nad strukturą gospodarczą*, Warszawa 1967, pp. 40–41, 98; A. Olejniczak, *Obciążenia wojenne w zachodniej części Dolnego Śląska podczas kampanii napoleońskich 1806/07 i 1813 roku*, Bolesławiec 2009, pp. 25–52; M. Baczkowski, *Gospodarcze skutki okupacji Galicji przez wojska rosyjskie w 1809 roku*, "Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace Historyczne" 2020, no. 147(3), pp. 491–503.

[19] M. Kukiel, *Zagadnienie niepodległości w latach 1795–1815*, [in:] *Pamiętnik V Powszechnego Zjazdu Historyków Polskich w Warszawie 28 listopada do 4 grudnia 1930 r. Referaty*, Lwów 1930, p. 518.

[20] Cf. S. Staszic, *O statystyce Polski krótki rzut wiadomości potrzebnych tym, którzy ten kraj chcą oswobodzić, i tym, którzy w nim chcą rządzić*, Warszawa 1807, pp. 12–18; A. Nowak, *Przeobrażenia struktury społecznej ludności wiejskiej w Polsce w okresie panowania systemu folwarczno-pańszczyź-*

economy remained dominantly agricultural and semi-natural,[21] and it should be stressed that this situation did not change after the creation of the Duchy of Warsaw.

Manorial farms (Pol. *folwarki*) remained the economic basis of Polish lands,[22] however, the general situation was not favourable to the agricultural economy and thus to the economic development of the farms.[23] The continental blockade, organised by Napoleon against England, led to fall prices of agricultural produce.[24] At the same time, the burden imposed by the authorities increased: taxes grew and new supplies to the army were demanded;[25] great damage was caused by warfare.[26] The landed gentry – in order to maintain their standard of living – passed on many new burdens to the peasants; investments were made into the development of alcohol production which remained the monopoly of the nobles; distilleries and breweries, whose products were sold on local markets, multiplied.[27] Estates which based their production on inefficient serfdom and the outdated three-field system were often adjacent to estates in which rent had been introduced[28] or those where, taking advantage of the possibility to evict the peasants, the farms were enlarged and hired labour was introduced.[29]

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nianego (XV–XVIII wieku). Próba ujęcia modelowego, [in:] *Badania nad historią gospodarczo-społeczną w Polsce. Problemy i metody. Publikacja poświęcona Profesorowi Władysławowi Rusińskiemu z okazji 40-lecia pracy naukowo-dydaktycznej*, Warszawa–Poznań 1978, pp. 142–146.

[21] See H. Grynwaser, *Demokracja szlachecka 1795–1831*, [in:] idem, *Pisma*, vol. 1, Wrocław 1951, p. 212.

[22] See I. Ihnatowicz, *Gospodarka polska od rozbiorów do upadku Księstwa Warszawskiego. Kształtowanie się układu kapitalistycznego*, [in:] B. Zientara. A. Mączak, I. Ihnatowicz, Z. Landau, *Dzieje gospodarcze Polski do 1939 r.*, Warszawa 1962, p. 306.

[23] See S. Nawrocki, *Uwłaszczenie chłopów i jego wpływ na przemiany gospodarczo-społeczne na wsi polskiej*, [in:] *Badania nad historią gospodarczo-społeczną w Polsce…*, pp. 188–189.

[24] See I. Kostrowicka, Z. Landau, J. Tomaszewski, *Historia gospodarcza Polski XIX i XX wieku*, Warszawa 1984, p. 62.

[25] See T. Dzwonkowski, *Straty materialne miast Środkowego Nadodrza w latach 1806–1815*, "Rocznik Lubuski" 1996, vol. 22(1), pp. 71–80.

[26] Cf. J. Przygodzki, *Rekwizycje w Księstwie Warszawskim w okresie rosyjskich rządów okupacyjnych*, "Acta Universitatis Wratislaviensis" 2001, no. 2294, pp. 125–140; idem, *Rada Najwyższa Tymczasowa Księstwa Warszawskiego 1813–1815. Organizacja i działanie*, Wrocław 2002, pp. 113–143; R. Kowalczyk, *Społeczne skutki wojny roku 1812*, [in:] *Wojny i konflikty w Europie Środkowej ze szczególnym uwzględnieniem Śląska. Aspekty społeczne i kulturowe*, ed. A. Barciak, Katowice–Zabrze 2020, pp. 116–146.

[27] See I. Kostrowicka, Z. Landau, J. Tomaszewski, *op. cit.*, p. 62.

[28] See I. Ihnatowicz, *op. cit.*, pp. 308–309.

[29] See W. Kula, *Uwagi o przewrocie przemysłowym w krajach Europy Wschodniej*, [in:] idem, *Historia – zacofanie – rozwój*, Warszawa 1983, p. 66; W. Rusiński, *Zarys historii gospodarczej Polski na tle dziejów gospodarczych powszechnych*, Warszawa 1986, p. 91; S. Inglot, *Z dziejów wsi polskiej i rolnictwa*, Warszawa 1986, pp. 382–383; S. Grodziski, *Polska w czasach przełomu (1764–1815)*, Kraków 1999, pp. 253–254.

In this period nobles owning manorial farms constituted a tiny minority of the noble estate,[30] and varied greatly in wealth, ranging from owners of single manorial farms to owners of enormous fortunes consisting of many villages. All these nobles were united by the same economic system – their ownership and income were based on agricultural land and the labour of serfs. The most important issue for these nobles was maintaining their land, their estates, and the closely related issue of keeping the labour force, i.e., peasants.[31]

According to the 1808 population census, there were 8,075 noble estates (and parts of noble estates) and 5,679 "other settlements", probably settlements of colonists and free settlers in the Duchy of Warsaw.[32] Of the total number of 270,041 village roofs (with a population of 1,585,062), 69,128 belonged to national estates, and 161,752 to private estates, which in total constituted only 230,880 roofs. There is, therefore, no mention of the remaining 39,161 roofs, which must have been located in "other settlements". Thus, it seems that on average there were 19 roofs per one national or private estate, and almost 7 roofs per "settlement".[33]

According to the census, the number of persons privileged under the serfdom relationship, i.e., lords of noble and non-noble estates, general leaseholders and sub-leaseholders, was 25,841. However, it should be stressed that this is not the total number of nobles, but only those privileged under the serfdom relationship. In comparison with this group of privileged persons, there are more than ten times as many obliged persons (284,749), including 144,073 farmers with different sizes of land, 50,454 *iquilani*, 69,046 servants (farmhands and peasants) and 21,176 *operarii* (daily tenants).[34]

The economic categories of the rural population, according to the 1810 census, included the following number of people: *czynszownicy* (rent-paying peasants), *okupnicy* (tenant farmers), colonists and farmers in towns (82,382), *kmetones* or *całorolnicy* (375,656), *półrolnicy* (365,470), *hortulani* (241,401), which amounts to a total of 1,064,909 persons. One should also mention *hortulani* (41,989), *casarii*

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[30] According to Ireneusz Ihnatowicz (*op. cit.*, pp. 299), nobles constituted about 8% of the population and more than half of them were petty nobles, who were often not very different from peasants.

[31] H. Grynwaser, *Demokracja szlachecka…*, p. 218.

[32] Cf. J. Jeziorański, *Urządzenia włościan w Królestwie Polskim w porównaniu z urządzeniami ich w Rosji*, 1907, p. 8. For more about solutions and legal regulations concerning colonists and foreigners settling in Poland, see Archiwum Główne Akt Dawnych w Warszawie [The Central Archives of Historical Records in Warsaw], fond no. 175, "Rada Stanu i Rada Ministrów Księstwa Warszawskiego. Akta spraw" ["The Council of State and the Council of Ministers of the Duchy of Warszawa. Case files"], file 215, cards 1–254; Archiwum Główne Akt Dawnych w Warszawie [The Central Archives of Historical Records in Warsaw], fond no. 176, "Rada Ministrów Księstwa Warszawskiego. Księgi kancelaryjne" ["Council of Ministers of the Duchy of Warszawa. Chancellery books"], file 163, cards 1–99.

[33] See H. Grossman, *op. cit.*, pp. 21, 24.

[34] See *ibidem*, p. 28.

(242,639), which amounts to 284,628 people. There were also *inquilani* (229,386), farmhands and *ancillae* (277,450), manorial servants (151 910), which amounts to 708,472 persons. In addition, *operarii* constituted 12.7% of the rural population, i.e., 298,882 persons. Therefore, according to the 1810 census, the rural population amounted to a total of 2,356,891 persons.[35]

It is worth remembering that during this period there was a rapid increase of the landless population, which was a result of disasters and the burden of war, which ruined farming with draught animals. Other reasons for the growth of the landless population were evictions conducted by landowners as a result of the December Decree (which will be discussed in more detail below) and the fact that oppressed and desperate peasants were "voluntarily" leaving their land.[36] As Adam Krzyżtopór emphasises, "lords sometimes abused their power (…) and scattered whole groups of villagers; villages were seen razed to the ground and whole populations wandering around without a shelter. (…) Abandoned fields were attached to manorial farms or given back to the German colonists".[37]

The economic crisis in agriculture in the Duchy was largely due to an outdated structure of its agriculture based on unpaid labour, despite the formal abolition of peasant serfdom.[38] Most of the arable land was owned by peasants, the manors occupied a little less area than the peasant land. In the years 1808–1810, the total sown acreage decreased, which indicates a weakening of the country's economic strength. The only minor signs of progress in agricultural production were the spread of potato cultivation for the own needs of villages and sheep farming in the western part of the Duchy in connection with the development of the cloth industry.[39]

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[35] See *ibidem*, p. 57. Cf. T. Opaliński, *Stan chłopski w Księstwie Warszawskim*, Warszawa 2020, pp. 36–43.

[36] Cf. M. Różycka-Glassowa, *Społeczna organizacja produkcji i struktura własności*, [in:] *Historia kultury materialnej Polski w zarysie*, ed. E. Kowecka, vol. 5, Wrocław 1978, pp. 236–237, 242–244; W. Rusiński, *op. cit.*, p. 89; M. Konarski, *Legal Issues Related to the Flight of Peasants in Old Poland (14th–19th Century)*, "Review of European and Comparative Law" 2019, vol. 38(3), pp. 7–32.

[37] A. Krzyżtopór, *O urządzeniu stosunków rolniczych w Polsce*, Poznań 1859, p. 344. Cf. E. Stawiski, *Poszukiwania do historyi rolnictwa krajowego*, Warszawa 1857, pp. 248–250; I. Ihnatowicz, *op. cit.*, pp. 307–308; S. Inglot, *op. cit.*, p. 383.

[38] I. Ihnatowicz (*op. cit.*, p. 312) points that there was a general tendency to increase the corvée in the Duchy of Warsaw, as just before the fall the Duchy it amounted to 5–6 days a week with draught animals and 4 days on foot for a *kmeton*, and 4 days on foot for a *hortulanus*.

[39] See W. Sobociński, *Historia ustroju i prawa Księstwa…*, p. 20; I. Ihnatowicz, *op. cit.*, p. 301.

THE CONSTITUTION OF THE DUCHY OF WARSAW AND THE LEGAL STATUS OF PEASANTS

The Constitutional Statute for the Duchy of Warsaw (*Statut Constitutionnel du Duché de Varsovie*), promulgated by Napoleon in Dresden on 22 July,[40] was not an autonomous act of the Polish authorities and was also not an act of a new future superior, the Duke of Warsaw,[41] but of the King of Saxony, as he did not officially express his consent to the assumption of the throne and the union of Poland with Saxony.[42] Moreover, Michał Rostworowski points out that, according to the Peace Treaty, the war occupation should have ended, and even if it had continued, the act of giving a constitution exceeded the scope of the regulations related to the war occupation.[43] Let us, however, leave these issues to be settled at another place and time.

In accordance with the provisions of Article 4 of the Constitution of the Duchy of Warsaw of 22 July 1807,[44] servitude was abolished and all citizens became equal before the law,[45] which, however, as we will see below, did not mean a radical

[40] The text of the Constitution of the Duchy of Warsaw was officially announced in the 214th edition of Parisian "Moniteur" of 2 August 1807 (*Act Constitutionnel du Duché de Varsovie*). See W. Sobociński, *Historia ustroju i prawa Księstwa…*, p. 30. For more about the opinions of Poles on Constitution of 1807, see M. Kallas, *Konstytucja Księstwa Warszawskiego…*, pp. 47–49. Cf. A. Dziadzio, *Konstytucja Księstwa Warszawskiego 1807. Polska odmiana bonapartyzmu*, "Państwo i Społeczeństwo" 2007, no. 1, pp. 113–122.

[41] Cf. A. Rembowski, *Przyczynek do dziejów konstytucyjnych Księstwa Warszawskiego. Studium historyczno-polityczne*, Kraków 1896, pp. 19–27; A. Bereza, *Pozycja monarchy w Księstwie Warszawskim*, "Studia Iuridica Lublinensia" 2012, vol. 18, pp. 9–21.

[42] See M. Rostworowski, *Prawna geneza Księstwa Warszawskiego*, Kraków 1915, p. 18.

[43] See *ibidem*, p. 19. Cf. J. Przygodzki, *Na pograniczu nowoczesności. Ocena ustroju politycznego Księstwa Warszawskiego w czasie rosyjskich rządów okupacyjnych 1813–1815*, [in:] *Pogranicza w historii prawa i myśli polityczno-prawnej*, eds. D. Szpoper, P. Dąbrowski, Gdańsk–Olsztyn 2017, pp. 529–531.

[44] The Constitution of the Duchy of Warsaw, DPKW, vol. 1, no. 1, pp. I–XLVII. According to the provisions of the Constitution, *Dziennik Praw* [Journal of Laws] became the official organ for the publication of all new laws and administrative solutions, modelled on French *Bulletin des Lois*. See G. Smyk, *Zasady publikacji aktów administracyjnych w Księstwie Warszawskim i Królestwie Polskim*, [in:] *Jus et remedium. Księga jubileuszowa Profesora Mieczysława Sawczuka*, eds. A. Jakubecki, J.A. Strzępka, Warszawa 2010, p. 524. It should be recalled that the world's first official journal for the publication of normative acts was established in revolutionary France and thus, as a result of the Napoleonic wars, the institution for the official publication of normative acts in specially designed official journals was transferred to many other European countries, including the Duchy of Warsaw. See G. Wierczyński, *Urzędowe ogłoszenie aktu normatywnego*, Warszawa 2008, pp. 64, 72–74.

[45] Cf. P. Lesiński, *The Question of Civil Rights in the Views of Robert von Mohl*, "Studia Iuridica Lublinensia" 2021, vol. 30(1), pp. 181–196.

improvement in the legal position of Polish peasants.[46] The Constitution abolished only the peasants' personal servitude, which freed them from the patrimonial power of the lords, but after the abolition of *jusiticiari* (executors of patrimonial court paid by lords), lords' judicial power over peasants also disappeared. This meant that from that time on peasants became citizens and enjoyed legal protection.[47] However, unpaid labour, which was not regulated by the Napoleonic Code, still remained the basic duty of peasants.[48]

As a result of the provisions of the Constitution (Article 4), peasants in some parts of the country refused to do their corvée for the benefit of manors.[49] As Tadeusz Mencel noted, the new Warsaw Duke, Fryderyk August, who was concerned about this, in his appeal of 10 September 1807 to the new subjects, admonished the peasants: "Do not be mistaken, keep in mind that, although you are no longer under unlimited power of your lords, you will be under the strict hand of the law and always obliged to do your rightful duty to them".[50]

The legal reform of agrarian relations was also connected with the provisions of Article 69 of the Constitution of the Duchy of Warsaw, which explicitly introduced Napoleonic regulations, stating that "The Napoleonic Code shall be the civil law of the Duchy of Warsaw", which was achieved by means of a decree which introduced the Napoleonic Code in the lands of the Duchy as of 1 May 1808.[51]

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[46] See M. Handelsman, *Zasady napoleońskie w życiu Księstwa Warszawskiego*, Warszawa 1913, pp. 2–3. Cf. J. Czubaty, *Księstwo Warszawskie – pierwsze nowoczesne państwo polskie?*, "Kwartalnik Historyczny" 2018, no. 2, p. 367.

[47] See W. Sobociński, *Struktura społeczno-prawna Księstwa Warszawskiego*, "Studia Śląskie. New Series" 1971, vol. 20, p. 458.

[48] See M. Kallas, *Powstanie i ustrój Księstwa Warszawskiego (1807–1815)*, "Annales UMCS. Sectio F" 2007, vol. 62, p. 16.

[49] *Protokoły Rady Stanu Księstwa Warszawskiego*, vol. 1, part 1, published by B. Pawłowski, Toruń 1960, pp. 8, 140–141, hereinafter: PRSKW I(1).

[50] T. Mencel, *Gmina wiejska w Księstwie Warszawskim*, "Czasopismo Prawno-Historyczne" 1984, vol. 1, p. 49.

[51] The Decree of 27 January 1808 ordering the introduction of the Napoleonic Code from 1 May 1808, DPKW, vol. 1, no. 1, pp. 46–47; PRSKW I(1), p. 138, 143. On 28 April the Council of State discussed introducing the Code on 1 May but suspending its application. See PRSKW I(1), p. 266. According to the Decree of 9 June 1810, the Code was to apply from 15 August 1810 on the land incorporated into the Duchy under the Treaty of 14 October 1809, DPKW, vol. 2, no. 18, pp. 220–221. Let us recall here that the French revolutionary legislation abolished all types of relationships based on divided ownership. The Napoleonic Code repeated in Article 530 the principles of redeeming land rent provided for in the Act of 4 August 1789. See *Arrêté du 4 aout 1789 portant renonciation aux privilèges*, [in:] *Archives Parlementaires de 1787 à 1860 – Première série (1787–1799) sous la direction de Jérôme Mavidal et Emile Laurent. Tome VIII du 5 mai 1789 au 15 septembre 1789*, Paris 1875, p. 350. Cf. A. Okolski, *Wykład prawa administracyjnego oraz prawa administracyjnego w Królestwie Polskim*, vol. 3, Warszawa 1884, pp. 57–58; A. Szelągowski, *Rewolucja francuska 1789–1793*, Lwów 1934, pp. 73–85; A. Mathiez, *Rewolucja francuska*, Warszawa 1956, pp. 64–70; J. Kodrębski, *op. cit.*, pp. 71–92; D. Wiśniewska, *Uwagi nad problemami inkulturacji Kodeksu*

As far as the incorporation of the Napoleonic Code into the Duchy of Warsaw is concerned, Katarzyna Sójka-Zielińska points out that "The only enthusiasts of the Napoleonic codification were the so-called Polish Jacobins, radicals gathered around 'Gazeta Warszawska', who saw the French regulations as the announcement of progressive political and social reforms", calling the Code "the universal book of enlightened peoples".[52] However, in the opinion of Władysław Sobociński, after the introduction of the Napoleonic Code in the Duchy of Warsaw, no appropriate changes were made to the social relations, which remained feudal. This inconsistency also entailed maintaining the feudal law in the form of legal customs or specific legislation.[53] The author also points out that the Decree of 5 July 1810,[54] because of "the close link between the Napoleonic Code and other parts of that French legislation, ordered that the French system should be taken as a model in the completion of the incompatible laws and institutions, taking into account only those variations that result from the Constitution of the Duchy of Warsaw and the greater area of its departments".[55] Ultimately, therefore, those who governed the Duchy, while accepting the external French forms, kept under their cover, alongside

Napoleona w Królestwie Polskim – wątpliwości na tle art. 530, "Acta Universitatis Wratislaviensis" 2019, no. 3948, pp. 97–108; Z. Filipiak, *Prawo własności nieruchomości w działalności legislacyjnej Księstwa Warszawskiego i Królestwa Kongresowego (1807–1830)*, Toruń 2020, pp. 73–80. According to K. Sójka-Zielińska (*Kodeks Napoleona. Historia i współczesność*, Warszawa 2008, p. 102), the Napoleonic codification radically broke with the construction of the division of the owner's rights between various entities, which meant that "the former rights of the superior owners were treated as liabilities, and those paying a rent on a property became its owners on conclusion of the contract".

[52] K. Sójka-Zielińska, *Wielkie kodyfikacje cywilne. Historia i współczesność*, Warszawa 2009, p. 258. Cf. J. Szonert, *Kodeks Napoleona w Polsce (sto pięćdziesiąta rocznica)*, "Palestra" 1958, no. 3, pp. 89–93; B. Grochulska, *Księstwo Warszawskie*, Warszawa 1966, pp. 118–132. Polish Jacobins praised the approaching capitalist system in agriculture in the form of workers who would "be paid according to their capabilities". See B. Leśnodorski, *Elementy feudalne i burżuazyjne w ustroju i prawie Księstwa Warszawskiego*, "Czasopismo Prawno-Historyczne" 1951, vol. 3, pp. 31–311. Cf. Max Weber's remarks on the Napoleonic Code in *Społeczeństwo i gospodarka. Zarys socjologii rozumiejącej*, Warszawa 2002, pp. 628–629.

[53] W. Sobociński, *Księstwo Warszawskie…*, p. 62. Cf. I. Daniłowicz, *Kodeks Napoleona w porównaniu z prawami polskimi i litewskimi: Rozprawa opracowana w roku 1818, na temat zadany przez Radę b. Uniwersytetu Wileńskiego*, published by A. Kraushar, Warszawa 1905, pp. 165–166. Władysław Chomętowski (*Pamiętnik Feliksa hr. Łubieńskiego*, Warszawa 1890, pp. 159–162) indicates the problems related to the introduction of the Napoleonic Code in his biography of Feliks Łubieński, based on a copy of his memoirs. Tadeusz Mencel (*Zniesienie poddaństwa w Księstwie Warszawskim na tle porównawczym*, "Acta Universitatis Lodziensis. Folia Historica" 1983, vol. 13, p. 25) emphasised that magnates expressed their fear of the Napoleonic Code and the consequences of its introduction – perpetuating the principle of the possibly most extensive fragmentation of land following the French model, which would result in the loss of influence by the magnates.

[54] The decree on following the "French system" when filling in gaps in the legislation of the Duchy of Warszawa, in: W. Bartel, J. Kosim, W. Rostocki, *Ustawodawstwo Księstwa Warszawskiego*, vol. 2, Warszawa 1964, p. 170.

[55] W. Sobociński, *Historia ustroju i prawa Księstwa…*, pp. 39–40.

the old Polish ones, many state and legal institutions of the partitioning powers, especially Prussian ones.[56]

As Hipolit Grynwaser pointed out, "when the code was introduced against the desire of the nobles, they rushed to adapt it to the existing conditions. The result of this adaptation was the Decree of 21 December. The peasant question was settled in the spirit of the previously suggested solution: personal freedom for the land, for the lord's exclusive property right to the land".[57]

The Code was adapted in such a way that it did not pose a threat to the nobility. Indeed, thanks to its strongly expressed principle of individual and unlimited property,[58] it provided a legal sanction to the created and actual state, gave the nobility a new and categorical title to the seized land.[59]

As Grzegorz Smyk points out, "despite the formal abolition of the division into estates, the Constitution left the division of society into the nobles and the non-nobles, granting the nobility – the property owners – electoral rights, exercised in separate electoral assemblies – the *sejmiks*.[60] As a consequence, in the realities

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[56] See idem, *Księstwo Warszawskie*…, p. 62. Cf. J. Przygodzki, *Na pograniczu nowoczesności*…, pp. 531–532.

[57] H. Grynwaser, *Kodeks Napoleona w Polsce*, [in:] idem, *Pisma*, vol. 1, Wrocław 1951, p. 55.

[58] Following the Code of Justinian, the Napoleonic Code interpreted the right of ownership as the right to full and unrestricted control of a thing. In practice, this mainly meant the existence of ownership as the ownership of land, usually by a noble, and urban property in government towns. See T. Mencel, *Prawa wyborcze w Księstwie Warszawskim i Królestwie Polskim (1807–1830) na tle porównawczym*, [in:] *Pamiętnik X Powszechnego Zjazdu Historyków Polskich w Lublinie*, *9–13 września 1969 r. Referaty i dyskusja IV, Sekcje V–X*, Warszawa 1971, p. 36.

[59] See H. Grynwaser, *Kodeks Napoleona*…, p. 56. Edmund Plebiński pointed out that the Constitution of the Duchy brought in the principles of deductive law instead of the development of customary concepts. Article 4 of the Constitution abolished slavery, but the "abolition of slavery" did not correspond to the state of affairs. It meant that peasants would still not be subject to any laws that would hinder their personal freedom. The Prussian and Austrian legislation aimed at providing legal protection to peasants in these aspects in which they needed such protection but it did not change the serfdom relationship itself. They were, however, a significant improvement of the existing state of affairs. The Act of the Duchy Warsaw subsumed existing relationships under higher principles of deductive law – it first announced individual freedom for peasants. See E. Plebiński, *Kodeks Napoleona a sprawa włościańska u nas*, "Gazeta Sądowa Warszawska" 1905, no. 26, pp. 410–411. Cf. A. Rembowski, *Przyczynek do dziejów konstytucyjnych*…, pp. 34–36; Z. Stankiewicz, *Szlachta wobec zniesienia poddaństwa w Księstwie Warszawskim*, "Acta Universitatis Lodziensis. Folia Historica" 1983, no. 13, pp. 43–48.

[60] According to the provisions of the Constitution of the Duchy of Warsaw, the aforementioned *sejmiks* consisted of "the nobility of the *powiat*" (Article 50), while the commune gatherings electing deputies consisted of "non-noble citizens" (Article 51) as well as merchants and craftsmen with a capital of 10,000 zlotys; parish priests, vicars, artist and people renowned for "talents, knowledge or favours contributed to trade or craftsmanship", and of officers of any rank as well as soldiers who were released from service due to wounds or who had taken part in several campaigns and were on active duty, but decorated with a military medal. The lists of owners were to be drawn up by the city authorities, and the lists of other voters were to be written down by prefects, signed by ministers of

of the Duchy of Warsaw, equality before the law did not mean political equality".[61] The ostensible equality referred to in the Constitution – as Feliks Koneczny stressed – "was in practice limited to equality before the court".[62] In view of the above, however, it should be remembered that certain groups of peasants took part in parliamentary elections, and allowing them to enter political life in the Duchy is assessed as Napoleon's willingness to eliminate the political dominance of the nobility and to make it easier to subordinate Polish society to the French system.[63]

THE DECREEE OF 21 DECEMBER 1807

In mid-November 1807, Frederick Augustus demanded the Council of State's opinion on the implementation of Article 4 of the Constitution, while at the same time forwarding his remarks in two letters from Minister-Secretary of State Stanisław Breza dated 1 December 1807 to members of the Warsaw Government.[64] These comments outlined the most important principles of the future decree, i.e. the announcement of peasants' freedom, but at the same time maintaining the ownership of land (along with the peasants' livestock, buildings and agricultural tools)

internal affairs (priests) and war (army officers), and approved by the senate. The lists of owners were to be drawn up by the city authorities, and the lists of other voters were to be written down by prefects, signed by ministers of internal affairs (priests) and war (army officers), and approved by the senate. As T. Mencel (*Chłopi w wyborach do sejmów Księstwa Warszawskiego. Referat wygłoszony na posiedzeniu Wydziału Humanistycznego w dniu 19 IV 1966*, "Folia Societatis Scientarum Lublinensis. Sectio A" 1966/69, vol. 6/9, p. 95) emphasised, "the Constitution maintained the privilege of birth for the nobility, but at the same time it also promoted the status in terms in property, education, merit and profession (service). These provisions did not result in political rights of peasants, although voters of peasant origin could find themselves in one of the groups admitted to gatherings, most easily and in largest numbers in the group of distinguished soldiers". As a result, free *sołtysi* (village leaders), *czynszownicy* (rent-payers), settlers from the Netherlands, colonists, etc. were granted the right to vote. For more information on the colonisation policy of the Duchy's authorities, see R. Kowalczyk, *Polityka gospodarcza…*, pp. 221–223. All those mentioned above, as free persons, could dispose of their property, sell it and move somewhere else (see *ibidem*, p. 98). The admission of certain groups of peasants to political life in the Duchy of Warsaw is considered in the relevant literature as an important factor of progress, while at the same time breaking the principle of estate representation, the remnants of which remained only in separate nobles' *sejmiks* (see *ibidem*, p. 100).

[61] G. Smyk, *Francuskie prawo i instytucje ustrojowe w Księstwie Warszawskim*, "Annales UMCS. Sectio F" 2007, vol. 62, p. 37.

[62] F. Koneczny, *Dzieje administracji w Polsce w zarysie*, Wilno 1924, p. 257.

[63] T. Mencel, *Chłopi w wyborach…*, p. 95.

[64] The peasant reform was discussed in the Council of State from as early as the beginning of 1807. See PRSKW I(1), pp. 144, 146, 150, 210, 297–298; *Protokoły Rady Stanu Księstwa Warszawskiego*, vol. 1, part 2, published by B. Pawłowski, Toruń 1962, p. 215, hereinafter: PRSKW I(2).

by the nobles, and the order to develop the principles of voluntary agreements on the ownership or perpetual lease of land.[65]

On 1 December 1807, at the 17th session of the Council of State, some comments and ways to make Article 4 of the Constitution effective were presented through Stanisław Małachowski. As we read in the protocol of the session held that day: "The Council, after reading these remarks and deliberating on them, convinced that he [S. Małachowski], who for a long time had set an example of freeing serfs in his own estates and who, while holding the office of the *referendarius Regni*, had been shielding peasants from oppression and made so many things easier for them, is most competent to deal with these matters, asks the President of the Council to work on this important subject together with the people he selects and formulate a draft for the royal decision".[66] Several days later, on 10 December, the draft was submitted to the Council and "after reading it, accepted for consideration".[67]

Then, on 16 December, the first discussion on the draft was held.[68] "According to this draft", we read, "every peasant is free to move within the Duchy of Warsaw where he pleases. He is free to remain in the place of his present residence up to

[65] It should be stressed that in practice the feudal system recognised divided property. The peasant's right to use land was also protected to some extent by the legislation in the countries of Enlightened Absolutism, which limited the powers of village owners to evict peasants. This was the direction followed by the reforms of Joseph II in Austria and, partially, also the reforms in Prussia. During the uprising of 1794, Tadeusz Kościuszko attempted to introduce similar laws in Poland. See M. Zgórniak, *Problem reprezentacji społeczeństwa w ustawodawstwie i konstytucjach Księstwa Warszawskiego i Królestwa Polskiego (1807–1830)*, [in:] idem, *Studia i rozprawy z dziejów XVI–XX wieku. Historia, militaria, polityka*, Kraków 2009, pp. 24–25; M. Konarski, *Reflections on the Reform of the Legal Situation of Peasants During the Kościuszko Uprising of 1794*, "Review of European and Comparative Law" 2018, vol. 35(4), pp. 41–72.

[66] PRSKW I(1), p. 52.

[67] *Ibidem*, p. 60. Programmes of agrarian reform were also put forward in Polish academic literature of that time. The best-known programme of these reforms was formulated by Wawrzyniec Surowiecki, for the first time in *Uwagi względem poddanych w Polszcze i projekt do ich uwolnienia* ([in:] idem, *Wybór pism*, Warszawa 1957, pp. 1–31). He was one of the followers of the ideology of the 18th-century Enlightenment, remaining under the strong influence of the most eminent thinkers of his epoch in Poland – Stanisław Staszic and Hugo Kołłątaj. It should be stressed that Surowiecki paved the way for later writers with the same orientation, above all for Fryderyk Skarbek. Surowiecki's remarks on the peasant issue did not go unnoticed because even before the formal establishment of the Congress Kingdom, after Russia annexed the Kingdom in February 1813, a proclamation of the tsar established a special reform committee for the organisation of the Kingdom, chaired by Prince Adam Czartoryski. See S. Głąbiński, *Historia ekonomiki*, vol. 2, Lwów 1939, p. 171. In 1811 Joachim Owidzki presented plans to tax lords with a tax collected from peasants (eight zlotys on each roof). See J. Owidzki, *Spostrzeżenia, myśli i uwagi obywatela, w zaciszu domowym przyszłemu sejmowi podane*, Lublin 1811, pp. 20–21. In 1815 an interesting work by Józef Sołtykowicz was published. See J. Sołtykowicz, *O przyczynach nędzy włościan*, [in:] *Sprawa włościańska. Wyjątki z nowożytnych polskich ekonomistów*, prepared by S. Uruski, vol. 1, part 1, Warszawa 1858, pp. 207–234.

[68] PRSKW I(1), p. 68.

a year, during which time he must not be forced either to move out or to do greater duties that he had done before. He may enter into a voluntary agreement with the lord of the village in which he has lived so far or with another lord, where he will move, in the presence of a court member who would guard against coercion or deceit.[69] If he moves out, he should return the land property of the lord, consisting of buildings, livestock, agricultural tools and crops. However, if he proves that he lost the property after 1 October 1806, whether as result of pestilence or another disaster, he is free from this obligation. Any other claims that he would deny could not be taken into account and he could not be forced to stay in the village, until these claims are explained before a court".[70] T. Mencel pointed out that any drafts going beyond the king's indications had no chance to be included in the executive decree, as the king imposed his concept from the very beginning. In view of the above, the final version of the decree was prepared by Minister Feliks Łubieński, who best adapted it to the royal intentions.[71]

As mentioned above, the details of the liberation of peasants in the Duchy of Warsaw were contained in the legal regulations that were issued on the basis of Article 4 of the Constitution, which stated that "slavery is abolished" and that "citizens are equal before the law".[72] The proper formation of agrarian relations in the Duchy of Warsaw is due to the Decree of 1807,[73] which brought about the abolition of serfdom. However, this Decree had results contrary to the assumptions

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[69] See S. Węgrzecki, *Pismo o prawach dla Księstwa Warszawskiego uchwalonych*, Warszawa 1809, pp. 109–112.

[70] PRSKW I(1), pp. 69–70.

[71] Cf. T. Mencel, *Zniesienie poddaństwa…*, p. 29. However, in the opinion of H. Grynwaser (*Kodeks Napoleona…*, p. 17), F. Łubieński was a poor lawyer who "imagined that the introduction of French legislation would be equivalent to the abolition of corvée and the transfer of the ownership of corvée land to peasant". Cf. J. Przygodzki, *Feliks Łubieński – minister sprawiedliwości Księstwa Warszawskiego*, [in:] *Wybitni prawnicy na przestrzeni wieków*, eds. M. Marszał, J. Przygodzki, "Acta Universitatis Wratislaviensis" 2006, no. 2910, pp. 90–98.

[72] J. Lelewel (*Trzy konstytucje…*, p. 92) stressed that "the Constitution of the Duchy of Warsaw included an article hurting the Polish nation, in the following words: Slavery is abolished. If slavery had indeed existed – Lelewel goes on write – its abolishment would have taken place between the temporary regulations. If it was abolished, it does not exist, and because there was no slavery, such an article is an insult to the Polish nation. In that part of Poland which was endowed with the Constitution of the Duchy, there was no such slavery during the captivity of the Prussian government, it was not included in the Act of 3 May, and it did not exist even before the establishment of the Act of 3 May, because it is well known that in Poland the rural people were serfs of the lords, but they were free, only not legally protected against the arbitrariness of the lords". Stanisław A. Thugutt (*Księstwo Warszawskie, jego utworzenie i dzieje*, Warszawa 1907, p. 33) wrote that "slavery as such, as in neighbouring Prussia, has never existed in Poland. Polish peasants were not free, because they were not allowed to leave the land without the lord's permission; however, peasants were not traded like animals". Cf. F. Skarbek, *op. cit.*, pp. 64–65.

[73] The Decree of 21 December 1807 on peasants and hired farm labourers, DPKW, vol. 1, no. 1, pp. 10–12.

of some of its initiators. The granting of legal freedom to the peasant, while stating that all the land, buildings, livestock and agricultural tools are the property of the lord, actually placed the peasant at his mercy, which was later reflected in facts.[74]

According to Article 1 of the Decree of 21 December 1807 signed by the King of Saxony and the Duke of Warsaw, Frederick Augustus, "Every farmer, peasant and hired farm labourer who was not granted the right of ownership may leave the place where he had stayed so far and move to any other place within the Duchy of Warsaw". The only restriction was the obligation, in Article 2 of the Act, to inform the lord or the administrative authorities about the intention to leave the land. Peasants who wished to remain in their place of residence had "full freedom of living there, as long as they also performed the same duties to which they were previously subject to", and the lord's rights to increase duties were limited (Article 3). A peasant who wanted to leave his village had to return the land property to the lord, including the livestock, buildings, agricultural tools and crops. A peasant was exempted from this obligation only if he proved that he had lost this property in October 1806, either due to pestilence or another chance event.[75]

In fact, the Decree thus led to even further deterioration in the situation of the rural population by explicitly abolishing the customary law (as regards the right of peasants to possess their own settlements),[76] confirmed by the Prussian Landrecht,[77] which granted land ownership to the peasant and forbade removing him from the land for no specific reason and gave him the right to request assistance from the lord in the event of a calamity.[78] As Janusz Górski points out, after the Decree entered into force, it was possible to evict peasants without any limitations, move peasant farms to worse areas, raise serfdom obligations, which the peasant had to agree to, unless he wanted to lose his livelihood.[79]

Numerous evictions which took place, particularly in the western departments of the Duchy, were generally supported by the administrative authorities, as consistent with the letter and spirit of the Decree. These evictions meant that agriculture was being intensified, as the reorganised manorial farms increasingly relied on

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[74] See Z. Stankiewicz, *op. cit.*, pp. 59–64.

[75] Cf. Archiwum Główne Akt Dawnych w Warszawie [The Central Archives of Historical Records in Warsaw], fond no. 176, "Rada Ministrów Księstwa Warszawskiego. Księgi kancelaryjne" ["Council of Ministers of the Duchy of Warszawa. Chancellery books"], "The Letter of Mister of Internal Affairs of 21 June 1811 on the doubts concerning the movement of peasants", file 152, card 1.

[76] See J. Jeziorański, *op. cit.*, p. 7.

[77] Cf. A. Rembowski, *Przyczynek do dziejów konstytucyjnych…*, pp. 52–53.

[78] Cf. W. Sobociński, M. Senkowska-Gluck, *Księstwo Warszawskie*, [in:] *Historia państwa i prawa Polski*, vol. 3: *Od rozbiorów do uwłaszczenia*, eds. J. Bardach, M. Senkowska-Gluck, Warszawa 1981, p. 80.

[79] See J. Górski, *Polska myśl ekonomiczna a rozwój gospodarczy 1807–1830. Studia nad początkami zacofania gospodarczego*, Warszawa 1963, p. 29.

hired labour, often improving production methods.[80] Moreover, the nobility fully accepted the situation that had arisen and strongly opposed attempts by the state to interfere in any way with the relations between the landowner and the peasant, treating them as private legal relations, rejecting the attempts to develop rents.[81]

The provisions of the December Decree were perfectly evaluated after many years by Stanisław August Thugutt, who wrote in the following way: "[A peasant] could buy land but did not have the money to pay for it. He could lease it from the manor, but as the law did not force the lord to make one contract longer than a year, he had neither the benefit nor the opportunity to run his farm in such a way that would pay back several years later. Finally, because of the difficulties of selling the grain he was not able to pay the rent in cash, he had to pay for it with his labour. However, in this case, when one of the parties to the lease did not want to meet its conditions, the court had nothing to do, because the law did not allow forcing a man to do something against his will, in this case, to do corvée. The manor, unable to resort to the law, had to abuse in its defence the force that was given to him by the office of a *wójt* (*Vogt*) and its control of the land. The peasant worked, but not being sure if he would not be forced to leave his land, cottage and property the following year, did not know who he was working for".[82]

According to the December Decree, land was owned by the lord and a peasant leaving his village, should give it back to his lord, along with the crops, buildings and livestock. One year after the Decree came into force, if, for example, the owner wanted to enlarge his manor, he could evict the peasant from the land. In addition, the Decree provided that the manor and the peasant should conclude agreements[83] specifying the peasant's duties; in practice mainly duties to provide unpaid labour.[84] These agreements should have been based on the principle of formal equality before the law, which was to be taken care of by notaries who supervised them,[85] but the

[80] See *ibidem*. Cf. S.A. Thugutt, *op. cit.*, pp. 34–35.

[81] Cf. J. Górski, *op. cit.*, p. 30.

[82] S.A. Thugutt, *op. cit.*, pp. 33–34. Cf. Z. Stankiewicz, *op. cit.*, pp. 57–58.

[83] See T. Opaliński, *Chłopskie prawa do ziemi i udział chłopów w obrocie nieruchomościami w Księstwie Warszawskim w świetle akt notarialnych (na przykładzie powiatu konińskiego)*, "Roczniki Dziejów Społecznych i Gospodarczych" 2020, vol. 81, pp. 153–185.

[84] Cf. M. Konarski, *Feudal Duties of the Population in the Light of Old Polish Law. The Case of Public Transport and Traffic Duties*, "Acta Iuridicia Olomucensia" 2020, vol. 15(1), pp. 22–35.

[85] Sixty notaries were appointed in the provinces. They were to collect declarations of owners and peasants to conclude civil contracts for the lease of land by peasants in exchange for their labour. However, the notarial agreements eventually did not come into effect and the whole matter of the peasants' fate was given to the nobility, because in exchange for the freedom to move from place to place, which peasants received, the noblemen were granted a legal title of unlimited ownership of the land owned by peasants. See E. Plebiński, *Kodeks Napoleona a sprawa włościańska u nas: (dokończenie)*, "Gazeta Sądowa Warszawska" 1905, no. 27, pp. 428–429; M. Handelsman, *Zasady napoleońskie…*, p. 4.

position of landowners was dominant, because failing to conclude an agreement could result (after one year) in the eviction of the peasant. That is why later people used to say that the December Decree "removed the peasant's boots along with his shackles".[86]

THE DECREE OF 23 FEBRUARY 1809

The reform of agrarian relations in the Duchy of Warsaw, which started in 1807 was continued in the following years, along with the reorganisation of rural and urban self-government. The Decree of 23 February 1809 introduced a temporary organisation of rural and urban communes, not provided for in the Constitution.[87] From that time on, each town and village constituted a commune. A rural commune was headed by a *wójt* (*Vogt*) appointed by the prefect and approved by the Minister of the Interior. A *wójt* was subordinate to the deputy prefect (and *sołtys* could act as his deputy in the village community).[88]

The prefect had the most important role in the system of territorial administration bodies of the Duchy of Warsaw, as the provisions of the Decree of 7 February 1809 on the organisation of administrative authorities in departments and *powiat*

[86] S. Grodziski, *op. cit.*, p. 252. As H. Grynwaser (*Kodeks Napoleona…*, p. 30) emphasised, the aim of this Decree was to win rich landowners over to the new law. Moreover, "the interpretation of the December Decree, which gave land in the whole Duchy to the landed gentry and ignored the peasants, was characterized by injustice and resulted from concern for the nobility's interests" (*ibidem*, p. 50).

[87] The Decree of 29 February 1809 – Temporary organisation of communes, DPKW, vol. 1, no. 9, pp. 201–209. The draft decree submitted by the Minister of the Interior to the Council of State on 28 March 1807, PRSKW I(1), p. 222. This draft was discussed in the following months. See PRSKW I(1), pp. 225, 263, 271, 273, 283, 310–311; PRSKW I(2), p. 21, 112; *Protokoły Rady Stanu Księstwa Warszawskiego*, vol. 2, part 1, published by B. Pawłowski, T. Mencel, Toruń 1965, pp. 118–119.

[88] See S. Węgrzecki, *op. cit.*, pp. 75–77, 85; J. Kukulski, *Funkcje gminy dominialnej*, "Acta Universitatis Lodziensis. Folia Historica" 1983, no. 13, p. 114. On 28 October 1809 the Council of State received a proposal to appoint *wójtowie* (*Vogts*) form among the citizens who paid the highest taxes. This would lead to a situation in which lords would become *wójtowie* (*Vogts*). Cf. S. Uruski, *O znaczeniu dekretu saskiego z dnia 21 grudnia 1807*, [in:] *Sprawa włościańska. Wyjątki z nowożytnych polskich ekonomistów*, annex and preparation by S. Uruski, vol. 1, part 2, Warszawa 1858, p. 53. Duke Józef Poniatowski opposed such a solution, i.e. the double subordination of peasants to their lords, which led the Council of State to introduce an amendment to the draft: *wójtowie* should be chosen "from among citizens of the commune who know how to read and write", which still favoured the lords, as peasants could not read and write. See T. Mencel, *Gmina wiejska…*, p. 51. From the very beginning, the Duchy authorities considered vesting lords with the powers of a *wójt* as the only possible solution, since it guaranteed that peasants would obey the manor. Fryderyk Skarbek (*op. cit.*, p. 22) attributed entrusting the office of a *wójt* to lords to the lack of educated people in villages, shortages in the public treasury and the "fear of falling into disfavour of the landowners by imposing strangers, dependent only on the government, as heads of communes". Cf. J. Kukulski, *op. cit.*, pp. 115–116.

districts entrusted him with the role of the organiser and head of the territorial administration.[89] He had extensive competences, from which only the judiciary in civil and criminal cases and command over regular military formations were excluded.[90] The deputy prefect was primarily obliged to execute the normative acts handed over to him and to control their application by the local authorities.[91]

Wójtowie (*Vogts*) had a significant position in the system of rural communes in that period,[92] but it should be stressed that they did not receive any remuneration.[93] However, it should be emphasised that they cannot be classified as local government bodies because they were only representatives of the state authorities, as opposed to commune (rural) councils, which, in contrast, should be regarded as local government bodies, although in practice they did not play a significant role.[94]

As regards the competencies concerning the administration of justice, a *wójt* (*Vogt*) could settle disputes in cases up to 20 zlotys and could impose penalties of up to 12 hours of imprisonment and fines of up to 10 zlotys, while only after the execution of his verdict the parties could appeal to the court of peace, which could order the compensation of losses by the *wójt* if one of the parties was found to have been hurt.[95]

A *wójt* had judicial powers over administrative offences committed by persons residing in the commune or by strangers, but caught in the act of committing an offence, in cases where the claims of the parties did not exceed 30 zlotys. A *wójt* did not have judicial powers in cases of insulting honour, the so-called major *iniuriae*,

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[89] DPKW, vol. 1, no. 8, pp. 165–186.

[90] Cf. M. Kallas, *Organy administracji terytorialnej w Księstwie Warszawskim*, Toruń 1975, pp. 82–87; L. Kania, *Sądy wojskowe w armii Księstwa Warszawskiego (prawo, struktury, praktyka)*, "Studia Lubuskie" 2011, vol. 7, pp. 15–47; M. Baranowski, *Dezercja z wojsk Księstwa Warszawskiego w departamencie lubelskim na podstawie listów gończych z 1811 roku*, "Teka Komisji Historycznej Polskiej Akademii Nauk Oddział w Lublinie" 2012, vol. 9, pp. 96–125.

[91] Cf. M. Kallas, *Koncepcje organizacji nowoczesnej administracji centralnej w Księstwie Warszawskim*, "Annales UMCS. Sectio F" 1982, vol. 10, pp. 192–193; *idem*, *Ustawa Konstytucyjna Księstwa…*, pp. 139–141; T. Knopp, *Prefekci Księstwa Warszawskiego. Przyczynek do portretu zbiorowego*, "Studia Historyczne" 2012, no. 3–4, pp. 357–370; P. Cichoń, *Wpływy francuskie w administracji Księstwa Warszawskiego*, "Zeszyty Naukowe Uniwersytetu Jagiellońskiego" 2013, no. 1(140), p. 13. On the prefect's competence as the chairman of the prefectural council, i.e. the first administrative court of the first instance, see W. Witkowski, *Sądownictwo administracyjne w Księstwie Warszawskim i Królestwie Polskim 1807–1867*, Warszawa 1984, pp. 13–17, 32–39. In 1816, in the Kingdom of Poland, the offices of prefects and deputy prefects were abolished and replaced by Voivodeship Committees. See B. Wasiutyński, *Administracja lokalna Kr. Polskiego (1807–1905) wobec samorządu ziemskiego*, Warszawa 1906, pp. 4–5.

[92] See M. Kallas, *Organy administracji terytorialnej…*, pp. 122–125.

[93] See W. Sobociński, *Historia ustroju i prawa Księstwa…*, p. 140.

[94] See A. Okolski, *Wykład prawa administracyjnego oraz prawa administracyjnego obowiązującego w Królestwie Polskim*, vol. 1, Warszawa 1880, p. 436.

[95] See. T. Mencel, *Gmina wiejska…*, p. 51.

and petty offences, the so-called forest embezzlements.[96] For administrative offences, a *wójt* could pronounce a penalty which did not exceed 5 days of arrest or 30 zlotys, and the confiscation of the subject of the offence. The verdict of the administrative court of the *wójt* was subject to appeal to the Correctional Police Department. If it was not subject to appeal, a party could appeal within 10 days to the Court of Cassation in the Council of State,[97] which resulted in suspending the sentence.[98]

In addition, a *wójt* (*Vogt*) administered and took care of the property and funds of the commune and of the institutions operating in the area of the commune. As far as tax obligations are concerned, the *wójt* was to provide assistance to the commissioners of the roof tax "in what they can demand in order to perform their work", pursuant to Article 3 of the regulation on an increase of the roof tax of 25 March 1809.[99] Similarly, when collecting personal tax for the costs of the fortifications, the *wójt* was responsible for the timely payment of the tax in full, and in the event of difficulties in collecting the tax at the *Vogt's* request, "immediate enforcement on those resist who should be carried out" (Article 5 of the resolution of 25 March 1809 on collecting personal tax for fortifications).[100]

In the event of tax arrears, the *wójt* was "personally, and with his property", responsible for failing to sequestrate the property of the debtor and conduct the auction as well as for delays in handing over the debtor to the deputy prefect or for misuse of power to the detriment of debtors.[101] In addition, the *wójt* was obliged to draft a list of persons subject to the patent tax on independent craftsmen in the countryside (Article 7 of the Decree of 25 March 1809 on the patent tax).[102]

An important role was played by the *wójt* when assigning *podvodas* for the army,[103] and he was obliged to issue identity certificates to persons born or residing

[96] The Decree of 28 September 1807 on the prevention of losses resulting from cutting and burning national forests in: *Materiały do dziejów Komisji Rządzącej z r. 1807*, vol. 1: *Dziennik czynności Komisji Rządzącej*, prepared by M. Rostworowski, Kraków 1918, p. 760. Cf. A. Żabko-Potopowicz, *Lasy Księstwa Warszawskiego i ich gospodarze*, [in:] *Twórcy i organizatorzy leśnictwa polskiego na tle jego rozwoju*, Warszawa 1974, pp. 92–93; R. Kowalczyk, *Polityka gospodarcza…*, p. 210.

[97] For more about cassation courts in the Duchy of Warsaw, see M. Krzymkowski, *Rada Stanu Księstwa Warszawskiego*, Poznań 2011, pp. 178–197.

[98] See T. Mencel, *Gmina wiejska…*, p. 57.

[99] DPKW, vol. 2, no. 13, p. 37.

[100] *Ibidem*, pp. 30–31. Cf. R. Belostyk, *Fortyfikacje Księstwa Warszawskiego 1807–1813*, Oświęcim 2018, pp. 65–83, 133–142, 285–326.

[101] DPKW, vol. 2, no. 31, p. 257.

[102] DPKW, vol. 2, no. 13, p. 21.

[103] The Decree of 22 May on the provision of military *podvodas*, DPKW, vol. 2, no. 13, 18, pp. 195–212. For more about the duty to provide *podvodas*, see Archiwum Główne Akt Dawnych w Warszawie [The Central Archives of Historical Records in Warsaw], fond no. 175, "Rada Stanu i Rada Ministrów Księstwa Warszawskiego. Akta spraw" ["The Council of State and the Council of Ministers of the Duchy of Warszawa. Case files"], file 204, cards 1–30, 35–61, 91–104, 111–114,

in the commune, to be used instead of birth certificates when making entries in the Books of the Registry Office (Articles 70–71).[104] According to the provisions of the Decree of 18 January 1810 on population books,[105] the *wójt* was obliged to keep a population book, where all persons residing in the commune were entered.[106]

The authority that controlled the activities of the village council was, in the light of the Decree of 23 February 1809, the village council. Village councils had limited powers: they adopted resolutions for the *Poviat* District Council concerning the distribution of the village's public burdens, distributed military *podvodas*, put forward proposals to improve local administration, proposed contributions for the local needs and determined the income and expenses of the commune, and also collected the accounts of the *wójt* from the commune funds spent. They gathered once a year on 1 December for 6 days for the distribution of public burdens and for the purposes of communal economy and the distribution of works, and, at the request of the *wójt* in order to start the process of the exchange or sale of the commune property (§ 14–17 of the Decree on the organisation of rural and municipal communes of 23 February 1809).[107]

As T. Mencel points out, the regulations concerning rural councils were theoretical in nature, as the rural communes had no property and the communal pastures were dependent on the lord, who could change them at will. The only real right of the village council was supposed to be the distribution of taxes, *podvodas* and quarters,[108] but in view of the slow process of establishing the councils, these functions were fulfilled from the beginning by *wójtowie* (*Vogts*).[109]

Village councils were supposed to be the controlling bodies for the activities of *wójtowie*, distributing the public burden fairly and informing deputy prefects about the state of the commune administration, but they had no chance to fulfil these tasks in view of their dependence on *wójtowie* as their heads. Eventually, until

122–136; *Protokoły Rady Ministrów Księstwa Warszawskiego*, vol. 1: *1808–1809*, prepared by M. Krzymkowski, P.M. Pilarczyk, Poznań 2015, pp. 72–73, 87–88, 119–120; M. Konarski, *Publiczne posługi transportowe w okresie Księstwa Warszawskiego w świetle postanowień dekretu z dnia 22 maja 1810 roku „względem koni i podwód dostarczonych pod transporty i wojskowych"*, "Czasopismo Prawno-Historyczne" 2019, vol. 71(2), pp. 113–135.

[104] The Decree of 18 March 1809 on the application provisions of the Napoleonic Code on civil status records to the situation of the country DPKW, vol. 1, no. 10, pp. 231–236.

[105] DPKW, vol. 2, no. 15, pp. 109–121.

[106] As T. Mencel (*Gmina wiejska…*, p. 59) noticed, this Decree abolished the constitutional provisions on the personal freedom of peasants on the pretext of combating vagabonds.

[107] DPKW, vol. 1, no. 9, pp. 207–208.

[108] See M. Konarski, *Publiczne posługi…*, pp. 113–135; Z. Filipiak, *Kwaterunek wojskowy w domach prywatnych Księstwa Warszawskiego. Regulacje prawne*, "Studia Iuridica Toruniensia" 2011, no. 9, pp. 215–229; idem, *Prawo własności nieruchomości…*, pp. 85–92.

[109] See T. Mencel, *Gmina wiejska…*, p. 60.

the end of the Duchy of Warsaw, the office of a *wójt* in practice merged with the person of the lord, and the commune merged with the area of the land property.[110]

In this way, the reformed new system of the commune was the *de facto* abolishment of the rural self-government.[111] Village councils did not become the organ of the communes because in practice they were either not convened or not created.[112] The position of a *wójt* was given the features of a state office. Holding such an office was beyond the capabilities of a peasant and did not fit into the system in which the village was economically dependent on the manor.[113] In the conditions of the prevailing serfdom system in the countryside and the lack of peasant ownership, the office of a *wójt* was not to serve the peasant self-government, but only the activities that the *wójt* was entrusted by the state: police jurisdiction, maintaining peace in the countryside, i.e. *de facto* keeping peasants in obedience, military and tax matters, etc., whose performance could be fully guaranteed by the *wójt*.[114]

CONCLUSIONS

There are several issues that should be noted in conclusion. Firstly, there is no doubt that the legislation of the Duchy of Warsaw was based on the models of revolutionary and Napoleonic France. Nevertheless, the regulation of agrarian relations that took place there at the end of the 18th century was not possible due to the strong resistance of the Polish nobility. Article 4 of the Constitution of the Duchy of Warsaw of 22 July 1807 granted peasants personal freedom. However, the Decree of 21 December 1807, which developed this provision, worsened the legal position of peasants by granting the exclusive right of ownership of land to masters, which was a consequence of the pressure of opinions representing the interests of the nobility.[115] As a result, the December Decree did only distort the spirit of the French legislation and Article 4 of the Constitution of the Duchy but "but rejected the lofty goals of gradually improving the fate of Polish peasants, which had been pursued by the Four-Year Sejm".[116] Stanisław Staszic had similar

[110] See *ibidem*, p. 62; M. Kallas, *Organy administracji terytorialnej...*, pp. 148–149.

[111] Cf. A. Rembowski, *Przyczynek do dziejów konstytucyjnych…*, p. 56.

[112] Cf. A. Okolski, *Wykład prawa administracyjnego…*, vol. 1, p. 436.

[113] Cf. T. Mencel, *Gmina wiejska…*, p. 63.

[114] See *ibidem*, pp. 63–64.

[115] See Z. Stankiewicz, *op. cit.*, pp. 49–52.

[116] A. Rembowski, *Przyczynek do dziejów konstytucyjnych…*, p. 54. For more about the reforms during the Four-Year Sejm, see, i.a., E. Rostworowski, *Sprawa chłopska w projektach Ustawy Rządowej*, [in:] idem, *W sprawie Konstytucji Ekonomicznej 1791 r.: (na marginesie książki Jana Dihma)*, "Przegląd Historyczny" 1960, no. 4, pp. 732–736; W. Szczygielski, *Rozważania na temat Sejmu Wielkiego* (*w 220. rocznicę inauguracji obrad*), "Przegląd Nauk Historycznych" 2008, no. 2, pp. 55–57; M. Konarski, *Reflections on the Reform…*, pp. 41–45. As E. Plebiński (*Kodeks Napoleona*

views. He had a favourable opinion of the Constitution of the Duchy but the fact that it ignored the question of land ownership meant, in his opinion, that the legislator did not intend to change the state of affairs which had existed for centuries. The analysis of Staszic's views seems to indicate that he assessed the December Decree as contrary to the Constitution.[117]

The deterioration of the legal situation of peasants became most clearly visible in that part of the Duchy which had been taken over from Austria in 1809.[118] The Duchy of Warsaw abolished the Austrian legislation in those parts of the Duchy which, before 1809, had been under Austrian rule for over 10 years, and in the Zamość region for 37 years, from 1773.[119] The French Code, which did not recognise any rights acquired by the population, abolished the serfdom patent of Joseph II of 1786 and further protective patents restricting the lawlessness of the oppression by the nobles,[120] and therefore allowed the lords, as unrestricted owners of the peasants' land, to demand, without any limitation, as many days of a week, as they had had to do before their duties were modified by the Austrian patents, and even impose new obligations.[121]

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a sprawa…, p. 411) pointed out, "safe possession of land, under certain conditions, was announced in Kościuszko's proclamation, sanctioned by Austrian and Prussian laws but challenged by the Constitution of the Duchy and its implementing regulations".

[117] Cf. the discussion in the Council of State in 1822 in: H. Grynwaser, *Pisma*, vol. 2, Wrocław 1951, pp. 169–203 (annex). For more about Staszic's views concerning agrarian relations, see S. Staszic, *O statystyce…*, pp. 14–18; idem, *Pisma filozoficzne i społeczne*, prepared by B. Suchodolski, vol. 1, Warszawa 1954, pp. 102–105, 113, 116, 163, 283–290; idem, *Ród ludzki*, prepared by Z. Daszkowski, vol. 2, Warszawa 1959, pp. 232, 244–246, 316, 320–321; J. Grzywicka, *Ekonomiczne poglądy Stanisława Staszica*, Warszawa 1957, pp. 142–224; J. Duda, *La conception de Stanislaw Staszic de l'aide aux agricultures*, "Annales UMCS sectio G (Ius)" 1984, vol. 20, pp. 351–362; M. Mruszczyk, *Społeczeństwo i państwo z perspektywy „rodu ludzkiego" Stanisława Staszica*, "Doctrina. Studia Społeczno-Polityczne" 2012, no. 9, p. 195.

[118] For a wider discussion, see T. Kargol, *Sytuacja gospodarcza Galicji w dobie Księstwa Warszawskiego*, [in:] *Galicja w Księstwie Warszawskim*, eds. H.W. Żaliński, H. Chudzio, Kraków 2009, pp. 87–104.

[119] According to E. Plebiński (*Kodeks Napoleona a sprawa włościańska u nas: (dokończenie)…*, p. 430), the legislation of the Duchy of Warsaw wasted all the past achievements concerning peasants, spoiled and destroyed what the Prussian and Austrian governments had already done for the peasant question, and "the ideas of this legislation had a disastrous impact on the Wielopolski's plan to convert labour services into rents , which was contrary to the social aspirations of the time and did not rise to the task: to solve the peasant question, as our most important social matter".

[120] See S. Schnür-Pepłowski, *Z przeszłości Galicji*, Lwów 1895, p. 45; J. Rutkowski, *Historia gospodarcza Polski*, vol. 2: *Czasy porozbiorowe*, Poznań 1950, p. 19; S. Śreniowski, *Rzeczpospolita i Galicja w latach 1772–1795: uwagi o programie politycznym ziemiaństwa polskiego*, "Przegląd Historyczny" 1952, no. 1, p. 91.

[121] S. Uruski, *Polemika o kwestii włościańskiej*, Warszawa 1857, p. 27. Cf. A. Rembowski, *Z życia konstytucyjnego w Księstwie Warszawskim*, Warszawa 1906, pp. 147–148.

Secondly, it should be noted that the December Decree in no way provided for the reform of the agrarian question, as it was promulgated without the simultaneous formation of economic relations. Stanisław Aleksander Kempner went as far as to comment that the Decree was only an "ostensible solution of the peasant question".[122] Zofia Kirkor-Kiedroniowa argued that the December Decree led only to the "social" liberation of peasants, but "by creating a legal basis for denying them the necessary condition of economic independence – the ownership of land – made this liberation an illusion".[123]

To conclude the discussion in the article, it should be stressed that although the reform of agrarian relations in no practical way resolved the peasant issue in a satisfactory manner,[124] it later became for Poland – within the borders of the Kingdom of Poland, created in 1815 – the basis for a particular evolution of agrarian relations, playing a breakthrough role.[125] From that time on, the issue of land ownership and the related issue of serfdom became the most important problems of agrarian relations.[126] Unfortunately, it took many more years for further reforms of agrarian relations in Polish lands,[127] which would significantly change the fate and legal status of the rural population.

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[122] See S.A. Kempner, *Idee polityczno-gospodarcze Polski porozbiorowej*, [in:] *Dzieje gospodarcze Polski porozbiorowej*, vol. 1, Warszawa 1920, p. 5. Cf. R. Rybarski, *Sprawa włościańska na sejmie w r. 1831*, "Czasopismo Prawnicze i Ekonomiczne" 1910, annual set 11, p. 163.

[123] Z. Kirkor-Kierdroniowa, *Włościanie i ich sprawa w dobie organizacyjnej i konstytucyjnej Królestwa Polskiego*, Kraków 1912, p. 22.

[124] Cf. P. Cichoń, *Rozwój myśli administracyjnej w Księstwie Warszawskim 1807–1815*, Kraków 2006, pp. 191–199.

[125] See W. Grabski, *Historia wsi w Polsce*, Warszawa 1929, p. 251. It should also be remembered that the character of the commune, organised in accordance with the February Decree of 1809, was not changed after the creation of the Kingdom of Poland (the *wójt* [*Vogt*] remained "the last link of the national administration"), which was clearly confirmed by Article 84 of the Constitutional Act of the Kingdom of Poland of 15/27 November 1815, Dziennik Praw Królestwa Polskiego [Journal of Laws of the Kingdom of Poland], vol. 1, no. 1, pp. 50–51. The regulation concerning *wójts* (*Vogts*) in villages, Dziennik Praw Królestwa Polskiego [Journal of Laws of the Kingdom of Poland], vol. 6, no. 22, pp. 34–41. Cf. H. Konic, *Samorząd gminny w Królestwie Polskim w porównaniu z innymi krajami europejskimi*, Warszawa 1906, pp. 1–2; J. Kukulski, *op. cit.*, p. 116.

[126] See N. Gąsiorowska-Grabowska, *Proces formowania się narodu burżuazyjnego w ramach kształtowania się stosunków kapitalistycznych w Polsce*, [in:] *Pierwsza konferencja metodologiczna historyków polskich. Przemówienia – referaty – dyskusja*, Warszawa 1953, p. 30.

[127] Cf. J. Rutkowski, *Kapitalizm agrarny w Europie w czasach nowożytnych*, [in:] *Pamiętnik V Powszechnego Zjazdu Historyków Polskich w Warszawie: Referaty*, Lwów 1930, p. 52; M. Meloch, *Sprawa włościańska w powstaniu listopadowym*, Poznań 1948, pp. 14–40; E. Halicz, *Kwestia chłopska w Królestwie Polskim w dobie powstania styczniowego*, Warszawa 1955, pp. 215–326; M. Konarski, *Reforma statusu prawnego chłopów w okresie powstania krakowskiego 1846 r. na tle porównawczym*, "Studia Prawnicze" 2019, vol. 30(4), pp. 9–23.

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ABSTRAKT

Przedmiotem analizy w artykule są reformy stosunków agrarnych, jakie przeprowadzone zostały w pierwszych latach istnienia Księstwa Warszawskiego, powstałego wskutek postanowień traktatów pokojowych z 1807 r. Status prawny chłopów został w tym czasie najpierw uregulowany w sposób ogólny postanowieniami Konstytucji nadanej przez Napoleona Bonaparte 22 lipca 1807 r. W dalszej kolejności postanowienia te uszczegółowiono, ogłaszając w dniu 21 grudnia 1807 r. dekret, który przyniósł likwidację poddaństwa, a także przyznając chłopom możliwość przenoszenia się w obrębie ziem Księstwa. Dekret ten stwierdzał, że ziemia jest własnością pana i chłop opuszczający wieś powinien oddać panu ziemię wraz z zasiewem, jak również budynki i inwentarz. Oznaczało to, że po wejściu dekretu w życie powstała możliwość nieograniczonych rugów chłopskich oraz podnoszenia obciążeń pańszczyźnianych. Należy jednak zaznaczyć, że w związku ze znacznym wyludnieniem kraju w tym okresie i z pojawiającymi się trudnościami w zapewnieniu siły roboczej dla folwarku rugi stosowano względnie rzadko. Niemniej w późniejszym czasie o reformie przeprowadzonej tym dekretem mówiono, że „zdjęła chłopu kajdany z nóg razem z butami". W niniejszym artykule autor poddaje analizie postanowienia tego dekretu w kontekście regulacji wynikających z Konstytucji Księstwa, Kodeksu Napoleona oraz dekretu z dnia 23 lutego 1809 r. wprowadzającego tymczasową organizację gmin wiejskich. Rozważania na temat reform chłopskich w tym okresie uzupełnione zostały analizą sytuacji społeczno-gospodarczej na ziemiach wchodzących w skład Księstwa oraz wybranymi wypowiedziami, jakie pojawiały się w kwestii włościańskiej na łamach literatury przedmiotu od czasów dawnych do współczesnych.

Słowa kluczowe: Księstwo Warszawskie; poddaństwo; chłopi; reformy prawne