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"1956 in Poland : Courts, Prosecution,
Criminal Law", Diana Maksimiuk,
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DIANA MAKSIMIUK, *1956 IN POLAND. COURTS,
PROSECUTION, CRIMINAL LAW*,
IPN BIAŁYSTOK 2016, PP. 357.

In November 2016 a Diana Maksimiuk's book entitled *1956 in Poland. Courts, prosecution, criminal law* was published by the Institute of National Remembrance in Białystok. The book constitutes an analysis of the results of the ideological de-Stalinization campaign against the background of the events taking place in the People's Republic of Poland in 1956. The analysis has been made through the prism of the then ongoing scholar and journalistic discussions on the criminal law, and the prosecution service, and court system.

The thaw of 1956. The year of change; tension and hope for going back to normality free from terror, expectations of making amends and the rehabilitation of the falsely convicted and executed. The headlines from that time say: „the Gomułka thaw,” „October 1956.” The reason for such a turn in the internal policies of the People's Republic of Poland was known: most of all the death of Josef Wissarionowitsch - „the host,” as he used to be referred to by Józef Światło in Radio Free Europe. His death caused quite a turmoil and anxiety in the party, as Beria had his own sovereign weapon in the form of NKVD. Ławrientij Beria, taking advantage of his strong position in the party and the security apparatus, began the liberalization of law.

The first crucial decision was announcing amnesty, which was to win favor with the society. Beria's further plans did not meet with his party comrades' favor, the effect of which was a conspiracy by Nikita Khrushchev which finally lead to Beria's detention in June 1953. The new rulers chosen through collegiate management, headed by Nikita Khrushchev, introduced hasty changes in the economic and foreign policy of the USSR. In his secret paper given on the 20th convention of the CPRF, Nikita Khrushchev announced that „[...] yesterday's leader of progressive humankind, the inspiration of the world, the father of the Soviet nation, the great coryphaeus of science, the greatest military genius and the greatest genius in history at all, was a murderer of millions, a torturer, a paranoiac, and an ignoramus on military issues, who lead the Soviet Union to the edge of the abyss,” which became known worldwide soon after.

Undoubtedly, it was a selective criticism directed at Stalin as the one guilty of reprisals and distortions in an ideologically right system. A wind of big change could be felt, nevertheless. According to the operative rule and past practice, the satellite countries began to copy the Soviet solutions.

Meanwhile, for the People's Republic of Poland the year 1953 was still dominated by terror and „escalating class conflicts resulting from building socialism.” Two months after Stalin's death, ten officers were executed as a result of general Stanisław Tatar's case. However, at the turn of 1953 and 1954 first symptoms of the upcoming changes could be seen, which was manifested in the party's policy concerning judiciary, as there was an end of „[...] the time of massive political processes of people who had not committed the crimes they were accused of [...]. It also meant the end of judges' great fear of the secret police officers and the limitation of >>manual control<< of the courts by the party.”

An event that the Stalinist regime in the People's Republic of Poland was convulsed by was the high-profile case of Józef Światło's breakout in December 1953, the deputy director of 10th Department of the Ministry of Public Security, who ran away West. A consequence of that was a series of interviews given to Radio Free Europe divulging the activities of the security apparatus and the bloody history of the Ministry of Public Security.

So much for the introduction, as it is impossible not to mention the reason for the thaw after the nightmare of totalitarianism, which the criminal communist system with its army of executors definitely was.

The question is whether in 1956 the transformations that took place in Poland were real or it was just „a change of setting.” Such a question is Diana Maksimiuk's issue in her monograph. The Author scrutinizes the process of transformations in the People's Republic of Poland as far as the institutions mentioned in the very title of her work are concerned., and in the criminal law, too. She does not limit her analysis to the political changes or the transformations in the security apparatus, however, as she believes these fields to be analyzed thoroughly. The Author focuses on the area which has been only partially discovered and, would that it is the most significant one as it constituted the basic tool of the terror, mainly the transformations in the judicial system. Her analysis reaches further than 1956, referring to the effects of actions taken before the contractual date of the „thaw” up until 1959. In her work, Diana Maksimiuk scrutinizes the changes planned to be introduced within the scope of the judicial system and the criminal law, proving how closely related politics and judiciary used to be.

The reviewed work is comprehensive and detailed, based on numerous sources coming from the Archive of New Files in Warsaw, the Institute of National Remembrance, the National Archive in Białystok, dozens of volumes of printed sources, scientific and political commentary texts, as well as remembrances and interviews. The archives of Polish United Workers' Party (PZPR) constituted a significant research material, and so did numerous minutes from the meetings of the party leadership, report notes, as well as law journals and daily newspapers. The Author used the already existing scientific literature scrupulously, which has its confirmation in the

bibliography containing almost 200 items being monographs and articles published after 1989 only.

The work is divided in a thematic order, according to the institutions mentioned in the title and it also contains a chapter devoted to criminal law. It has been crowned with issues common to the judiciary, significant especially for the court system from the perspective of the then ongoing process of de-Stalinization, such as the notion of law and order, the problems of 1956 amnesty and the rehabilitation of political prisoners. The structure of each chapter is based on the scheme: who, what, how and what for, which gives the effect of clarity, avoiding chaos and too much information at the same time. The aforementioned impressive bibliography results in an abundance of footnotes, which not only refer to the sources, but also develop questions which might not be directly related to described facts, but they explain thoroughly their origins or describe people referred to in the research material. It completes the whole picture of events and enables the reader to build a complete vision of the situation, as well as it inspires to draw your own conclusions without referring to other sources of knowledge.

An essential part of scrutinizing the topic is definitely the introduction to the very phenomenon of „the thaw,” without which it would be difficult for the reader to perceive how big the damage to the judiciary was, in its broadest sense. Diana Maksimiuk condensed the ideological depravation and degradation of morality, the most characteristic of the Stalinist period, which put a judge into the role of an executor: „judges acted with an intention to kill the accused”¹. Following the researchers of the court system and law of those times, the Author indicated the steersmen of the unlawful machine of lawlessness and their methods of action without the elaboration getting too lengthy, which constitutes a big advantage of the book, as the reader is to get the gist of the background for later events instead of discovering the whole truth of the Stalinist period. The Author emphasizes the close relationship of politics and the judiciary through an array of institutions, unknown before, whose job was to politicize the judiciary, such as the guidelines, which the Supreme Court was Authorized to so that the uniformity of case-law and judicial decisions was provided. Also, the institution of extraordinary inspection was introduced, similar to the Soviet one, which had the power to discredit final and binding sentences². It was impossible for the Author to omit the question of changes in the legislation, especially in the criminal law, as it was to uphold the system and be the weapon in the class struggle, which concerns mostly the 1944 penal code of the Polish Armed Forces and the decree of November 16, 1945 *on the crimes particularly dangerous during the period of restoration of the state* (1st version of the so called small penal

¹ W. Kulesza, *Crimen laesae iustitiae: odpowiedzialność karna sędziów i prokuratorów za zbrodnie sądowe według prawa norymberskiego, niemieckiego, austriackiego i polskiego*, Łódź 2013, p. 320.

² A. Lityński, *O prawie i sądach początków Polski Ludowej*, Białystok 1999, pp. 151-153.

code), which was replaced with another decree of the same title but a broader penalization scope on June 13, 1946, introducing, in addition, a number of ambiguous statements and enabling even more lenient interpretation of the precepts of law³. The Author notes that „the culmination of the Polish penal system repressiveness was defined by four decrees of March 4, 1953, the so called March decrees, which [...] made community property a separate subject of the criminal law protection. The decrees operated with a fierce penal sanction, which actually came down to imprisonment.” (p. 55). However, cannot agree with Diana Maksimiuk at this point as I believe that the aforementioned penal code of the Polish Armed Forces and the small penal code were the most severe decrees in the whole history of the People’s Republic of Poland.

First clear signs of the thaw in the judiciary became visible at the turn of 1954 and 1955. At this point Diana Maksimiuk’s dissertation gathers momentum. The Author is well acquainted with all the nuance of numerous problems. Each detail, every press quotation mentioned coming from archival documents is seasoned with a subsumption justified with a range of arguments. The Author does not impose her own opinions, but she guides the reader into the atmosphere of „the thaw,” especially heated for those who felt loosening the fetters of censorship. Such liberalization of social life could be observed in the quoted statements of the members of parliament, judges and journalists. A wave of open criticism of the lawlessness forced the Central Committee of the Communist Party (PZPR) to introduce a range of changes into the judiciary system. The first step was Henryk Świątkowski’s disqualification from the function of the Minister of Justice and replacing him with Zofia Wasilkowska, a representative of the liberal group of former Polish Socialist Party (PPS) members, „who got restored to favor in order to lend credence to the de-Stalinization process. [...] Prosecution and the judiciary became obliged to rehabilitate those who got wrongly sentenced and to repair the harm done in the Stalinist period.” (pp. 66-67). The first one to be scrutinized was the Chief Military Prosecutor Office. The results of the examination were so horrifying,” Diana Maksimiuk says, „that, as it resulted from a secret document of March 3, 1955, the authorities decided to limit the aptitude of the military courts by handing over a particular category of criminal cases to the jurisdiction of the ordinary courts.” (p. 58). The decision resulted in the liquidation of the military district courts under the Act of April 5, 1955. The Author refers to the active role of the legal community in the process of „the thaw,” emphasizing the role of the Polish Lawyers’ Association. There might be some doubts as far as the authority of the organization is concerned, since it was strongly involved in the introduction of the revolutionary peasant law and order, and its expertise deteriorated due to a broad group of members of rather

³ Ibidem, pp. 101-111.

questionable, pseudolegal education⁴. However, the Fourth Convention, mentioned in the study, attended by the head of the Ministry of Justice Henryk Świątkowski, despite of being full of political-ideological issues, turned out to be a breakthrough in the context of arising changes. In his speech, the Minister of Justice incited to lean over the substantive issues concerning functioning of the judiciary, as well as the organization and functioning of the People's Republic courts, which could be a signal to focus more on the expertise of its members, transformation from ideological-political into professional. Perhaps that was the reason why Diana Maksimiuk emphasizes the significance of the convention in the context of the changes to come.

Among a number of important, as well as interested questions elaborated on in the part of the book devoted to the attempts to transform the image of the courts of law, it is worth mentioning the Author's reflections on the notion of the judicial independence. The definition functioning in a democratic and liberal country has nothing in common with its meaning in the Leninist-Marxist context, distorted additionally by the ideology of Stalinism. Against this background, there was a wide debate on the place of the judiciary in the system of the People's Republic of Poland State bodies. The Author of the monograph mentioned numerous comments and postulates concerning giving the right meaning to the notion of the independence of the judiciary, but she also presents how difficult it was to break the ideological thread in the understanding of the concept. The excerpts of speeches, studies and press articles dating back to those times are read with great interest. The heated atmosphere can be felt, and, most of all, the narrow-mindedness of the ruling party, thinking always through the prism of an important tool to bring everyone and everything under the manage of the party. „The independence of judges cannot and should not be understood in the sense of their not being dependent upon the people's state, as, while applying the laws and regulations which express the will and interest of working people of cities and villages – the sovereign in our country, the judges [...] serve the purpose of building socialism in our country, realizing the policy of the party and the people's government and they carry out the functions of the people's state.” – the Author quotes the voices of the party leaders (p. 79).

Another important issue touched upon by the Author is the attempt to call those responsible for violating the rule of law to account for it. The whole odium of guilt was directed mostly at the military jurisdiction and the secret sections, not without any reason, as they were given the authority to try civilians for the so called political offenses in the broadest context possible. Specially appointed committees found those who were guilty of distortion, the results of the findings, however, will definitely disappoint the reader. The Author presents the process basing on the commit-

⁴ A. Watoła, *Geneza i działalność Zrzeszenia Prawników Demokratów (Zrzeszenia Prawników Polskich), oraz jego wpływ na postawy sędziów w latach 1945–1956*, <http://www.polska1918-89.pl/pdf/geneza-i-dzialalnosc-zrzeszenia-prawnikow-demokratow-zrzeszenia-prawni,4640.pdf> [access: 23.07.2017].

tee reports and she does not leave any doubt as for the way the problems were dealt with. „Although appropriate committees were then established in order to solve the problem, their activities were far from satisfying as compared to the expectations. None of the judged who, according to the committees, committed a forensic crime was held criminally responsible for it.” (p. 143).

One of the chapters of the monograph has been devoted to the public prosecution service. The author analyzed in detail the opinions of legal communities on its place in the system of state authorities, its role and appointed tasks. Up until the year 1946 prosecution constituted a separate unit subordinate directly to the Council of State, after the Soviet fashion. According to the trend of „the thaw” there appears an attempt to evaluate the functioning of prosecution and its supervision which was regarded as insufficient. What appears exceedingly interesting is the clash of opinions and the argumentation of both sides of the discourse; each opinion might well be rationalized or discredited, in case the Author does not impose her own opinion, only confronting the past, the moment of the awakening of „the thaw,” and the final. How? The readers will learn.

„The law, which in the Stalinist period had been instrumentally used to achieve political goals by the authorities, was, next to the judiciary, in the center of interest of, inter alia, lawyers. - writes Diania Maksimiuk (p. 188). In this case the criticism went hand in hand with particular postulates, which resulted in issuing the draft of the Criminal Code in March 1956. Lawyers, however, picked it to pieces. „There even was a doubt whether it was written by lawyers.” (p. 192). Written in a Stalinist style. Full of slogans characteristic of the then system, it was pompous, but too impractical for both the judiciary and the society. Still, it is worth looking at the doctrine representatives’ opinions, as the project introduced a couple of changes, more or less controversial, such as the concept of an independent sanction, which included corrective work order, a reprimand and an additional punishment. There arose a lot of controversy around treating the death penalty as an exceptional punishment, although it did not seem to be so, as it was mentioned in fifteen different cases, excluding chapter 22 devoted to the military offences. The criticism was by all means well-founded, as it is known that the project, despite of being finally published in March 1956, was not compiled entirely in the time of „the thaw,” since the works on it dated back to 1950. Anna Stawarska-Rippel writes about a document found among the resources of the Archive of New Files which seems to be a note written as if it was an „inside information.” The document refers to the Polish delegation visiting Moscow before the end of May 1956, where the questions of the direction of the judicial policy was broadly discussed in terms of criminal and civil cases. „Being in Moscow, the delegation consulted the project of the Polish Penal

Code: the comrades generally evaluated our project of the penal code well”⁵. Further in the note it can be read: „we conferred about the penal code with the chairperson of the working subcommittee on the penal code, the USSR Deputy Minister of Justice, comrade Suchdariiev and comrade Professor Kariev”⁶. Thus, how was it possible for the project to break with the thesis of class struggle which increased as socialism successfully grew? Undoubtedly, it distinguished law from terror, but it was still far from the canon of democratic country legislation.

A recapitulation of the October thaw in Diana Maksimiuk’s work is the 1956 amnesty and the rehabilitation of the wrongly sentenced. While the amnesty with thousands of political prisoners coming back to their families and the society can be treated as the only true image promoted in reference to the process of „the rectification of errors and distortions,” the rehabilitation trials raise a number of fundamental doubts. Actually, the amnesty itself was treated by the ruling party as an act of kindness of the government, which was expressed by Józef Cyrankiewicz, the Prime Minister, during the 7th session of Parliament in April 1956: „As Socialism progresses and develops and we grow in strength in our people’s statehood, we can mitigate the repressive measures directed at those who once, in the times of fierce class struggle, acted against revolution and the people’s government” (pp. 271-271). The Author of the monograph conducted a substantial analysis of the amnesty act and its effects, especially for the political prisoners. Indeed, the essence of amnesty was not exoneration.

Another issue, as important as the previous one, that the Author scrutinized is the problem of rehabilitation. There was lively polemics over the question of rehabilitation and how different it was from amnesty, which was not as obvious as it seemed at that time, despite its definition. A year later, in 1957, during a meeting of the Minister of Justice’s College, the process of rehabilitation was summed up: „the heads of the Ministry and the General Prosecutor’s Office did not work out the concept of the rehabilitation processes. The issues, left without control, were basically shaped by the defense and accusation, whereas the advantage of the defense was considerable. Both the prosecution and the attorneyship had no political preparation. Moreover, the cases were thrown light on by the press inappropriately. As a result, instead of rehabilitating particular people, the courts endeavored to conduct socio-political rehabilitation of all the communities hostile towards us.” (p. 292).

Undoubtedly, something bugged in the foundations of the communist system as a result of the 1956 changes, and Diana Maksimiuk presented in her study exactly what it was, basing, as I already mentioned repeatedly, on excellent and conscientiously gathered sources and literature. The Author achieved even more, however,

⁵ A. Stawarska-Rippel, *Resort Sprawiedliwości ZSRR w świetle sprawozdania polskiej delegacji*, „Roczniki Administracji i Prawa. Teoria i Praktyka” 2014, p. 103.

⁶ Ibidem.

as she enriched the facts with the hot atmosphere of lawyer communities discussions, which the phenomenon of „the thaw” was accompanied with. She showed the terrorized nation’s hope for a comeback to normality and the faith that it might be successful. The work has great value for those readers who do not remember the times themselves. The Author, maintaining a high quality of academic standards, skillfully interspersed the texts with sociological issues so that the reality gets closer and clearer to an average reader for whom the existence of the totalitarian system in the People’s Republic of Poland. was an abstraction. As a historian of law wrote, it is easier to perceive it for the generations „who know the totalitarian system from experience and are familiar with the meaning of the criminal law as a tool of the totalitarian regime, as an instrument of the government’s power used to deal with political opponents with full consent of the law, to physically eliminate those who think different. It was a negation of humanitarianism and the natural human rights born in the Age of Reason”⁷.

Undoubtedly, the book constitutes a synthesis of the phenomenon of the 1956 thaw, significant from the scholarly point of view and written in an interesting way. The reader has the chance to travel to the difficult times of change, worn away by the occupation, poverty and twisted morality. The new system developed and got distorted in such environment. Excellent narration enables the reader to make an attempt at understanding the expectations of the society towards the ideologically mutated communist system imposed without social consent. Diana Maksimiuk’s monograph is a book worth paying attention to.

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⁷ A. Lityński, *Między humanitaryzmem a totalitaryzmem. Studium z dziejów prawa karnego*, Tychy 2002, p. 8.