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“Adoption of the French Commercial Code of 1807 in the Duchy of Warsaw as a Significant
Factor in the Development of Commercial Law in the Polish Territories”

Research Report

My archival research in France was a part of enquiry commenced in Polish archives, which concerns a process of reception of the French commercial law in the Polish territories in the XIXth century. This process formally began when the French Commercial Code was adopted in the Duchy of Warsaw on 24th March, 1809. Additional archival research in the *Archives Nationales* in Paris and in the *Archives de Ministère des Affaires étrangères* were necessary due to the high level of dependency of the Duchy of Warsaw on France.

The specific nature of the French diplomatic service was mainly related to position of the Empire in Europe, manifesting itself not only by political strength but also by the power of moral prestige. Almost the whole of Europe, except England and Russia, received instructions from Paris in various matters, ranging from absolute commands to delicate insinuations. These instructions were delivered by official correspondence through the French diplomatic corps accredited in particular states and remaining in close contact with Paris. The actual influence of the French diplomacy in these countries depended on the degree of subordination to the Empire.

The Duchy of Warsaw established under the terms of the Treaties of Tilsit (7-9 July 1807), with its own constitution passed by Napoleon on 22 July 1807 in Dresden, was held in personal union by Napoleon's allies, King Frederick Augustus I of Saxony. The union with the Kingdom of Saxony resulted in several constitutional arrangements: both countries had a common monarch and the Ministry of Foreign Affairs - including its entire organizational structure. The Duchy of Warsaw neither had its own diplomatic representation abroad nor permitted other countries to have their own diplomats in Warsaw. The only exception was made under the terms of *Dresden convention* signed on 22 July 1807 between the Napoleon

· This research was undertaken in the summer of 2013 with funding from a grant from the History Project, an initiative of the Joint Centre for History and Economics and the Institute for New Economic Thinking (INET).

and Frederick Augustus I. According to the provisions of the agreement only France was entitled to have its own ambassador in the Duchy's capital - Warsaw.

The position of French resident in Warsaw was not specified by law and his role depended on the actual relations. The Duchy of Warsaw, closely related to the French Empire, was easternmost outpost of the Napoleonic Empire. Hence the necessity to have a special observer in Warsaw, along with the regular representative in Dresden. To maintain appropriate proportions, French resident in Warsaw had a low diplomatic rank and was formally subordinate to the Ministry in Dresden. In practice, however, he had strong position and was acting independently.

Étienne Vincent was appointed the first temporary French resident in Warsaw after the establishment of the Duchy. However, shortly after appointment he was dismissed due to the conflict with Polish political elite. In consequence the office was provisionally held by Bourgoing, who accompanied the Prince of Duchy in his first official visit to Warsaw. He remained in office until Jean Charles Serra was certified as a French official representative to Duchy on 30th October, 1807. There were two subsequent French ambassadors in Warsaw - Louis Pierre Édouard Bignon (he held his office twice from 25th December, 1810 to 27th May, 1812 and from 8th January, 1813 to the fall of the Napoleonic Empire) and Dominique de Pradt (from 27th, May to 16th, December 1812). Additionally, in the short period, at the turn of 1812 and 1813 *chargé d'affaires* Felix Lajard was entitled to represent French in the Duchy of Warsaw.

Correspondence between the Ministry of Foreign Affairs in Paris and French diplomats in Warsaw is located in the *Archives de Ministère des Affaires étrangères* in La Courneve. Most of the repertory are *minutes*. These are rough drafts of ministerial instructions or letters, usually dictated by the minister to one of the secretaries, exceptionally written by hand by the minister. The documents are mostly hastily drafted, illegible and prepared on a rough paper. They are divided into two parts, size 31 x 19 cm, in most cases, with minister's handwritten notes and amendments.

Minute of the Talleyrand's instruction is stored in the *Pologne Correspondance* v. 324

Minutes of the Champagny's instructions and letters, drafted in different handwritings, are stored in *Pologne* v. 324, 326 and 327; *Pologne Supplément* v. 17; *Saxe* v. 77. I was able

to determine that some of the documents were written by minister in his own hand and some were prepared probably by Lelorgne d'Ideville and Labesnardière.

Minutes of the Maret's instructions and letters, drafted in different handwritings by Monier, Benoit and minister himself, are stored in *Pologne* v. 327-335.

In addition, there is a set of ministerial circulars, preserved either in *minutes* or in the copies, collected in the one volume *France Mémoires* v. 519.

Residents' correspondence is preserved in the *Archives Nationales* (AN) in Paris and in the *Archives de Ministère des Affaires étrangères* (AMAE).

Seventeen Vincent's bulletins, written in his own hand (legible handwriting), on a thin paper size 31,5 x 19 or 23 cm, are stored in AMAE, *Pologne* v. 324. Vincent was obliged to send copies of the bulletins to the secretary of state. These copies, which were sending to Maret, are not, however, always homonymous with the original documents. They are stored in AN AF IV 1687 dos. *Pologne*. Letters written initially to Talleyrand and subsequently to Champagne are preserved in the same volume in AMAE. The financial report of the Duchy, sent to the Maret, is stored in AN AF IV 1692 dos. 2.

Serra wrote dispatches by hand or, presumably, he dictated them to his secretary Simonetti. There are two numbered series of the dispatches (the last 16th number of the first series is dated on 7th July 1807, then, after the long break, another numbered series begun, ending on number 42) and one unnumbered series. Moreover there is a line of letters written by Serra in his own hand (writing difficult to read) or by his secretary (written clearly, legibly) on a casual, thin paper, size as previously. All of these documents are stored in AMAE, *Pologne* v. 324, 326 and 327. In addition there are preserved copies of these documents in *Pologne* v. 325. This volume - large folio, size 36 × 23,5 cm, consisting of 285 cards, entitled *Pologne 1808 à 1811. Supplément*, - contains copies of all official letters of the resident. The volume includes Serra's correspondence with: ministers of foreign affairs, minister of state, finance, administration and war, with marshal Davout and French military authorities in Warsaw and Berlin, with Daru and officials of his administration, ministers of the Duchy of Warsaw, with Russian authorities and French ambassador in Petersburg, with senators and many others. These documents are mainly written by Serra in his own hand, exceptionally copies prepared by his secretary occurs.

Bignon's letters, addressed previously to Champagny, and from 28th April 1811 to Maret, are written by hand (writing even and clear), or copied, mostly by Miège and Desages. There is also a collection of Bignon's dispatches written on casual paper, size 32,5 × 20,5 cm, comprising of 291 copies, from the first period when he was holding an office, and 158 copies from the second period. These documents, together with 25 Bignon's letter and bulletins are stored in *Pologne* t. 327-330, 332-335, *Pologne Supplément* 17.

Pradt's correspondence, written in his own hand or by one of his secretaries, probably by Brevannes oraz Lajard, is ostensibly clear, in fact very difficult to read. The collections contains 103 dispatches and a large number of letters written on the casual paper, size as above, and is preserved in *Pologne* v. 330-332.

34 Lajard's dispatches written in his own hand are stored in *Pologne* v. 332-333, with one exception, which is located in AN AF IV 1650.

The separate category of materials are Bignon's memorials. These reminiscence were written by Bignon after he had left the Duchy of Warsaw. Important part of these documents are detailed answers which Bignon gave to the Maret and Napoleon to their questions. These materials are stored in AN AF IV 1650 dos. 4.

Preliminary examination of the archival materials mentioned above leads to the conclusion that the problem of implementation of the French commercial law was not a subject of wider interest. This situation resulted from the fact that other issues - such as: constitutional arrangements, military matters, financial policy – were in the center of the attention in the Duchy of Warsaw. The debate concerning public law was crucial from the perspective of the future existence of the Polish territories. Taking this into consideration the reform of commercial law and discussion of the state's economic development was definitely marginal. Similar results emerge from the analysis of the polish archival materials, which indicates that commercial law was not a subject of wider interest¹. It is justified therefore, to construct the argument, that the adoption of the French Commercial Code in the Duchy of Warsaw, which is currently considered as the establishment of the legal foundations for the development of industry, trade and credit on the Polish lands in the nineteenth century, was made, both at the French and Duchy's governmental level, rather thoughtlessly.

¹ Por. A. Klimaszewska, *Reception of The French Commercial Law on the Polish Territories in the 19th Century*, paper for the conference "Commerce, Corporations and the Law", Princeton University.