

Institutions and administrative bodies, and their role in the processes of integration and disintegration in Silesia

Abstract:

The Early Modern Period in formation of the political and social order is marked by the formation, in the beginning of said epoch, of distinct institutions and offices for the purpose of ruling Silesia, pan-Silesian, estate and ducal in various jurisdictions in Silesia, said system – with changes introduced in the absolute reign after 1629 – survived until 1740. Factors which influenced the perception of being separate among the social and political elite of Silesia were the institutions forming for the purpose of administrating the country in the time when links with the Bohemian Crown were weakened, especially in the latter part of the 15th and beginnings of the 16th century. This influenced the formation of Silesian institutions as having a great deal of autonomy in regards to the rule of the king and other institutions of the monarchy. The distinctly Silesian social structure was also influential in forming the distinctiveness of Silesian institutions. Formation of regions was also influenced by the institutional and political structure of the monarchy, which was comprised of five countries, all of which had their own estate representation, and comprised nearly all, available in those times, aspects of governing the society. The Thirty Years' War became the caesura of Silesian regionalism: the monarchy managed to marginalise the Silesian political regionalism, although reforms after 1629 maintained the administrative and institutional regional system of Silesia.

Keywords:

Silesia, regional history, regional administration, socio-political structure

Perceiving the year 1526 as a transition point between two historical epochs is connected with the fact that it was around this date that the crucial stage of the formation of the system of institutions and offices of the Silesian government was completed. Many fundamental elements of this system emerged at the close of the previous age, bringing about consequences which only became fully apparent at the time of dynastic change in the year 1526. This system, with modified elements, lasted throughout the modern period, that is until 1740. Due to the existence of public-legal sources of authority with the power to establish offices, the period from 1526 to 1740 may be divided into two sub-periods: that of the co-existence of two sources of national authority – estate and royal (the so-called dualism of authority) – and that of exclusive monarchical rule. It is very difficult to determine the date of transition between these two periods: although the monarchical reforms

were initiated in 1629, the actual date of the implementation of the modified administrative system of Silesia needs to be moved later into the 17th century.

A factor which came to exert a particularly strong influence on the further development of regionalism in the Kingdom of Bohemia was the cultural-political consequences of the turbulent events of the 15th century connected with the emergence of Hussitism, the suppression of the integration potential of Bohemia as the supreme country of the monarchy and the emergence of the disintegrating force of confessional differences. At that time Silesia was often conceived as being isolated from the monarchy and treated as an object of political manoeuvrings. It was even perceived, albeit temporarily, as an adversary of Bohemia. This became a powerful impetus for the members of the socio-political elites of Silesia to develop a sense of their unique cultural and political identity. It was this period – when the links of Silesia with the Kingdom of Bohemia were considerably loosened – that marked the most intense stage of the formation of the estate administrative institutions of Silesia. These were not only independent from the central authorities of the monarchy, but also, to a large extent, from the king himself. The formation of the institutional administration system in Silesia, strictly dependent on the region's specific social structure, was yet another fundamental factor in boosting the sense of unique identity among Silesian communities – a process whose effects were felt throughout the entire modern period. The political maturation of Silesia manifested in a conscious representation outside Silesia of all its political agents by the central bodies of Silesian authority, which contributed significantly to the fact that before 1526 Silesia had already achieved the status of a country within the structure of the monarchy¹. The fact that other regions obtained a similar status also meant that, at the outset of the modern period, the Kingdom of Bohemia was an estate organism composed of five heterogeneous political-territorial units: Silesia, Moravia, Upper Lusatia, Lower Lusatia and Bohemia (which, although it continued to be the principal land of the monarchy, was in an unstable and weakened position)². Such an estate structure can be considered as an existent, powerful pro-regional force – both for the constitution of Silesia and the entire contemporary monarchy – until the

¹ K. Orzechowski, *Historia ustroju*, p. 241.

² J. Pánek, *Das politische System*, pp. 53-82; Joachim Bahlcke, *Regionalismus und Staatsintegration im Widerstreit*, München 1994, p. 32; *Böhmen und Mähren. Handbuch der historischen Stätten*, eds Joachim Bahlcke, Winfried Eberhard, Miroslav Polívka, Stuttgart 1998, pp. LXX-LXXXII; Christine van Eickels, *Schlesien im böhmischen Ständestaat. Voraussetzungen und Verlauf der böhmischen Revolution von 1618 in Schlesien*, Stuttgart 1992, pp. 20-56; Petr Mat' a, *Verwaltungs- und behördengeschichtliche Forschungen zu den böhmischen Ländern in der Frühen Neuzeit*, [in:] *Herrschaftsverdichtung, Staatsbildung, Bürokratisierung. Verfassungs-, Verwaltungs- und Behördengeschichte der Frühen Neuzeit*, Wien 2010, pp. 421-476.

outbreak of the Thirty Years' War. Another factor that had a remarkable effect on regionalism was the fact that at the outset of the modern period, each of the constituent countries of the monarchy possessed its own estate representative body and other offices of estate administration, whose power, while being limited to individual countries, would extend to almost all areas of the contemporary social administration.

In the early modern period, the number of central authorities in the Kingdom of Bohemia was rather insignificant. The power of those that dealt with Silesian affairs was monarchical in character. However, by the time of the Thirty Years' War, within some nominally monarchical institutions it was the Bohemian estate that played a crucial role. Central power was represented primarily by the king's office, which was characteristic of the modern period. Furthermore, the royal institutions and the central offices which were common for the entire monarchy and which controlled certain aspects of life and administration in Silesia included: the Bohemian court Chancellery headed by the Bohemian chancellor, which until the Thirty Years' War was clearly dominated by the Bohemian estates and whose characteristic feature was extensive power of the chancellor; the Bohemian camera until 1558, and the Prague Appeals Chamber from 1548. Another body, in principle a monarchical one (for it was only the monarch who exercised the power to summon it) yet composed of estate authorities, was the institution of the general estates assembly of the Kingdom of Bohemia. Another central body was the royal council, but it did not possess executive powers and its impact on the processes of administration was only indirect, which resulted from the fact that it was presided over by the Bohemian chancellor³.

What was also characteristic about the modern period was the striving of the Habsburg monarchs to establish administrative-bureaucratic connections beyond the Bohemian monarchy. Until 1740 this aim was realized only partially in an institutional sense⁴, though from the Thirty Years' War onwards the Habsburgs instituted an intensified process of unification of individual dynastic rights towards territories described as hereditary: ducal power over hereditary areas within the Old Reich and monarchic power within the Kingdoms of Bohemia and Hungary. Due to the lack of a common monarchic title for the new great political-estate unit *in statu nascendii*, from the second half of the 16th century the Habsburgs used the imperial title in combination with relevant monarchic titles, which were not explicit enough

³ Thomas Winkelbauer, *Österreichische Geschichte 1522-1699. Ständefreiheit und Fürstenmacht. Länder und Untertanen des Hauses Habsburg im konfessionellen Zeitalter*, vol. 2, Wien 2003, pp. 82-83.

⁴ Paula S. Fichtner, *The Habsburg Monarchy 1490-1848*, Basingstoke 2003, pp. 19-20.

by themselves yet were separable from the scope of the emperor's authority within the Reich. Within this structure, the institutional Kingdom of Bohemia, however, remained an autonomous organism until the very close of the era⁵, preserving the separate office of the Bohemian king and a separate monarchic Chancellery, which in relation to Silesia functioned as the highest and immediate instances of power. In the light of current research it seems inadequate to perceive institutions created to govern the countries of the Habsburg's territories within the Reich as central for the Bohemian monarchy⁶, although from the second half of the 17th century the process of merging them into a uniform mechanism of authority – albeit composed of independent institutions – intensified. The only exceptions were two bodies. In the period until 1740, the supra-Bohemian institutional structures were establishing themselves within the Bohemian Crown and Silesia by means of two Viennese bodies: the court Camera of Vienna, initially possessing limited power⁷ and, from the second half of the 17th century – and probably effective only in the 18th century – the court council of war. The so-called 'congresses of lands' represented the next unsuccessful attempt to create a form of institutional body that would operate beyond the political borders of the Habsburg sovereignties, which were composed of estates. In fact, they did not develop into an independent political institution. Neither does it seem appropriate to describe the Viennese secret council as a superior body within the Kingdom of Bohemia, for it lacked a structural relationship with the Bohemian authorities. Despite its somewhat political significance, its relationship with the Bohemian monarchy was restricted to the fact of its ranks being populated by individual Bohemian officials appointed by the king – which was a form of their distinction⁸.

The aforementioned central offices were – by definition – designed to unite individual parts of the state and facilitate its institutional unification. Their remit

⁵ Eila Hassenpflug-Elzholz, *Böhmen und die böhmischen Stände in der Zeit des beginnenden Zentralismus. Eine Strukturanalyse der böhmischen Adelsnation um die Mitte des 18. Jahrhunderts*, München–Wien 1982, pp. 53-92; Jaroslav Pánek, *Der böhmische Staat und das Reich in der Frühen Neuzeit*, [in:] *Alternativen zur Reichsverfassung in der Frühen Neuzeit?*, ed. Volker Press, München 1995, pp. 169-178; Hans-Wolfgang Bergerhausen, *Die Verneuerte Landesordnung in Böhmen 1627: ein Grunddokument des habsburgischen Absolutismus*, 'Historische Zeitschrift', 272 (2001), No. 2, pp. 346-351; Robert John Weston Evans, *The making of the Habsburg Monarchy 1550-1700*, Oxford 1979, p. 148.

⁶ The view of the separation of Czech institutions also in the Habsburg territories of the Reich is adopted by Christoph Link, *Die Habsburgischen Erblande, die böhmischen Länder und Salzburg*, [in:] *Deutsche Verwaltungsgeschichte*, vol. 1, eds Kurt G.A. Jeserich, Hans Pohl, Stuttgart 1983, pp. 468-516.

⁷ Friedrich Walter, *Österreichische Verfassungs- und Verwaltungsgeschichte von 1500–1955*, Wien–Köln–Graz 1972, p. 74 I 67.

⁸ J. Pánek, *Das politische System*, p. 75.

also included eliminating regional administrative-political differences within the Kingdom of Bohemia. General observations on the unique character of these institutions need to be elaborated on through consideration of the practical side of their operation. What one needs to take into account is the difference between the promoting competences attributed to them by political forces and the resistance of the Silesian estates to recognize these competences. The range of unification activities conducted by these institutions was also influenced by the dynamics of political events. Due to the distribution of political forces in the rivalry for power and the realization of their own particular interests, the role of these institutions in Silesia, however, began to evolve.

The Bohemian estates, during their political revival under the stabilized conditions created by the rule of the Jagiellons at the turn of the 16th century, formulated a political framework whereby Bohemia was to function as the superior country within the monarchy⁹. In the first decades following the year 1526 this concept was consolidated by the policy of the monarchy, whose aim was to reinforce and extend its range of power both in Bohemia and in the territory of the constituent countries of the monarchy. The kings attempted to make use of the monarchic organs of authority as well as the Bohemian offices and institutions (of an estate character or composition) and strove – temporarily - together with the Bohemian estates - to gain acknowledgement of their primacy and to secure the precedence of the offices of the Crown's country over the analogous offices of the remaining countries. Both as far as the concept of the policy of the Bohemian estates and the concept of the royal policy are concerned, this was an attempt to reactivate (in the 16th century) the vertical structure of authority within the structure of an entire monarchy. Simultaneously, the Habsburgs were trying to transform the local dual character of authority, i.e. rule based on the strategy of reaching consensus between the king and estates, into monarchic centralism characterized by the explicit dominance of the royal authority. Their activity met with protests from Bohemian opponents and hence the Habsburgs were forced to compete for their position at the central institutions of the monarchy. In the modern period, none of these options was approved by the estates of the remaining lands. Each of them developed specific tendencies towards political emancipation from the dominance of the principal country and perceived the monarchy as a system of countries with horizontal connections, tied together by bonds of a federative nature, with each one having equal

⁹ K. Bosl, *Handbuch*, p. 104; J. Bahlcke, *Regionalismus*, p. 27.

political status¹⁰. They also attempted to achieve full autonomy in the area of internal administration by means of self-developed estate institutions¹¹. The three basic political forces – those of the king, the Bohemian estates and the estates within Silesia – resulted in the relatively high lability of the institutions with volatile powers, especially in the period prior to the Thirty Years' War. The brief outline of these institutions presented below gives only a slight indication of the dynamics they were subject to.

The presented dichotomy of the structure of the monarchy, with the vertical-hierarchical authority of the Bohemian estates and the king and the horizontal-federative authority of the estates – which initially defined the struggle between the centralizing and regionalizing forces – gradually, from the mid-16th century, began to lose its status as the principal hotbed of the conflict. For the Bohemian estates, the hierarchical structure of the monarchy ceased to be the ultimate priority once it transpired that, in order to maintain a balance of power, it was necessary for them to create a confederation with the estates of remaining countries of the monarchy and to appease anti-Bohemian attitudes among some of the regional political elites, which were spurred in Silesia in the 16th century as a consequence of Czech claims to hold senior positions at the regional institutions and offices. The sharpest conflict came to light in 1546 during the trial of Duke Frederick II of Legnica for forming a family alliance of inheritance with the Brandenburg Hohenzollerns without the king's consent. The fall of one of the greatest Silesian dukes into royal disfavour and his humiliating summoning to court, served for his pursuers, representatives of the Bohemian estates, as grounds to demand the abolition – against the 1498 privilege of Ladislaus Jagiellon – of the law according to which Silesian dukes were the only suitable candidates to fill the office of governor of Silesia (*Oberlandeshauptmann*), and claimed that the office of governor of Silesia as a royal office should be entrusted to the Bohemian lords, that is to the members of the highest social group in the Kingdom of Bohemia. Continuous tensions concerning methods of administration in Silesia surfaced even in the period of loyal cooperation between the Bohemian and Silesian estates towards Rudolph as the King of Bohemia at the time of turbulent political feuds between members of the Habsburg family, Rudolph and Archduke Matthias, between 1608 and 1611¹². Political cooperation between the Bohemian and Silesian estates, which in 1609 led to the first Bohemian-Silesian

¹⁰ J. Pánek, *Das politische System*, pp. 71-74; J. Bahleke, *Regionalismus*, pp. 17–23; *idem*, *Das Herzogtum Schlesien im politischen System der Böhmisches Krone*, 'Zeitschrift Ostmitteleuropa-Forschung', 44 (1995), No. 1, p. 33.

¹¹ K. Orzechowski, *Ogólnośląskie zgromadzenia stanowe*, pp. 327-328.

¹² Hugo Hentsch, *Die Geschichte Österreichs*, vol. 1, Graz 1969, pp. 318-329.

confederation, thanks to which the estates were granted confession-estate freedoms¹³ in the shape of the Letters of Majesty granting in Silesia equal legal status to Catholics and Lutherans, did not, however, temper the rivalry for power. Bohemian estate politicians kept calling for the right to hold senior offices in Silesia, due to their higher political status in the monarchy. In the period prior to the Thirty Years' War, when the Bohemian estates were an active shaping force in the monarchy, they nonetheless failed to break the resistance of the Silesian political elites and fill any of the Silesian country offices. The actions of the Bohemian estates which focused on achieving the internal unification of the monarchy – also in terms of institutions – may be regarded as attempts to abolish the regions. Yet the strong link between unification intentions and hegemonic aspirations resulted in the continuous distrust of Silesia towards Bohemia and constituted a strong impetus for Silesians to consolidate their pro-regional attitudes. At the same time, Bohemian politicians became allies in the struggle against the spread of the power of the Habsburgs. Going back to the aforementioned privilege of Ladislaus Jagiellon – which Bohemian politicians in the mid-16th century wanted to revoke for the sake of satisfying their own appetites for Silesia – in the years 1583-1586, in the face of the expansion of power of the Habsburgs, they supported the Silesians' attempt on the basis of this privilege to prevent the Habsburg Archduke Matthias from assuming the office of governor of Silesia¹⁴.

Moreover, the hierarchical structure of the monarchy and the institutional subordination of its constituent countries to the Bohemian-central institutions became an outdated priority for the royal authority when it transpired that its efforts to centralize and thereby eliminate the regions merely brought more benefits to the Bohemian estates, at the expense of royal power, and simultaneously flamed anti-royal attitudes in the regions. This was reflected in the gradual change of Ferdinand's policy from the mid-16th century with regard to his efforts to establish regional royal institutions, but most remarkably in the kings' consent in the 17th century – after gaining political dominance as a result of the Thirty Years' War – to the functioning of the Bohemian monarchy as a group of regions of equal status. The very fact of recognition of the primacy of royal power opened the way for the king to draw full benefits from taxes raised from Silesia, as well as to allocate funds for military purposes.

The royal authority, viewed as a force which either disintegrated the region of Silesia or supported its continuity, was therefore a variable factor. By around the

¹³ Paul Konrad, *Der schlesische Majestätsbrief Kaiser Rudolfs II vom Jahr 1609*, Breslau 1909.

¹⁴ J. Bahlcke, *Regionalismus*, pp. 221-223.

mid-16th century the king sought to infiltrate the region by means of centralized monarchical institutions. However, by inducing estate opposition in Silesia, the royal authority actually strengthened the resistance to its operations¹⁵ and, in consequence, served to act as a region-forming force. From about the mid-16th century, the king began to pursue a policy of involvement in the country's administration by instituting royal regional institutions of Silesia. Having gained a dominant political position in the monarchy during the Thirty Years' War, he continued to manage the country from the level of regional institutions, simultaneously achieving – through administrative means and personal policies – an increase in the loyalty of regional officials and growing power over the staffing of Silesian estate institutions, albeit without actually violating the principle that only members of Silesian estates possessed the right to be appointed to the offices of central institutions of Silesia. This resulted both from the king's pragmatism (when it became clear that for monarchical purposes this was the most effective way of administration), but also from political security – for maintaining regionalist tendencies constituted a barrier to the potential revival of the concept of estate cooperation among lands.

The impact of the royal authority, however, resulted not only from the fact that the kings conducted their own policy, but also from their position in the monarchic structure. Royal authority may be regarded as the authority which is the greatest bonding force in the monarchy, although the extent of its presence differed for each country. The office of the king may be considered as playing a double role: that of the central office of the kingdom – treating Silesia as a constituent country of the Bohemian Crown – and, also, that of the internal authority of Silesia. The latter aspect will be explained below.

The royal office was a factor which consolidated the political affiliation of Silesia to the monarchy of Bohemia. However, the perception of its cross-regional nature differed significantly across various countries, especially in the case of Silesia and Bohemia. Bohemian estates considered it to be strictly Bohemian, meaning that the king assumed this office through the will of the Bohemian estates, i.e. the Crown estates, which was manifested in an independent election. Silesians, however, were, on the one hand, trying to force the Bohemian states to respect the election procedure – allowing all of the countries of the Bohemian monarchy to participate – while on the other hand, being unable to enforce this demand, they recognized the royal office as hereditary – which in turn undermined the concept of

¹⁵ Joachim Bahleke, *Landesbewußtsein, Staatsbildung und politisch-gesellschaftlicher Umbruch: Zur Rolle Schlesiens in der Geschichte des böhmischen Staates*, [in:] *Slezsko v dějinách českého státu*, ed. Mečislav Borák, Opava 1998, p. 128.

the Bohemian estates' dominance. In this way, the crucial problem of the Bohemian kings, namely, the transformation of the status of their authority from electoral to hereditary¹⁶, became the subject of rivalry between the estates of various regions: the Bohemian estates expressed hopes for the centralization of the estate and the growth of their power together with the electoral status of the king's office, while Silesians campaigned for the consolidation of regions and a hereditary royal office. Moreover, Silesian elites had a highly specific understanding of the royal authority over Silesia. The feudal relationship between the king and the dukes of Silesia, dating back to the 14th century, was established without the agency of supra-Silesian authorities and did not include any other body of the kingdom. This circumstance allowed for the strengthening of the political concept that the dukes and the estates of Silesia paid feudal homage only to the king in modern-era Silesia, and that their feudal subordination resulting from this act was a relation based on the Silesian dukes and estates' exclusive subordination to the king and – optionally – monarchical offices, but not to the central offices and institutions of the Bohemian monarchy governed by the estate forces. The idea of sharing the same king with other countries of the monarchy was only marginally present in this concept. When the competition with the Bohemian estates during efforts to establish a Vice Chancellery for Silesia (1611) became increasingly fierce, there even emerged a concept of the Silesian estates' possible feudal subordination to the 'Silesian duke', and, thereby, Silesia and Bohemia being linked only by a common ruler holding two offices at a time – that of the King of Bohemia and that of the Duke of Silesia¹⁷. Consequently, the estate unifying royal office was at the same time a force which brought about the diversification of regions in the sphere of their relevant political concepts.

The central monarchical organs included the aforementioned Prague Appeals Chamber, which was established on the initiative of the monarch in 1548¹⁸. According to the initial plan regarding the Appeals Chamber's duties, it was to serve as a court of appeals for the courts of all the countries of the monarchy by constituting a three-level system of jurisdiction which would operate across the entire territory. The kings never managed to realize this aim – neither at the time the institution was

¹⁶ Hugo Toman, *Das böhmische Staatsrecht und die Entwicklung der österreichischen Reichsidee vom Jahre 1527 bis zum 1848*, Prag 1872, pp. 1-29.

¹⁷ Jan Kilián, *Zápas německou expedicí v české dvorské kanceláři (1611-1616)*, [in:] *Korunní země v dějinách českého státu*, vol. 2: *Společné a rozdílné. Česká koruna v životě a vědomí jejích obyvatel ve 14.-16. století. Sborník příspěvků přednesených na kolokviu pořádaném ve dnech 12. a 13. května 2004 v Clam-Gallasově paláci v Praze*, eds Lenka Bobková, Jana Konvičná, Praha 2006, pp. 294-95.

¹⁸ Felix Rachfahl, *Die Organisation der Gesamtstaatsverwaltung Schlesiens vor dem dreissigjährigen Kriege*, Leipzig 1894, p. 231; Johann Ferdinand Schmidt, *Monographie des k.k. Bömischen Appellations-Gerichtes*, Prag 1850, pp. 5-8.

brought to life nor during absolutist rule in the 17th century¹⁹. According to the mandate issued by Ferdinand on 20th January 1548, the chamber formally served two functions: it was the court of last instance for royal cities, including the cities of Silesia, and the organ to issue legal instructions²⁰. The chamber was to become a tool to gain political control over the cities by means of the judicial system. The point was to stop the cities of the Kingdom of Bohemia from appealing to the city court of Magdeburg for legal judgements (Magdeburg was placed under an imperial banishment order following the Smalcald war), and to force them to turn to the legal institutions within the Bohemian kingdom's limits. It appears that considerable time must have elapsed before the chamber started to fulfil its assigned tasks. At the same time, in the following years the kings made efforts to expand the chamber's powers. In his policy towards Silesia, Ferdinand made use of the permission obtained from the estates in 1547 for written dissents (supplication) from the verdicts of Silesian courts to be addressed directly to the king, which was made possible owing to the defeat of the first uprising of the Bohemian nobility²¹. From the perspective of the Silesian estates, the granting of such a right to the king did not violate the institutional autonomy of the judiciary system of the Silesian country. Yet, as early as in the 16th century, the kings were engaged in a practice of forwarding all the dissents they received to the Prague Appeals Chamber, which, despite sparking a great deal of protest in Silesia, was not abandoned by the monarchs²². The chamber also pursued interventionist actions by issuing legal opinions on Silesian affairs. However, these tasks were not performed by the chamber on an exclusive basis. On the one hand, the estates undertook certain counter-actions by introducing directives which hindered the Chamber's activity in Silesia – an issue which will be addressed in more detail later on in this paper. On the other hand, the investigation of written dissents was, with increasing frequency, being passed down by the king to the governor of Silesia – especially following the reform of this office in 1629-39 – that is, transferred to the competence of Silesian country authority. The verdicts in cases examined by the governor of Silesia within the so-called Superior Office (*Oberamt*), like those formally issued by the Silesian Supreme Ducal

¹⁹ Jaroslav Pánek, *Ferdinand I. – der Schöpfer des politischen Programms der österreichischen Habsburger?*, [in:] *Die Habsburgermonarchie 1620–1740. Leistungen und Grenzen des Absolutismusparadigmas*, eds Petr Mařa, Thomas Winkelbauer, Stuttgart 2006, p. 68; Dalibor Janiš, *Apelační soud*, [in:] *Manuál Encyklopedie českých dějin*, eds Jaroslav Pánek, Oldřich Tůma, Praha 2003, pp. 342–345.

²⁰ F. Rachfahl, *Die Organisation*, p. 235; K. Orzechowski, *Historia ustroju*, p. 156.

²¹ Winfried Eberhard, *Monarchie und Widerstand. Zur ständischen Oppositionsbildung im Herrschaftssystem Ferdinands I. in Böhmen*, München 1985 (=Veröffentlichungen des Collegium Carolinum, vol. 54), p. 481.

²² Otto Peterka, *Rechtsgeschichte der böhmischen Länder*, Reichenberg 1928, p. 99.

Tribunal, could not be appealed to the chamber. This practice reflected the aforementioned tendency to ‘regionalize’ the royal authority, that is, to exercise power by means of existing institutions in the region. It was only the Silesian estate’s acceptance of the growing importance of the royal power in Silesia in the period of absolutism that led Leopold I in 1662 to issue a formal rescript and, in 1674, the order of appeals (*Appellationsordnung*)²³, which in practice transformed the Prague chamber into a court of appeals for all the existing Silesian courts without simultaneously abolishing analogous powers possessed by the regional Superior Office and the ducal tribunal. The Chambers’ central position as a legal agent was connected with the appellate character that it shared with other institutions operating in Silesia. As a central institution, it began to function regularly around 120 years following the moment of its foundation and many internal changes – however, in the case of Silesia, with two important limitations in addition to those already mentioned²⁴. The estates of the Duchy of Świdnica-Jawor, which in the 16th century managed to obtain the right to reject the superiority of the Supreme Ducal Tribunal over their ducal courts, based on the right to full judiciary autonomy gained together with the privilege issued under the rule of Charles IV, also refused to accept the subordination to the Appeals Chamber in the age of absolutism. The situation continued up until the close of the discussed period. Furthermore, also in relation to the courts of the Duchies of Legnica, Brzeg and Wołów, the scope of Leopold’s rescript was realized only after the local rulers of the Piast dynasty, who maintained their previous autonomous ducal jurisdiction until 1675, eventually died out²⁵. Between 1662 and 1674, the Prague Chamber was an example of formal subordination of the Silesian judicial system to the monarchical organ of authority. At the same time, the monarch took further decisions which hindered the process of unification of the monarchy’s judicature. He expanded the sphere of jurisdiction – among others – by introducing the appellate framework and appointing Bohemian chancellors (to whom from 1698 Silesians were to apply for reviewing court verdicts)²⁶, thereby depriving the chamber of the right to take autonomous actions and of its exclusive right to act as the central judicial body.

Another body whose powers extended to the entire region of Silesia was the Chancellery, headed by the chancellor. In practice, until 1627 this was not an exclusively

²³ Mathias Weber, *Die schlesischen Polizei- und Landesordnungen der Frühen Neuzeit*, Köln–Weimar–Wien 1996 (=Neue Forschungen zur schlesischen Geschichte, vol. 5), p. 33.

²⁴ F. Rachfahl, *Die Organisation*, p. 253.

²⁵ *Ibidem*, p. 252-3.

²⁶ R.J.W. Evans, *The making*, p. 151; Thomas Fellner, *Die Österreichische Zentralverwaltung. Von Maximilian I. bis zur Vereinigender österreichischen und böhmischen Hofkanzlei (1749)*, vol. 2, Wien 1907, p. 523.

royal office, but at that time it also represented the political authority of the Bohemian estates. Also, in the period following the Battle of White Mountain the Chancellery retained its estate character, but the Bohemian chancellors acted as the king's functionaries only in Silesia²⁷. The great chancellor was appointed by the king from among the Bohemian lords by the consent of the highest officers of the kingdom, and from 1627 onwards, only by the king's will. However, the selection was still made from among the Bohemian lords. Up until the Thirty Years' War, the chancellor's assuming of his position was performed with the participation of the Bohemian estates, for he was sworn in both by the monarch and the Bohemian estates. Having been sworn in, the chancellor could freely and independently appoint his subordinate Chancellery personnel whom he remunerated for their work. The Chancellery hired legal advisers who were familiar with the legal systems of Silesia, and each contained a department where letters in German were issued for Silesia and Lusatia. As for Bohemia, the chancellors enjoyed extensive administrative and legal powers²⁸. Their power over Silesia was at the time extremely limited due to the country's specific legal status and the consciously autonomous attitude of the Silesian elites²⁹. All letters addressed to the king passed through the Chancellery, and legal opinions were issued and attached to these letters by the Chancellery functionaries. Silesians viewed the Chancellery as an instrument of the Bohemian estates' policy, seeking to decide upon Silesian matters without their participation. Perceiving such workings as an impediment to their political rights, they took efforts to establish a separate office for the region of Silesia, which finally bore fruit in 1611 in the form of the Silesian-Lusatian Vice Chancellery³⁰. In the face of strong resistance from the Bohemian politicians, this specific central institution for Silesian and Lusatian affairs did not last long: it was abolished as early as in 1616³¹, which only confirmed the superior status of the Chancellery as a political tool of the Bohemian elites³². The distrust of Silesians towards the Bohemian chancellor was further strengthened by his intervention in Silesian affairs. When in 1576 Duke Frederick IV of Legnica asked Chancellor Vratislav Perstein to help him in a dispute with his brother Henry XI, the chancellor ignored the political status of the duke as a direct vassal of the king, imprisoned Henry XI in 1581 and deprived him of power over his duchy. Other Silesian dukes considered Pernstein's behaviour

²⁷ Pere M. Ribalta, *The Impact of Central Institutions*, [in:] *The Origins of the Modern State in Europe, 13th to 18th Centuries*, ed. Wolfgang Reinhard, Oxford 1996, p. 21.

²⁸ F. Walter, *Österreichische Verfassungs- und Verwaltungsgeschichte*, p. 73.

²⁹ K. Orzechowski, *Historia ustroju*, p. 118.

³⁰ Ch. Link, *Die Habsburgischen Erblände*, pp. 505-506.

³¹ O. Peterka, *Rechtsgeschichte*, p. 87.

³² J. Kilián, *Zápas*, pp. 289-306.

highly dangerous. His disregard for ducal independence strengthened Silesian resistance against the chancellors' participation in the internal affairs of Silesia. From 1624, during the Thirty Years' War, the Chancellery began to operate in Vienna. Its relocation from Prague to within the direct reach of the king reflected the attempts to centralize authority. However, the move itself was actually coincidental and did not bring about institutional unification³³. In this way the institutional autonomy of the most important central organ of the Kingdom of Bohemia was left untouched until 1740³⁴. It is worth noting that the Bohemian chancellor did not engage in the internal affairs of Silesia directly and automatically, but he did so when he was summoned to intervene. Following 1627, the scope of his participation in Silesian affairs was dependent on the king's orders. The chancellor acted as a royal official, and not, as previously, as a representative of the estate government. In accordance with the tendencies of the pro-regional royal policy, from the Thirty Years' War onwards he could no longer actively engage in the Bohemian estate policy in Silesia focused on administrative unification, as this would be inconsistent with the royal priorities. Throughout the entire period, both the chancellor and the Chancellery were perceived in Silesia as permanent elements of power, but heterogeneous when compared to the internal system of administration in Silesia.

The court Camera of Vienna enjoyed the privilege of functioning above the Bohemian monarchy; however, this central authority could only be called with significant restrictions³⁵; it could function either as a court-dependent body or as an organ of territorial authority, because its powers only related to royal income from domains and regalia. This organizational structure was a consequence of the fact that the royal finances were treated as personal treasures of the monarch and the estates were unable to effectively oppose them being placed under direct control of the Camera. The Camera of Vienna – which in the years 1527-1558 operated in Silesia through the Camera of Bohemia – throughout most of the modern period was unable to act effectively as a central office³⁶. It did not possess independent executive authority, performed mainly advisory functions and the actual governance of royal finances was dealt with by territorial royal cameras, including the royal Camera of

³³ O. Peterka, *Rechtsgeschichte*, p. 26; Robert Bireley, *Ferdinand II: Founder of the Habsburg Monarchy*, [in:] *Crown, Church and Estates*, eds Robert John Weston Evans, T.V. Thomas, New York 1991, p. 227.

³⁴ E. Hassenpflug-Elzholz, *Böhmen*, pp. 25-26.

³⁵ R.J.W. Evans, *The making*, p. 149.

³⁶ F. Walter, *Österreichische Verfassungs- und Verwaltungsgeschichte*, p. 67; R.J.W. Evans, *The making*, pp. 149-150.

Silesia after 1558³⁷. As the issue of regional context is in fact vital for the functioning of the royal Camera of Silesia, all issues related to the attempt at determining its unification and pro-regional characteristics are discussed in a separate section of this paper devoted to institutions operating in Silesia.

The internal political-territorial divisions among the constituent countries of the monarchy were most likely diminished by the activity of the general estate assembly, which were usually convened for all the countries of the Crown of Saint Wenceslas. In the 16th century, they gained the status of a permanent estate institution. In the 16th and at the outset of the 17th centuries the general estate assemblies were convened once every two years, and most frequently in the last decade prior to the Battle of White Mountain³⁸. In order to evaluate their impact on the unification of the monarchy of Bohemia, what should, nonetheless, be taken into account is that in the period when the general estate assemblies were convened, that is, before the Thirty Years' War, their powers were interpreted differently by each of the fundamental political forces of the monarchy. The Habsburg kings attempted to transform the general estate assembly into the monarchy's central body of royal administration³⁹. However, even the very act of summoning a general estate assembly, conceived as an exclusive right of the monarch, was accompanied by conflicts between the estates and royal forces. Apart from the fact that the monarch tried to elevate the act of summoning a general estate assembly to the rank of royal order, neither the Silesian estates nor the estates of other countries felt obliged to pay absolute obedience to the demand, and their representatives frequently failed to attend the general estate assembly sessions. The royal dominance over the general estate assembly was also to be manifested by the fact that the general estate assembly could only deliberate upon the king's proposals, and served for the general estate assembly to be perceived as a body for the reception of royal decisions issued for all the regions of the monarchy. These decisions were also to be regarded as laws relating directly to the executive functions of the estate institutions in each country of the monarchy. This was not compliant with the generally heterogeneous political profile of the kingdom and faced strong resistance from the estates. What is more, this behaviour of the king was seen as a sign of his disregard for the established legal autonomy of the estate assemblies of the countries, including that of Silesia, thereby sparking further opposition towards the general estate assemblies.

³⁷ O. Peterka, *Rechtsgeschichte*, p. 88; K. Orzechowski, *Historia ustroju*, pp. 123-128; R.J.W. Evans, *The making*, p. 149.

³⁸ K. Orzechowski, *Ogólnośląskie zgromadzenia stanowe*, p. 322.

³⁹ Jaroslav Pánek, *K sněmovní politice Ferdinanda I. (Královův pokus o manipulaci českých stavů na generálním sněmu v roce 1557)*, 'Folia Historica Bohemica', 2 (1980), pp. 209-246.

The transformation of the general estate assembly into a regular general estate assembly made up of all the political estates of each country of the monarchy ended in failure. The general estate assembly comprised specific country representatives and the full composition of the only estate assembly of Bohemia. This resulted not only in the general estate assembly's composition being numerically dominated by members of the Bohemian estates, but also in the fact that they played a major role at the sessions and exerted a crucial impact on the shape of the proposed solutions. To counter this dominance, the countries sought to consolidate procedures permitting groups of envoys of particular countries to debate separately and communicate their opinions individually to the monarch. Formally, the general estate assembly consisted of five country curias, but as their votes were not counted, it was impossible to pass a bill by outvoting a single country⁴⁰. Due to considerable differences in the political-organizational priorities of the king and the countries, and similar differences among the countries themselves, the general estate assemblies rarely concluded by reaching a common agreement on mutually accepted solutions. The Silesian estates consistently had a distant attitude towards the general estate assemblies, mainly due to their reluctance to limit the autonomy of the regional estate assemblies. The delegations which visited Prague were not granted full authorization by the Silesian estates to act on their behalf. The estates consistently insisted on treating the general assemblies' decisions as proposals which would gain the power of resolutions for Silesia only once they had been accepted – or at times amended – by the Diet of Silesia (*Fürsten- und Ständetag*, dukes and estates assembly for the whole of Silesia; most frequently referred to as *Fürstentag* in sources). The general estate assemblies often failed to break the institutional-political monopoly of the Silesian estates for the enactment of laws for Silesia⁴¹. They may be viewed as ineffective top-down attempts to merge the heterogeneous monarchy.

Moreover, the process of establishing a direct institutional link between the general estate assembly and the Diet of Silesia was inhibited by an important political obstacle related to the specificity of the social structure of Silesia, which in turn was reflected in the structure of the Diet of Silesia. What proved to be a crucial determiner of the institutional diversification within the monarchy was the composition of the country institutions of Silesia. The first curia in the Diet of Silesia was composed of the dukes. According to the hierarchy of ranks in the highest social

⁴⁰ K. Orzechowski, *Ogólnośląskie zgromadzenia stanowe*, pp. 323-326; Ernst C. Hellbling, *Österreichische Verfassungs- und Verwaltungsgeschichte*, Wien 1956, pp. 116-118.

⁴¹ Norbert Conrads, *Regionalismus und Zentralismus im schlesischen Ständestaat*, [in:] *idem, Schlesien in der Frühmoderne. Zur politischen und geistigen Kultur eines habsburgischen Landes*, Köln-Weimar-Wien 2009 (=Neue Forschungen zur schlesischen Geschichte, vol. 16), p. 356.

group issued for the monarchy in 1501 by King Ladislaus, the dukes were – with the exception of the head of the Bohemian House of Rosenberg – superior to the Bohemian lords who also formed the first curia of the estate assembly of Bohemia and whose role at the sessions of the general estate assembly was of key importance. Consequently, the assembly became the arena of an intense, ongoing rivalry for estate primacy between the representatives of the highest social ranks of Bohemia and Silesia. The formation of the Silesian estate delegation – which was to reflect its political-estate structure – to the general estate assembly was also unworkable, because Silesian dukes enjoyed the right of *votum personalae* which was perceived by them as part of their former ducal powers allowing them to issue – though only at the Diet sessions – collective, but at the same time specifically personal, decisions relating to the issues put forward by the king. Furthermore, an acknowledgement of the authority of the general estate assembly not only by the dukes, but also by the two remaining ranks (the nobles and the burghers of hereditary duchies) which formed the second and the third curia of the Diet of Silesia, would have eradicated the pivotal feature which determined the political status of the Diet of Silesia, namely their operation in direct relation to the authority of the monarch.

A factor which predetermined the degeneration of the general estate assembly as the central body of authority was the abandonment of this form of governance by the royal authority. The cooperation which focused on the strengthening of the general estate assembly's competence as a central authority of the monarchy – which would undoubtedly streamline the process of governance despite its continuously chaotic organization – at the same time acted in favour of the Bohemian estates and, paradoxically, restricted the scope of the king's own sphere of authority. The general assembly was becoming – despite the aforementioned vast number of obstacles in this area – a platform for communication between the estate politicians from across the monarchy and represented an opportunity for them to form a common political force against the power of royal authority. The monarchical authority proved to act as an inhibitor of the development of this potentially meaningful central authority of the monarchy.

By the 1550s, the general assemblies were replaced by royally-appointed estate representatives of individual countries – a custom introduced by Ferdinand I – with whom the monarch personally conducted negotiations⁴². The dualist system of authority, comprising two sources of power forced to engage in mutual negotiations and to coordinate their positions, gave preference to the kings, for whom it was easier to exercise authority along with the co-regent independent estate assemblies

⁴² J. Pánek, *Ferdinand I.*, p. 70.

of individual countries of the monarchy. This new form of communication prevailed throughout the 17th century. Ferdinand's unique alternative to the general state assembly, the act of summoning department-envoys of the estate assemblies to Vienna, took place on two occasions. The estate delegations of the countries of the monarchy were established in 1655 to determine the rates of charges incurred by the countries and to approve the payment of the so-called 10-year tax (1714). This system of communication between the monarch and various country estates could hardly be qualified as the manifestation of institutional unification tendencies, although it functioned at the very centre of power, in Vienna. It appears that such tendencies emerged in the sphere of politics. The tax rates adopted in 1655 and the negotiations regarding the 10-year tax of 1714 related both to the countries of Bohemia and to the hereditary countries of the Habsburg in the Reich, although all the regions continued to carry out their individual administrative proceedings which were necessary for the fulfilment of their previous commitments⁴³.

Although the court council of war was founded in 1556 for the purpose of taking military action across all of the Habsburg territories, the administration of the defence of the monarchy's frontiers was decentralized and depended on the estate authorities⁴⁴. The defence system of Silesia was introduced by a decision of the Silesia-wide estate assembly as part of its country defence policy issued in 1529. Only the consequences of the Thirty Years' War, the takeover of Wallenstein's army and the main executive peace recess with the Swedes introduced in 1650 opened up the possibility for the Habsburgs to form a permanent army, yet little is known about the exact details of this enterprise in Silesia in the second half of the 17th century⁴⁵. At the time of the presidency of Prince Eugene of Savoy (1703-1736) the military council was transformed into a new body which began to act as both the headquarters of the military command and the central authority for military administration whose scope of operation also included Silesia, and whose duties were performed from the 1730s by regional officials.

Only the king was seen in Silesia as an uncontroversial central office of the Bohemian monarchy⁴⁶, although this perception was quite different from the concept of authority that was prevalent in other Bohemian countries. The authorities which remained at the king's disposal did not, however, meet the necessary conditions to

⁴³ H. Toman, *Das böhmische Staatsrecht*, p. 96–102.

⁴⁴ Ch. Link, *Die Habsburgischen Erblände*, p. 501; R.J.W. Evans, *The making*, p. 149.

⁴⁵ Daniel Hohrath, *Militärgeschichte*, [in:] *Historische Schlesienforschung. Themen, Methoden und Perspektiven zwischen traditioneller Landesgeschichtsschreibung und moderner Kulturwissenschaft*, ed. Joachim Bahlcke Köln 2005 (=Neue Forschungen zur Schlesischen Geschichte, vol. 11), p. 329.

⁴⁶ J. Bahlcke, *Regionalismus*, p. 2.

provide effective central-royal governance⁴⁷. All of the central institutions, both those well-established at the time when the Habsburgs ascended to the Bohemian throne and as those newly-introduced by them after 1526, were characterized by unstable remits and internal structures, as well as by selectivity as regards the areas they had the power to intervene in and by their fragmented operation across Silesia. Some central organs, such as the office of the chancellor and the Chancellery of Bohemia – the tools of power of the Bohemian estates, whom they were deprived of as a consequence of being on the losing side in the uprising of 1618-1620 – were thoroughly remodelled in the years 1621-1627 and, as central organs of authority, started to implement the royal policy. They ceased, however, to facilitate the institutional penetration of Silesia by the Bohemian authorities. Others, such as the court council of war, the royal Camera or the Appeals Chamber prove that central institutions cannot be perceived as existing from the moment of their appointment due to the linear development of their competence in relation to the region. They attempted to take over particular sectors of governance in Silesia, but success only came many decades after their creation and as a consequence of their numerous transformations which were often performed not on an exclusive basis. Most of them started to operate fully only in the second half of the 17th century under the conditions of the new economic and political system of Silesia. The stripping of the Silesian judiciary system's autonomy (a process which, nonetheless, was not fully completed) to the benefit of the Appeals Chamber did not take place until the comprehensive transformation of its political-estate elites between the 1660s and 1670s. The successful implementation of the centralization strategy was strongly dependent on the 'mental shift' of the members of the political-cultural elites of Silesia, which turned out to be one of the most crucial forces responsible for the progress in the sphere of institutional uniformity.

One of the basic features of Silesia, which was particularly decisive for its political system and internal institutional organization and rather widespread in the modern age, was the composite character of its internal political-territorial structure, conditioned by the feudal bond of individual duchies of Silesia with the King of Bohemia, a process which began in the 14th century based on individual legal acts. The genesis of the formation of Silesia as part of the Bohemian monarchy in the process of the incorporation of separate Silesian political-territorial units was expressed in the modern period through, most notably, its lack of a general administrative name, unlike in the case of Moravia or Lusatia which were referred to as

⁴⁷ Michael Hochedlinger, *Der gewaffnete Doppeladler. Ständische Landesdefesion*, [in:] *Die Habsburgermonarchie*, p. 219.

Margraviates. The fact of designating Silesia as a duchy (principality) stemmed rather from political needs than from its legal-territorial title. This circumstance also points to its relatively shorter existence and also the remarkably unique history of its formation as a uniform political-territorial unit, especially when compared to Bohemia and Moravia.

In the modern age, Silesia – viewed from outside – was to a large extent a conglomeration of continuously self-dependent political-territorial organisms: duchies, free states and other, smaller territorial units, the so-called lesser states and castle fiefdoms. In the modern period both the number of political bodies and their territories in Silesia – as compared to the Middle Ages – were characterized by a much greater stability, although their boundaries still remained subject to certain changes. At the time there were 16 duchies and initially four, later six, free states which were fully independent from the duchies. The duchies, due to their public-legal status, were divided into those ruled directly by the king and therefore called hereditary duchies, and those ruled by the dukes, i.e. remaining in the hands of dukes and therefore vassal. There were also, according to various studies, between 140 to 170 cities, which, depending on the status of the duchy, were divided into ducal or private cities and cities of hereditary duchies, of which about 32 were represented in the Diet of Silesia. In the period in question, most of the duchies changed their status, some of them several times. This was due to the gradual extinction of the old dynastic line of the Silesian dukes, especially in the 17th century, as a consequence of which the duchies were taken in hereditary possession by the king. The most prominent hereditary principalities during the first hundred years of Habsburg rule were the duchies of Wrocław, Głogów and Świdnica-Jawor, which gained this status before 1526, as well as Opole-Racibórz (from 1532), Żagań (from 1548), Opava (in the period 1528-1614) and Ziębice (from 1569). This does not mean, however, that throughout the period all of them retained this status: they were either sold or, most frequently, put into pledge. From the 16th century to the mid-17th century the vassal duchies included: the Duchies of Legnica, Brzeg and Wołów – which remained in the hands of the same dynastic line of Piasts till the year 1675; the Duchy of Oleśnica (temporarily Oleśnica and Bierutów), ruled by the Poděbrady family until 1647; the Duchy of Krnov, ruled by Hohenzollerns until 1622; and the Duchy of Cieszyn, which was also in possession of the local Piast line until 1653. Yet, throughout the 17th century (and in the second half of the 17th century in particular) the landscape of the duchies underwent crucial transformations. On the one hand, the majority of the duchies were under the direct control of the monarch. Furthermore, most of these royal duchies were located in the central part of Silesia. On the

other hand, the 17th-century investitures of the new dukes contained restrictions that weakened their autonomous public-legal status and limited their functions of authority, and so it may be said that the duchies in Silesia became a special form of ownership of landed property and ceased to function as a collection of sovereignties. The new feudal duchies were the aforementioned Duchy of Opava and the Duchy of Krnov, which were transferred under the rule of the Liechtensteins in 1614 and 1622, Żagań (from 1646 owned by the Lobkowitz family), Ziębice (from 1664 owned by the Auersperg family) and Cieszyn (in 1722 awarded as a fief to Francis Stephen of Lorraine). A slight change in the number of free states in the modern period – those which existed from before 1526, including the Free State of Żmigród, Milicz, Pszczyna and Syców, were supplemented in 1696 by the Free State of Siedlisko-Bytom and Bytom in Upper Silesia – was indicative of the unfavourable political and social conditions for the establishment of semi-ducal sovereignties. Recognized in separate registers, especially those of a fiscal and military nature, though not entirely dissociated from the structure of duchies were the lesser states – over a dozen in total – and castle fiefdoms (e.g. Uraz and Piotrowice in 1556 and Leśnica in 1619). The limits of the territorial units determined the internal divisions of Silesia, which were not administrative but territorial-political divisions.

At the same time the ducal authorities and the estate authorities of individual duchies in the previous period were gradually developing common administration bodies that were to play a significant role in uniting the political and social system of the region of Silesia into one whole. It was thanks to them that even prior to 1526 Silesia presented itself as a fully developed political and territorial unified organism, with central authorities acting on behalf of all the Silesian duchies and free states. However, the consequences of the fact that the country of Silesia was formed in the process of establishing bottom-up institutional links between its various duchies were still a cause – at least until the outbreak of the Thirty Years' War – of a certain sort of internal volatility within the region. This volatility was further strengthened by the existence of certain laws (privileges) which regulated the relations of individual duchies with the king, and partly by the royal authority in creating Silesia-wide institutional links. Most frequently the royal authority participated only in the last stages of their formation (for example, in the case of the top-down decisions of Matthias Corvinus in determining the administrative competence of the governor of Silesia).

In the 16th century and at the outset of the 17th century some of the territories attempted to break free from Silesia and join another Bohemian estate: the Duchy of Głogów, Opole-Racibórz and especially the Duchy of Świdnica-Jawor strove to

become the members of the Bohemian estate assembly and the Duchy of Opava, together with the slightly less decisive Duchy of Krnov, attempted to become part of Moravia. The composite structure of Silesia became destructive for the region when the estates of individual duchies (which was underlined by the fact that their duchy became engaged in a vassal relationship with the Bohemian king based on a separate feudal act) not only considered that they could also continue to engage in political activity – without cooperating with the estates of other Silesian duchies – but even that by gaining in this way the status of an estate of the kingdom, they were entitled to participate in the Bohemian estate assembly. Situations where the estates of the aforementioned duchies failed to appear at the Diet of Silesia and sent envoys to the Bohemian assembly in order to win their acceptance as its members occurred several times in the 16th century. The estates of Świdnica-Jawor sent their own envoys to the Bohemian estate assembly even when this coincided with the appointment of official Silesian delegations, for example in 1543, 1544, and 1545⁴⁸; at the time this act was also temporarily awarded with the membership in the Prague estate assembly. The estates of these duchies also expressed a desire to join the first uprising of Bohemian estates in 1547, despite the distant attitude of the Silesian dukes and estates of the Diet of Silesia⁴⁹. Matters of a financial nature constituted one important reason for such behaviour. The duchies persistently failed to participate in the Silesian Diet only when the dukes and the estates of Silesia were charged by the king with a standard tax; they expected that the taxes of the estate assembly of Bohemia would be lower than those of the Silesian Diet.

The tendency of the estates of the hereditary duchies to break away from the Silesian territorial relationship was also, perhaps, characteristic of their sense of political backwardness and desire for prestige, especially in the case of the Duchy of Świdnica-Jawor. Its estates highlighted the fact that the duchy was not a fiefdom and that the estates did not pay a traditional feudal homage to the king, but a pledge of faithfulness only within their own territory instead of the collective homage in Wrocław together with other dukes and Silesian estates. In connection with this, they considered that this fact put them in a more direct and more privileged position in relation to the king, and that this should secure them a better position in relation to other Silesian duchies. Despite these ambitions, their actual position in the institutional structures of Silesia and the degree of their participation in political decisions was lower than that of the vassal duchies (namely, the

⁴⁸ Gustav Croon, *Die landständische Verfassung von Schweidnitz-Jauer. Zur Geschichte des Ständewesens in Schlesien*, Breslau 1912, p. 33

⁴⁹ J. Bahlcke, *Regionalismus*, p. 164.

duchies which still remained under the dukes' rule). According to the established custom, the king, who formally also held the title of duke of the hereditary duchy which remained under his rule, did not have a representative deputy that was entitled to represent him in the ducal curia of the Diet. While the dukes were members of the first and most important curia of the Diet, whose role in the process of making decisions about important Silesia-wide issues was indeed crucial, the second and third curia of the Diet were composed of representatives of the nobility and the cities of hereditary duchies. In the case of the Duchies of Opava and Krnov, their decentralist attitudes were determined by their recent inclusion in Silesia. An important decentralist factor in the case of these duchies in the second half of the 16th century and in the early 17th century was constituted by the policy of the Bishops of Olomouc, especially Stanislaus Pavlovský (1545-1598) and Franz von Dietrichstein (1599-1636), for whom isolation from Lutheranized Silesia was the *sine qua non* condition for the successful realization of their re-Catholicization plans, and, therefore, they fuelled the dissident attitudes among the nobility and the clergy of Opava⁵⁰.

At the beginning of the 18th century, in the face of attempts to introduce a new system of taxation, the attitudes of separation among the dukes and ducal estates of Upper Silesia were revealed, which, during the negotiations over its establishment in the years 1709-1720, demanded to be separated from the duchies of Lower Silesia⁵¹. The cause of the sudden emergence of these decentralist tendencies was probably not only the unfair – in their view – distribution of tax, but also issues related to the system of Silesian administration where the dominant estates were those of Lower Silesia, and conflicts were further exacerbated by growing cultural differences. The existence of factors that differentiated these two parts of the country provides grounds for us to perceive modern-age Silesia as composed of two distinct sub-regions: Lower Silesia and Upper Silesia. Some differences between them were deeply rooted in the past, but their consequences did not lose their validity in the modern age⁵². The much weaker pace of the 13th-century colonization in the early modern period still manifested itself in a significantly smaller number of cities with much less political importance located within Upper Silesia, as well as in the different legal status of its rural population, whose relation to the land was regulated by the so-called *lassyckie* law of possession (*lassitischer Besitz*) – the

⁵⁰ *Ibidem*, pp. 231-235.

⁵¹ Jürgen R. Wolf, *Steuerspolitik im schlesischen Ständestaat. Untersuchungen zur Sozial- und Wirtschaftsstruktur Schlesiens im 17. und 18. Jahrhundert*, Marburg 1978, p. 209.

⁵² Thomas Wunsch, *Auf der Suche nach einer historischen Identität Niederschlesien. Vorschläge für die Kategorisierung von Regionalbewußtsein in Schlesien vom Mittelalter bis zur Gegenwart* [in:] *Identität Niederschlesien*, eds Hans-ChristianTrepte, Karoline Gil, Hildesheim 2007, pp. 13-36.

entire ownership of land was in the hands of representatives of the nobility – as opposed to the possession of land by peasants in Lower Silesia, which can be described as peasant fief. The differences this brought about were reflected in the judiciary-administrative divisions within the duchies of Upper Silesia where the system of districts – characteristic for Lower Silesia – was much less established and – even in the 16th century – more likely to die out in places where it had managed to develop previously. Although the Duchy of Opole possessed as many as 12 such circuits, the Duchies of Krnov, Opava, Racibórz and Cieszyn did not introduce any internal divisions. In the modern period, these areas showed strong decentralist tendencies associated with their growing relations with Moravia, which happened as result of their aforementioned inclusion in the late medieval period in the Silesian structure of the existing Moravian Duchies of Opava and Krnov. Yet, at the same time, this led to greater openness of the Upper Silesian duchies to Moravian-Bohemian influences. Among the consequences were changes in the social structure of this sub-region, which stood out against its peers owing to the higher status of its nobility – lords – formed in the process of Moravians acquiring landed properties in the Upper Silesian duchies. Not only did they evolve into the rank of higher nobility, which was genetically alien to the nobility of (Lower) Silesia, but in some duchies – such as those of Opole and Racibórz and Opava – they even managed to create a separate, highest-ranked curia of the estate assembly of the duchy, and to institutionalize their unique social development in relation to the Lower Silesian duchies prior to the period of the intense efforts of the monarch to establish the rank of titular nobility in the remaining territories. However, their high social status was not reflected in the Silesia-wide institutions. There, they still functioned as members of the ‘ordinary’ nobility. The territory of Upper Silesia was also much less influenced by Saxon laws, and at the same time, Polish laws continued to be applied under the strong influence of Moravian laws. Various legal cultures present in these sub-regions were characterized by related language differences: alongside German, Czech was afforded the status of a permissible language to be used in documents and official and judicial proceedings in Upper Silesia, unlike in Lower Silesia, where only German was permitted. The most important legislative act that became the model for all the duchies of Upper Silesia in terms of internal legal order, issued by Duke John of Opole in 1531, was written in Czech and was introduced (along with an optional German-Czech version) in the remaining duchies of the sub-region in that language. It further seems that the faster pace of re-Catholicization of Upper Silesia in the 17th century, and the emergence of a greater proportion – as compared to Lower Silesia – of members of a new Catholic nobility and

higher nobility appointed by the Habsburgs, led to the consolidation of further differences in the cultural, administrative and political formation processes of the Upper Silesian communities.

In the modern period, the sub-region of Upper Silesia witnessed the occurrence of two opposing processes. For the political elites of the Upper Silesian duchies the modern period meant permanent and steady – occurring in line with the established organizational framework – cooperation with Lower Silesian elites within the Silesia-wide institutions, which was one of the most important drivers of the further merging of these culturally-related lands into one region. On the other hand, the modern period also abounded in significant stimuli that spurred the growing independence of the sub-region of Upper Silesia. The permanent state of separation of the two parts of Silesia was reflected in separate socio-political titles of the estate Silesian authorities: they were most frequently referred to as the bodies of dukes and estates of Lower and Upper Silesia.

The factors that led to individual duchies abandoning ambitions to break out of the Silesian organizational structures and suppressed their separatist attitudes towards the central institutions of Silesia in the 16th and later in the 17th centuries included both the counter-actions of the Diet of Silesia and of the king, undertaken on the initiative of the Silesian Diet. Up until the Thirty Years' War the Silesia Diet consistently presented the view that the absence of representatives of individual duchies within its structure does not release their estates from the obligation to execute the Diet's resolutions and transferred the power over the execution of its decisions to the governor of Silesia. The practice of not participating in the Diet of Silesia resulted in orders of the king, issued in 1562 and 1611, which forced the Duchy of Świdnica-Jawor to participate in the Diet of Silesia⁵³. A similar strategy adopted by the Upper Silesian duchies would be soon abandoned by them due to the negative reaction of the king. The Silesian assembly, as a Silesia-wide institution expressing the common interest of the estates, engaged in effective consolidation of its regional authority. Another factor which was especially important for the integrity of Silesia was the royal authority acting at the request of a Silesia-wide agent from the second half of the 16th century, or – following political transformations – independently, as a pro-regional force. The assumption of power over the duchies of Opava and Krnov by Karl Liechtenstein in 1614 and 1622 – a loyal follower of the monarchical policy towards Silesia – and the change of their status from hereditary to vassal duchies, where the position Karl Liechtenstein as duke

⁵³ G. Croon, *Die landständische Verfassung*, p. 33.

was dominant, reduced the problem of these estates' dissent towards the Silesia-wide institutions⁵⁴.

In Silesia during the estate-monarchic rule, until the Thirty Years' War three types of public-legal power existed: royal power, ducal power and estate power, which had the power to appoint institutions and offices and use them to exercise authority. There were also institutions and offices of individual authorities, as well as those which represented more than one of them. During this period, it was the nobility who also participated in the execution of public authority, and they did so primarily through the judicial supervision over the resident population of their landed properties. Later on, in the period of Habsburg absolutism, the socio-political elite of Silesia was still performing state administrative functions, but now on behalf of the royal authority, which was increasingly perceived as the only state authority.

In order to understand the potential scope of activity of the royal authority and institutions through which the authority pursued its monarchical functions in Silesia, one needs to take into account the fact that the royal authority of Silesia, treated as a whole, was not homogeneous and was simultaneously multifunctional. In the period of political dualism, 1526-1629, the power of the king in relation to Silesia as a whole found its institutional expression in cooperation with the dukes and the estates within the Diet of Silesia, which was a representative body of the entire Silesian political organism. This type of monarchic power may be defined as power of *proposition* or *initiative*, because its actions required Diet resolutions to be issued⁵⁵. In the age of absolutism, 1629-1740, the king still presented his proposals to the Diet, and it still it was necessary for the estates to cooperate in order to reach agreement on the content of such resolutions, but all legislative actions were performed on behalf of the monarch.

The king was also the suzerain of most political-territorial formations in Silesia and his spheres of authority included feudal lordship over individual princes, and the institutionalization of this authority through feudal homage defined the boundaries between the royal and ducal power, thereby making the governance of the fiefdoms to a large extent impenetrable to the monarch. Another sphere of the king's authority, described by the term *specialis protectio* relating

⁵⁴ Marek Vařeka, *Mocenské aktivity knížete Karla I. z Lichtenštejna a jeho bratrů v Horním Slezsku* [in:] *Šlechtic v Horním Slezsku. Vztah regionu a center na příkladu osudů a kariér šlechty Horního Slezska (15.-20. Století) / Szlachcic na Górnym Śląsku. Relacje między regionem i centrum w losach i karierach szlachty na Górnym Śląsku (XV-XX wiek)*, eds Jiří Brňovjak, Waclaw Gojniczek, Jiří Brňovjak, Waclaw Gojniczek, Aleš Zářícký, Katowice–Ostrava 2011, pp. 177-196.

⁵⁵ K. Orzechowski, *Historia ustroju*, p. 116.

to the ecclesiastical Duchy of Nysa-Otmuchów, was also in place despite the fact that the bishop was also the king's vassal due to his ownership of the land of Grodków. Furthermore, the king enjoyed full territorial rights in relation to the hereditary duchies, for the estates – locally, within each of the hereditary duchies – paid him feudal homage and treated him as their territorial prince. The king's authority – as that of the prince – was, however, limited by the privileges of state which varied for each of the hereditary duchies. The widest range of these privileges related to the Duchies of Świdnica-Jawor, while the most extensive ones were secured by the laws issued in 1353 by Queen Anne, the wife of Emperor Charles IV⁵⁶. Moreover, following the Thirty Years' War the estates of the hereditary duchies were effectively performing the demand that royal tax claims be passed by the king through the Diet of Silesia, which means that the duchies agreed to be charged more than Silesia-wide taxes only, which had been guaranteed by the royal authority in the form of privileges granted some time earlier⁵⁷.

In Silesia, the king could exercise power personally – in a manner limited by certain privileges – and by means of decisions issued in the form of mandates, instructions and rescripts. He could also act through the bodies of the royal authority. Until the Thirty Years' War, the execution of royal resolutions was fully dependent on the Silesian institutions. In the second half of the 17th century, the royal regulations were already granted proper execution, although still by means of offices of Silesia, but which were now acting on behalf of the king. It seems, however, that at the time the monarch relatively rarely issued his decisions directly. He did so only for the purpose of sanctioning the legal *usus*. The introduction of new acts or more detailed regulations regarding particular internal spheres of state operation remained the duty of the Diet of Silesia⁵⁸. Nonetheless, the Diet was bound by a rule according to which their announcement could be made only following the king's approval. The bodies of monarchical authority in Silesia included the aforementioned royal Camera of Wrocław, the governor of Silesia – with the reservation that between 1526 and 1629 this office was treated as a monarchical-estate office – and a collegial body, the so-called Superior Office (*Oberamt*), formed between 1629 and 1639 under the reform of the monocratic office of governor of Silesia.

The difficulties in classifying monarchic actions as anti- or pro-regional may be illustrated by the example of transformation of the institutional administration of royal finances. Between 1527 and 1558, as mentioned, it was the Bohemian Cam-

⁵⁶ G. Croon, *Die landständische Verfassung*, pp. 19-23, 173-4.

⁵⁷ F. Rachfahl, *Die Organisation*, p. 290; Marian Ptak, *Zgromadzenia i urzędy stanowe księstwa głogowskiego od początku XIV wieku do 1742 roku*, Wrocław 1991, p. 30.

⁵⁸ M. Weber, *Die schlesischen Polizei- und Landesordnungen*, p. 41.

era that played the role of a royal institution with a trans-regional character and whose scope of authority also included Silesia. Nonetheless, its presence in Silesia was not in the least widespread. Owing to the insignificant number of camera estates and the limited amount of taxes raised from regalia – especially in the early decades of the rule of Ferdinand I – the Bohemian Camera managed only a fraction of the total income of Silesia. The expectation was that the Bohemian Camera would be subordinate to the court Camera of Vienna. The actual subordination took place only in 1568 after the order of the court Camera was issued. Devoid of individual executive authority, it continued to serve as a purely advisory body in relation to the Bohemian Camera⁵⁹. What was important, however, with regard to Silesia, was that before this event took place, between 1554 and 1558 the Silesian administration of the royal finances was reorganized. Firstly, in 1554, the office of royal tax governor – *victum* (*Viztum*) – was created, and this office was also subordinated to the Bohemian Camera, yet in 1558 the royal fiscal administration was again reformed and the status of the cameras in Wrocław, Prague, Vienna and Pressburg (Bratislava) was made equal and they were all subordinated to the court Camera of Vienna⁶⁰. The direct subordination of the Camera of Wrocław to the Camera of Vienna separated Silesia from the Bohemian centre in terms of administration, which brought two significant consequences. In practice, until the Thirty Years' War the lack of executive powers of the court Camera and the complex process of consolidation of its central character in Vienna⁶¹ brought about the formation of a functionally independent institutional unit in Silesia⁶². In addition, the reform led to – albeit only in the narrow sphere of royal finance – the administrative separation of Silesia and Bohemia, thereby loosening the institutional links of Silesia with the principal country of the monarchy. This was detrimental to the institutional consolidation policy of the Bohemian monarchy. By violating this state of subordination, the king attempted to secure himself a faster, more convenient and more efficient method of making use of the royal income in Silesia and move it out of the potential reach of the Bohemian estates. However, in the mid-16th century, the subordination – excluding the bodies of the Bohemian monarchy – of the Silesian institutions to the Viennese body also involved certain pro-centralization activities focused on the formation of new political structures which extended to all Habsburg-

⁵⁹ J. Bahlcke, *Regionalismus*, p. 73; *idem*, *Das Herzogtum*, p. 46; F. Walter, *Österreichische Verfassungs- und Verwaltungsgeschichte*, pp. 66-67.

⁶⁰ O. Peterka, *Rechtsgeschichte*, p. 90.

⁶¹ Ch. Link, *Die habsburgischen Erblande*, pp. 499–500; F. Walter, *Österreichische Verfassungs- und Verwaltungsgeschichte*, p. 67.

⁶² F. Rachfahl, *Die Organisation*, p. 325.

dependent territories and which favoured the autonomy of the Silesian body. This autonomy was retained for the most part of the 17th century, and its independent functioning in Silesia lasted until the end of the period. It may be said that the administrative structure of the Wrocław Camera, which was conceptually oriented towards centralization, and in reality took credit for the state-like character of this institution, in practice favoured the process of Silesian regionalization. The Camera was a strictly royal institution. Its employees were required to submit to the king statements of loyalty and official secrecy, which was important for keeping the Camera separate from the estate organs, despite the fact that all levels of the Camera were populated by Silesians.

The Camera's importance grew following the decision in 1637 on the possibility to enrich the Camera's budget by estimated tax income, which was to open the way for its transformation into the central summary financial organ of Silesia⁶³. It is more difficult to determine the extent to which this decision was implemented, for as early as 1640 the Higher Office of War (*Oberkriegs Commissariat*) began to take control over taxes paid to the military in Silesia after its formation. In the end, therefore, the Camera did not replace the general estate tax office, it merely partially duplicated its functions. However, the importance of the Camera is indirectly proven by the steady increase in the number of its employees. By the end of the 17th century, the total number of its highest and mid-level officials was estimated to be around 60⁶⁴. The Camera was a symbol of the growth of the importance of the royal power in Silesia, but also one of the elements that strengthened the institutional independence of the region. The body's one-dimensionality in terms of performed functions, taking over revenues that were due to the king, which in consequence were not allocated to internal needs of the country, resulted in the fact that the Camera was not associated by the Silesian estates as an appropriate tool of country administration.

In the following decades, especially in the 18th century, most of the pro-centralization activity of the royal authorities was still focused on the financial sphere. This was manifested in planned changes in the organizational subordination of the Wrocław Camera, which was to take place in connection with the financial reform across the entire political-territorial Habsburg system, while in 1714 a central bank, *Bancalität*, was set up in Vienna. This body was also to serve as the central financial office⁶⁵ and at the same time an order was issued to make the bank a direct recipient of all income from Silesia, excluding the Camera of Wrocław. The attempt to create

⁶³ K. Orzechowski, *Historia ustroju*, p. 203.

⁶⁴ *Idem*, *Materiały do dziejów urzędników, funkcjonariuszy i służby na Śląsku*, Wrocław 1980 (=Acta Universitatis Wratislaviensis, No. 516), p. 61.

⁶⁵ Thomas Winkelbauer, *Nervus rerum Austriacarum*, [in:] *Die Habsburgermonarchie*, pp. 189-190.

a central bank, as it soon turned out, proved unsuccessful, and the function of financial administration returned to the competence of the court Camera and no violation of the competence or system of cameras in particular regions took place⁶⁶.

The most important agent of royal authority in Silesia, which until 1629 was of a clearly mixed monarchic-estate character, was the governor of Silesia. Formally, the king personally appointed people to this position, but the 1498 privilege of Ladislaus Jagiellon imposed significant limitations as to the choice of the person to hold that office; the post could only be entrusted to one of the dukes of Silesia. Due to the fact that all Silesian dukes underwent a conversion to Protestantism, following 1536 the king managed to introduce a custom of filling this office with the bishops of Wrocław. This new practice remained in line with the aforementioned privilege, for the Wrocław bishops were holders of the title of duke in Silesia. This personal policy of the king was balanced by the policy of the estate forces which managed to force through the requirement for the governors to take a separate oath to the Diet, pledging that they would look after the interests of the dukes and estate. In addition, the bishops, as dukes of Silesia, were part of the Silesian estate authority and were linked to the remaining estates through common interests. Also, all of the king's claims towards Silesia – especially those concerning taxes – referred to them directly, which engaged them in suppressing the royal demands.

The custom of entrusting the bishops with governorships of Silesia was discontinued in the early 17th century, when the assumption to the office of the Bishop of Wrocław by Charles Habsburg – forced by the monarch in 1608 – and his acceptance of the office of governor coincided with the first confederation of the Bohemian and Silesian estates. The confederation persuaded Rudolph II in 1609 to issue Letters of Majesty granting equal status to Catholic and Protestant confessions in Bohemia and Silesia. In an additional act issued for the Silesian estates, Rudolf undertook to refrain from entrusting the Bishops of Wrocław with the governorship. Formally, this legal principle of 1609 was valid until the end of the Habsburg rule; however, it was observed by the kings only until 1664. In the following years, the procedure of nominating bishops to the office was reinstated. Such practice was, on the one hand, favoured by the narrowing down of the number of suitable candidates to a small group of 'old' dukes, which was brought about by reason of the gradual extinction of their dynasty. When the ruling Oleśnica dukes of the Poděbrady line eventually died out in 1647, along with the dukes of Cieszyn in

⁶⁶ Friedrich Walter, *Die Geschichte der österreichischen Zentralverwaltung in der Zeit Maria Theresias (1740-1780)*, vol. 1: *Die Österreichische Zentralverwaltung*, part 2: *Von der Vereinigung der österreichischen und böhmischen Hofkanzlei bis zur Einrichtung der Ministerialverfassung (1749-1848)*, Wien 1938, pp. 40-43; K. Orzechowski, *Historia ustroju*, p. 204.

1653, the only remaining representatives of the Piast line were the dukes of Legnica-Brzeg. Its last male descendant, George William, died in 1675, just a few months after the beginning his reign. For the new Silesian princes – new not only because they appeared in Silesia only in the 17th century, but primarily because their ducal status was not dynastic, but titular, granted by the Habsburgs – the office was rather unattractive. Following the reforms of 1629–1639 it required its holders to be virtually permanently present in Silesia, and they were additionally obliged to carry out hard management and administrative work. These responsibilities often interfered with other functions they fulfilled as Habsburg diplomatic or military servants. However, the bishops of Wrocław, following 1664, were increasingly reluctant to hold this office. From 1719 onwards, the king, having refused to cancel the office of governor, ceased to fill it with new candidates. The functions of governor of Silesia were performed from then on by the director of the Superior Office (*Oberamt*). This office, created around 1672, was not burdened with privileges and the king could freely designate people to fulfil it. This practice of entrusting directors of the Superior Office with executive power, which was described by the king as temporary, continued until the end of the era – up till the year 1740.

The governor of Silesia was simultaneously the chairman of the Silesian Supreme Ducal Tribunal and the Diet, and from the 17th century onwards enjoyed the right of *votum conclusivum*⁶⁷, namely, the fourth vote in terms of importance after the three votes of the Diet's curias. By performing the function of both the head of the estate assembly and the head of the tribunal, the office of governor was not monarchical but genetically related to the regional and estate-institutional structure of Silesia. Moreover, the pro-regional functions of the governors of Silesia were a consequence of their practical approach towards exercising authority. Until 1629, when the centralization efforts undertaken by the king and the Bohemian estates included the liquidation of the institutional autonomy of Silesia, an important factor was that the office of the governor of Silesia was monocratic and held for life. No written instructions were provided by the king on the appointment of this official, and decisions made by the governor during his office did not require the monarch's individual approvals, but were issued by right of the title he held. This therefore constituted the granting to a Silesian duke (who was given the office) of a considerable extent of permanent royal authority – theoretically in perpetuity – and at the same time endowing him with a high degree of political autonomy. The governor

⁶⁷ K. Orzechowski, *Ogólnośląskie zgromadzenia stanowe*, p. 241; Piotr Jurek, *Funkcjonowanie śląskich zgromadzeń stanowych na przykładzie 1715 roku*, Wrocław 1992, p. 88.

was not only the body of royal and estate authority but also a co-ruler, for he also performed authoritative functions.

The prince of Silesia appointed to this position possessed his own legal chancellery and hired lawyers and advisers. The expanding range of the governor's tasks resulted in the fact that his officials became specialists in different areas of state administration. From the last quarter of the 16th century – and not only following the royal reforms of 1629 – this was reflected in the use (though informal) of the name *Oberamt*, that is, the Superior Office, instead of the office of governor of Silesia⁶⁸. This was a sign of the development of this body's collegial structure. With regard to the scope and the role of the governor in the Diet of Silesia, it can be said that a substitute body developed, which may be called a surrogate of the regional government of Silesia. What needs to be made clear, however, is that the aforementioned statements focus on describing the direction of the ongoing processes of the development of the internal administration of Silesia, not on their completion.

The king, whose political power was reinforced in a victory over the Silesian estates at the first stage of the Thirty Years' War, issued a resolution in 1629 which formally established the Superior Office, headed by the governor of Silesia, whose competences and structure was defined in the instructions of Ferdinand III in 1639. This reform, through which the existing monocratic office was transformed into a collegiate institution and the governor was obliged to make pledges only to the monarch, was the major institutional initiative of the Habsburgs' plan to introduce absolute rule in Silesia⁶⁹. Except for the governor, the college included the chancellor and advisers whose number was not strictly specified: according to sources their number varied from three⁷⁰ to – in the last years of Habsburg rule – 24⁷¹. The internal structure of the body was transient; the members grouped themselves into two or three benches: that of princes, lords and scholars. Therefore, the body's structure was volatile. The governor of Silesia could no longer use the services of his own ducal officials. Instead, he could use the services of specially-hired technical personnel. The post of chancellor was designed as counterweight to that of governor. The chancellor possessed almost the same scope of authority and was appointed only by the king; however, he enjoyed less social prestige. All office members were

⁶⁸ K. Orzechowski, *Historia ustroju*, p. 123.

⁶⁹ K. Orzechowski, *Ogólnośląskie zgromadzenia stanowe*, p. 242; Petr Mat'a, *Wer waren die Landstände? Betrachtungen zu den böhmischen und österreichischen 'Kernländern' der Habsburgermonarchie im 17. und 18. Jhr.*, [in:] *Bündnispartner und Konkurrenten der Landesfürsten?*, ed. Gerhard Ammer, Wien 2007, (=Veröffentlichungen des Instituts für Österreichische Geschichtsforschung, vol. 49), p. 77.

⁷⁰ K. Orzechowski, *Historia ustroju*, p. 197.

⁷¹ P. Jurek, *Funkcjonowanie*, p. 91.

sworn in and committed to permanent residence in Wrocław. In the last quarter of the 17th century another name, the Supra-Office (*Oberamtsregierung*), started to be used to describe the institution, which highlighted its official character even more accurately⁷².

The appointment of the Superior Office not only facilitated the progressing evolution of the governor office into a modern bureaucratic institution. In fact, the principal aim of the reform was to deprive the governor of his former autonomy. From that moment on he could only perform his functions as a representative of the Office, which functioned in line with the principle of collegiality, both in terms of its structure and decision-making process. From the years 1629-39 it was transformed from a body of self-authority – located half way between the royal and estate authority – into a body of royal administration, which executed decisions neither of its own initiative nor those agreed by the estates, but was the recipient of orders from the very centre of authority. It was given new structural and functional features, which may be perceived as departure from the traditionally Silesian character of the office of governor of Silesia. Nonetheless, the Superior Office still operated in direct submission to the king, yet the communication between the two were at times intermediated by the Bohemian chancellor. What needs to be emphasized is that during the period of absolutism the estate and Silesian character of the office of the governor was maintained, which was manifested by the fact that only candidates with the title of Duke of Silesia were appointed to this position. The fact that the Superior Office, together with the office of the governor it absorbed, developed an exclusively monarchic character – allowing for the king's more intense penetration of the internal affairs of the country – did not affect the Office's role in maintaining the administrative autonomy of Silesia. An important factor in the era of Habsburg absolutism which fostered the maintenance of the institutional autonomy of Silesia was therefore the highly pro-regional administrative system of the royal authority.

The competences of the Superior Office in the second half of the 17th century were continuously extended. By the end of the 17th century, it hired as many as 57 clerks⁷³. In 1639, a military fund was established as part of the office followed by, in 1640, the Higher Office of War whose task was to determine the financial and material needs for military purposes in Silesia, and even, as already mentioned, began to duplicate the Camera and the General Tax Office by collecting financial income for military purposes⁷⁴. All technical decisions regarding the maintenance

⁷² K. Orzechowski, *Ogólnos Śląskie zgromadzenia stanowe*, p. 200.

⁷³ *Idem*, *Materiały*, p. 62.

⁷⁴ *Idem*, *Historia ustroju*, p. 220.

of the monarch's armies stationed in Silesia, as well as those concerning the issues of recruitment, march routes, accommodation, etc., were in the early decades of the 18th century still being made by the estates, which appointed both the payers and the marching commissioners. It was not until 1735 that the announcement of the marching ordination caused the formation of the bureaucratic apparatus of the Higher Commissioner, which was also active at local levels⁷⁵.

The most important consequence of the political-territorial structure of Silesia in an institutional sense – which was essential for the constitution of the region – was the emergence of two-level institutional-bureaucratic structures in Silesia, one Silesia-wide and one specific only for individual territorial units, duchies and free states. Both levels were related – but in an erratic, volatile and discontinuous manner – and the competence of their institutions, structure and composition did not fully overlap. In order to present a more complete institutional landscape of Silesia it should immediately be said that the majority of its political territories developed also a two-level, internal, official-institutional estate structure, consisting of institutions and central offices of particular duchies or free states, and local institutions of its individual districts (*weichbilds*) and of rarely occurring lands which were the units of internal divisions within the Silesian duchies. In the case of the vassal duchies and the free states, another separate system of offices was connected with territorial ruler. Some of them evolved in the modern period into the estate-ducal offices. Individual duchies possessed institutions which were linked by their hierarchical arrangement, such as the subordination of the local estate assemblies of a district to the estate assembly of a given duchy. There also existed bodies which, although being part of a single estate system within one duchy, functioned virtually independently of each other, such as the assemblies of cities and nobility. Others were fully autonomous bodies, such as offices dealing with the ducal governance sector, which functioned beyond the estate competences.

The Silesia-wide system of estate institutions and offices, whose power and governance extended over the entire country at the outset of the modern period, should be considered a prominent pro-regional factor. Their formation took place as a result of a bottom-up, independent initiative of the estates. They perceived themselves as representatives of the legitimate public power of Silesia, and their bodies developed through their direct relationship with the monarch. At the same time, they exhibited a clear sense of independence from the king and an attitude of full independence from the political estate forces of Bohemia as the main country of the monarchy. The estate organs included, most importantly, the Silesia-wide estate

⁷⁵ *Ibidem*, p. 203.

assembly, the Diet, as well as its numerous substitute forms (general conventions, substitute assemblies, conventions for the collection of accounts, partial conventions), and the Supreme Ducal Tribunal, the General Tax Office, offices such as that of the state payer and the general plenipotentiary, and from 1629 the governor of Silesia.

The most prestigious constituent of the country's autonomy was the Supreme Ducal Tribunal (*Ober- und Fürstenrecht*) which engaged in the settlement of disputes led by the Silesian dukes with the king or among themselves⁷⁶, in this respect performing the monarch's jurisdiction. Its most important characteristic was the finality of judgements⁷⁷. The transformation of this body into a central court of Silesia for the supervision of the functioning of judicial authority in all Silesian territorial units – clearly reflected in the country peace of 1528 – was inhibited by the actions of both the king and the estates of Silesia.

The kings confirmed formally – even in the period of fully-fledged absolutism – that the Supreme Ducal Tribunal possessed *privilegium non appellando*⁷⁸, however they informally extended to the judgments of the tribunal the consent they had obtained from the estates in 1547 for the possibility to submit supplications to the king concerning the verdicts of Silesian courts⁷⁹. The estates, on the other hand, by the Diet resolutions of 1541, which were strengthened in 1571, entrusted the supervision of the courts within the particular duchies and free state to their immediate territorial authorities.

This was due to the fact that the first half of the 16th century marked the maturity and independence of the estate authorities of particular Silesian duchies, which occurred due to an intense legal unification within individual organisms of Silesia and resulted in, from the second half of the 16th century and the outset of the 17th century, the issuance of individual land statutes which defined official systems and precise judiciary procedures, especially in matters of the property of each particular duchy and free state⁸⁰. The estates attempted to freeze both the royal plans to intervene into the Silesian jurisdiction and stop the process which was enforced by part of the Silesian political elites to extend the competences of the Supreme Ducal Tribunal. The suppression of the process of centralizing the judiciary in the region of Silesia was therefore an expression of both the decentralist tendencies of part of the Silesian estates as well as part of the centralization-focused policy of the monarch.

⁷⁶ K. Orzechowski, *Historia ustroju*, p. 93.

⁷⁷ F. Rachfahl, *Die Organisation*, p. 198.

⁷⁸ *Ibidem*, p. 216.

⁷⁹ *Ibidem*, p. 213.

⁸⁰ Marian Ptak, *Śląskie ordynacje ziemskie*, 'Śląski Kwartalnik Historyczny Sobótka', 34 (1979), No. 1, pp. 17-35.

Only in the period of absolutism did the continuous practice of extending the scope of the Superior Office's duties in the area of representing royal authority lead to a similar extension of the Office's judiciary competence in Silesia. What is especially worth mentioning is that in the period of absolutism, the king was focused not only on the strengthening of the central royal institution, that is, the Appeals Chamber, but, instead, focused on expanding parallel competences of the royal regional office. Secondly, the statement that the king took care of the growth of authority of the royal regional office – namely, the Superior Office – to the disadvantage of both regional and estate tribunals, leads to the conclusion that the major purpose of the king's activity was the extension of his power, and not institutional unification.

What remained crucial for the functioning of Diet of Silesia throughout the entire modern period was a feature which had already been introduced in the previous epoch, namely, that the Superior Office communicated directly with the king and that the king communicated with the Diet of Silesia without the mediation of other offices of the monarch. However, his autonomy was expressed by the fact that neither the king, nor the king's commissioners who presented his proposals to the estates, participated in the same deliberations or votes.

The structure of the Diet in the modern period did not formally undergo any major changes. The princes invariably constituted the membership of the first curia. The group of four free-state lords, incorporated into the ducal curia and entitled to only one vote, was enlarged in 1697 by two further members, but this did not extend the number of their votes in the curia. What was important was the transfer of representatives of Wrocław from the third curia to the second curia (ca. 1538), which gathered together representatives who owned landed properties based on the knightly rights of hereditary duchies. This type of social promotion was understandable in an age when one's political importance grew according to the efficiency in fulfilling one's tax obligations, even though its formal basis was the fact that the municipal council held the principal office of the governor of the Wrocław duchy. The city of Wrocław, due to its immense economic potential, belonged to the narrowest governing elite of Silesia, taking part as one of the leading forces in all important political projects. The fact of its leaving the curia of the cities resulted in the further weakening of other cities of Silesia in terms of their political importance, a process which was characteristic for the Diet assemblies in all Bohemian countries⁸¹. The knights of the feudal duchies were not represented whatsoever in the Silesia-wide Diet, for they were collectively represented by the prince.

⁸¹ J. Pánek, *Das politische System*, p. 60.

However, in the mid-17th century, as a result of two important processes that affected the social groups whose representatives participated in the assembly, this autonomous estate institution was transformed into an estate body of the royal administration. The decisive role in this specific exchange was played by the elites. Among the states who participated in the Diet, the dominant role of the dukes – until the early years of the Thirty Years' War – was manifested not only in the fact, as already indicated, that they voted in person, and in their own name, but that the first curia did not actually accept the resolution by vote, yet it was settled nevertheless: according to common custom, it could not be accepted without the consent of all the voters. Also, the fact that the ducal curia's sessions preceded the sessions of the two other curias – the votes of which were conducted after the decisions of the first curia – resulted in the fact that it was the dukes who actually decided on the contents of the Diet acts that were to be put to a vote. This proved that Silesia was under the influence of the ducal group. The dynastic dukes interpreted their participation in the Diet as a manifestation of their co-reign over Silesia with the king and as a specific way of exercising their power within the country. The gradual emergence from the 17th century, and especially from the mid-17th century, of new titular dukes was a novelty in Silesia – they were neither connected with the regional legal traditions nor political principles. The new princes ceased to participate personally in the Diet and they only fulfilled their duty to do so through their deputies. The identification of the pro-royal policy with Catholicism also had consequences as the new princes, with the exception of the duke of Oleśnica, were Catholics, and also only the Catholic representatives of the hereditary duchies and cities were tolerated. They were therefore no longer elected due to their high status in their social circles, but because only followers of Catholic faith were accepted by the royal authorities as members of the Diet. For those new dukes, the issue of loyalty towards the Habsburg dynasty was connected with religious values, which also exerted a negative impact on the political activity of the estates under their command. As we have already mentioned, in the second half of the 17th and the first four decades of the 18th centuries, the kings, still by means of the Diet resolutions, kept collecting taxes, but the estates – especially the princes – lost their ability to negotiate with the king on the matter, other than through making pleas to reduce the level of taxes. The institution of the Diet did not evolve in terms of structure, but what changed were the principles regarding its composition, together with the process of recruiting its members who were no longer focused on representing their distinct political rights, although their role in shaping the relations of the Diet (representing the estates) with the monarchy was crucial. This had a pivotal impact on reducing the autonomy

of the estate elites of Silesia in relation to the king. This was manifested, for instance, by the gradual deterioration of the substitute estate assemblies, whose representatives – up till the Thirty Years' War – were particularly rich. The aforementioned evolution changed the characteristics of the Silesia-wide estate assembly to such an extent that we could perceive the Diet of the second half of the 16th century and that of the second half of the 17th as playing a different role in the maintenance of the regionalism of Silesia.

The issues which had a decisive impact on the shape of the character of the Diet of Silesia in the modern age, and which exerted a crucial influence on the institution's role in the region, were not only those associated with the acceptance of taxation procedures, but included, on the one hand, the acquisition by the Diet of complex functions of country administration, and the monarchs' desire to extend the control over the Diet on the other. From the outset of the era, the kings tried to supervise the Silesian estate assembly by introducing in 1536 a ban on spontaneous conventions of the estates. The Silesian estates, with some reluctance, respected the king's order, thereby accepting the fact that the Diet was an institution of the common authority of the king and the estates. The decision of the king to prohibit independent meetings of the estate representatives was taken without regard to their numerous and ever-increasing – in the 16th century – duties to manage and organize the internal functioning of the country of Silesia, nor to the institutional consequences of the gradual introduction in the first half of the 16th century of the estimated tax as permanent tax. In the face of the lack of the king's institutional initiative, the estates took over the administrative initiative which was manifested in one instance through the multiplication of the Diet's operations, namely, by passing two types of resolutions: one of them, described as 'the answer' (*Antwort*), related to the Diet's attitude towards the issues submitted to the Diet by the monarch, and the other one (*Beschluss*) presented the Diet's decisions regarding the country's affairs. Moreover, from the 1560s new forms of Silesia-wide assemblies emerged whose main focus was the internal affairs of Silesia, of which there were several types. It seems that the first type, which the ducal and the estate assembly organized on their own initiative, comprised the conventions dedicated to the collection of bills, that is to the control over the amount of taxes collected by the governor of Silesia on the basis of a resolution issued by the estates twice a year. Having completed their main task, which was related to the accounting of tax bills, they performed legislative functions centred on the internal affairs of Silesia. This most clearly illustrates the existence of a close link between the introduction of permanent tax rates and the growth of the number of tasks related to internal administration taken over by the

estates. The next aforementioned authority to allow the dukes and the estates to engage in activities connected with the exercise of authority in Silesia was the ducal tribunal assembly held twice a year. Its being part of the Silesian system based on the privilege of Ladislaus Jagiellon made it independent to the extent that it did not require the consent of the king for it to be summoned. Having settled the matters connected with its judiciary function, the estates-participants of the convention passed on to a debate on Silesian affairs. As a result, towards the end of the sessions, they passed resolutions, just as they did during the Diet meetings. Both the dukes and the representatives of estates met together during meetings of the Diet's full membership, summoned by themselves, called general conventions (*Allgemeine Zusammenkunft*). The official who had the power to summon the convention was the governor of Silesia, who acted in this case in accordance with the recommendation of the estates. In order to settle affairs, the estates also appointed departments (*Ausschüße*) or deputations. They did this also from their own exclusive initiative, despite the separate royal prohibition introduced in 1587, this time not observed, relating to the process of their formation. Because they operated in small groups they were also described as replacement assemblies. Finally, there were partial estate assemblies, which were conventions of country's defence quarters. For the operation of the country, including the introduction of financial obligations towards the monarch that were agreed at the Silesia-wide convention, the estates continued to convene spontaneous assemblies, which, however, ceased to be described by the name of Diet, which from then on was reserved only for assemblies convened by the king. As estate assemblies, they exercised executive and legislative tasks fully and independently. The estate assemblies, in all shapes and forms, due to their scope and nature were fundamental institutions in the system of Silesia, and they were becoming crucial determiners of the ongoing process of the country's integration. Paradoxically, the introduction of permanent tax rates by the kings in Silesia – whose consequence was usually extension of competences of central authorities – as a result of its administrative functions taken over by the estate authorities led to the fact that the institutions created by the dukes and estates began to act in this area as bodies of a modern estate authority, which became a highly pro-regional factor.

The Diet was also the stimulus for creating other bodies of Silesian estate management and administration. It was due to the Diet's initiative that the General Tax Office was founded. The royal authority, by initiating the introduction of the estimated tax in 1527, which after a few decades turned out to be a permanent tax paid by the country of Silesia, withdrew from the control of related matters and as

a result it even failed to introduce any royal institution to take possession of the collected tax amounts. A quarter of century later the estates filled this gap. In 1552 they appointed, for the first time – and from 1556 did so on a steady basis – two estate officials, who came to be called general collectors (*Prinzipal-Steuer-Einnehmer*)⁸². Soon, they were supported in their work by a writer-accountant. Together, these three officials were representatives of the Silesia-wide General Tax Office – an estate authority. They took a pledge only to the estates. Their task was to revise and supervise the tax rates. They had the power to enforce the tax payments with the help of the governor of Silesia. However, no separate treasury was introduced by the Silesian estates⁸³, though there was a clear need for such a body. Before their allocation, the collected sums were stored in ‘the country’s chest’ (*Landeskasten*) located in the Wrocław City Hall, equipped with three different locks, the keys of which were kept by three officials of the General Tax Office. The spending of the accumulated sums for military purposes was performed by the country’s payers who were appointed by the Diet from 1557. Supervised by the Diet and sworn in only to the estates, the national payers were responsible for the use of tax incomes for military purposes only. They were therefore required to control the military units proposed for funding by the royal commissioner, and only after their inspection did they draw up detailed registers and obtain the authorization of a special Diet department for the payment of the required sum. The entire process was conducted independently of the king, and it was most significant for the estate control of sums collected for the king.

In addition, the Diet of Silesia, inspired by the institution established by the estates of the Duchy of Świdnica-Jawor, introduced, most likely towards the close of the 16th century, the office of general country’s plenipotentiary, which was permanent until 1740. The general plenipotentiary was obliged to participate in all kinds of estate meetings, to prepare written opinions on subjects of their discussions as well, and to write down and publish resolutions. Following the creation of the Silesian public convention in 1662, the general plenipotentiaries became a mediator between it and the general governor⁸⁴. It was also through them that the complex Silesian estate bodies communicated each other. From the outset of the 18th century, their duties included taking the minutes of the Diet’s resolutions which were called *Landes Diarium*.

⁸² K. Orzechowski, *Historia ustroju*, p. 138.

⁸³ *Ibidem*, p. 146.

⁸⁴ Kazimierz Orzechowski, *Organizacja śląskiego ‘conventus publicus’*, ‘Śląski Kwartalnik Historyczny Sobótka’, 28 (1973), No. 4, p. 475.

A prohibition against summoning a spontaneous the Diet of Silesia in 1536 did not reduce the role of the dukes and the estates in the country's administration. This was due both to the specificity of their sovereign power and the aforementioned slump in the royal activity in the area of administration of Silesia. Finally, it did not lead to the main objective of the king's efforts, that is, the extension of control over the proceedings of the Diet of Silesia. The inactivity of royal power in the process of institutional governance of the country had its consequences not only in creating a number of bodies belonging to the estate, but also in the extension of their political functions. Their actions reflected the political will of the Silesian dukes and estates, which, along with the Bohemian estates from the end of the 16th century until the 1620s, began to represent the political concepts of the Bohemian monarchy based on the estate administration, which challenged the monarchic concept. These were expressed twice in the form of the estate confederations in 1609 and between 1618 and 1621, the latter having a strong anti-Habsburg character. The Bohemian and Silesia estates were ideologically linked by similar religious attitudes based on the broadly-understood Protestant viewpoint, which religiously grounded resistance towards the Catholic monarch. A clear expression of the permanence of this political option in Silesia was the so-called conjunction of 1633 – a military agreement made between the princes of Brzeg, Legnica and Wrocław with Sweden, Saxony and Brandenburg concerning their accession to the union of Heilbronn in 1634, interpreted as an attempt of Silesia to change the state's affiliation. The political defeat of the Silesian dukes and estates during the Thirty Years' War was used by the Habsburg kings to alter the functions of the estate assemblies, above all, by the gradual abolition of their independence in terms of legislature. They also found additional ways for the monarch to communicate with the Diet and new methods of organizing the estate's work within the Silesia-wide bodies. It is significant that the two latter changes were neither institutional nor even formal in character, though they really contributed to a significant increase in the king's control and influence on the estate assembly resolutions.

The control of the assembly took place through the monarch's informal monitoring of the Diet's debates by means of obliging the governor of Silesia to forward to him notifications on the Diet's decisions made at the first ducal curia. In the cases when they were not in line with the king's will, he notified the governor, who then encouraged the princes to re-examine the issue. The king's interference, therefore, took place during the sessions, and not following the passing of the final resolution. In the second half of the 17th century, when this procedure was set up, the king hoped that the princes – who owed their high status in Silesia to him – would

act in his favour. His interference not only accelerated his obtaining of a more beneficial resolution of the Diet, but also made the body – previously fully autonomous – non-cohesive and unable to resist the power of the monarch. At the same time, the monarch, who from the mid-17th century acted as the sole legislative power in Silesia, allowed the Diet to retain a certain degree of initiative in preparing all relevant laws concerning internal affairs until the 1740s⁸⁵.

In the second half of the 17th century, further transformations of the Diet led to the emergence of the public convention (*Conventus publicus*) in 1662 as a specific form of Silesian assembly which began to operate as a permanent working institution. This latter change – albeit from a political perspective keeping in line with the trends of the absolutist rule – is seen by scholars as the result of independent actions undertaken by the estates of Silesia which were not influenced by the authority of the monarchs⁸⁶. This would confirm the existence of the specific inertia of royal power – diagnosed above – regarding the introduction of new institutions in Silesia. The convention comprised the full membership of the Diet, but at the same time was composed only of the deputies of the members who were entitled to participate in it. It functioned on three levels: as the Diet (presided by the governor of Silesia), as the Supreme Ducal Tribunal (presided by one of the princes), and more strictly as a convention, taking a position on all the internal affairs of Silesia that were submitted to it on a regular basis by the Superior Office. The monarch also began to use the convention, although some issues – especially those relating to consent to the taxes – were still reserved only for the formally convened Diets⁸⁷. The reason for the formation of this type of political institution was a substantial growth in the number of administrative tasks that needed to be undertaken on a regular basis.

A considerable degree of political autonomy of particular duchies and free states within the country of Silesia resulted in the fact that – as already mentioned – they developed their own institutional systems, which were split into both estate and ducal branches. In the vassal duchies and the free states the rulers exercised their power personally and had their own officials and ducal offices. Until the Thirty Years' War, the estates of each of the duchies, partially jointly with the ducal bodies, exercised judicial, legislative and executive power by means of periodic estate conventions and continuously active estate offices. Individual territorial organisms reflected – in a way which was characteristic for Silesia – the system of dualist rule at the level of power shared by the dukes and the estates, and in hereditary duchies

⁸⁵ M. Weber, *Die schlesischen Polizei- und Landesordnungen*, p. 41.

⁸⁶ K. Orzechowski, *Ogólnosłaskie zgromadzenia stanowe*, p. 195.

⁸⁷ *Idem*, *Ewolucja struktury śląskich zgromadzeń stanowych XVII i XVIII wieku*, 'Śląski Kwartalnik Historyczny Sobótka' 32, (1977), No. 4, p. 451-466;

between the estates and the governor of the duchy⁸⁸ who acted as a substitute for the office of dukes. What was characteristic for this period was, however, the fusion of the ducal and estate offices within the duchies.

In the early modern period the scope of the ducal authority was subject to further limitations which were partly the result of the privileges issued for the estates of the duchies; this became a strong basis for the co-rule of the estates and dukes within the duchies. Simultaneously, ducal power was diminished by deliberate actions taken by the king. Investitures, along with the constraints that arose from feudal relationships, guaranteed, in fact, the full extent of inherited ducal rights, yet the kings managed to gradually reduce the external political independence of the princes, and to obtain new financial resources in the duchies through the acquisition of numerous regalia which, according to contemporary legal tradition, were due to the dukes – especially in such areas as minting, mining, customs and salt mining⁸⁹.

The ducal officials were divided into two groups. One of them included officials connected with the functioning of the ducal court and the handling of ducal possessions, that is within the legal-private ducal sphere. The second group consisted of officials appointed by the duke in order to perform the public functions of his authority. The ducal functionaries of the first group were, in the 16th century, included in the ducal camera headed by the leader – who was, depending on the duchy, also designated as the master of the camera or the regent. This group also included officials who provided various services to the duke and his court (steward, cupbearer, cellarer, equerry, etc.). The highest ducal official in the second group was the ducal governor, whose duties included cooperating with the estates on behalf of the duke, and who was supported by advisers. Matters concerning the duchy's external relations were dealt with by the chancellor, who was aided by the chancellery and lower personnel. By the mid-16th century, this group of officials began to be referred to as government of the duchy⁹⁰. In the 16th century, some of them were gradually losing their ducal character, and became mixed ducal-estate offices and bodies, which was reflected even in their different names, as in the case of the most important office of the governor who ceased to be 'ducal' and became 'landed' (*Landeshauptmann*). In the modern period, the governor became the primary executive official in both types of duchies. In the case of hereditary duchies,

⁸⁸ R.J.W. Evans, *The making*, p. 299, called them "lieutenants at the local level". However, in sources this official was referred to as Landeshauptmann, and there were two local levels, at the duchies and at the districts, where this officials functioned.

⁸⁹ K. Orzechowski, *Historia ustroju*, p. 157.

⁹⁰ *Ibidem*, p. 161.

where following the expiry of the local dynastic lines, the ducal title was taken over by the king, it was the governor who – until the Thirty Years' War – fulfilled, next to the estates, the functions of the secondary authority as the governor of the permanently-absent ruler. Having been legally appointed to this office, he was entitled to make decisions without the need to always obtain approval for his actions from the king, who was simultaneously the duke of the hereditary duchy⁹¹. Thus, the governor in hereditary duchies, as compared to that of the vassal duchies and the free states, gained more extensive ruling powers. At the same time the estates of hereditary duchies demanded that the governor be appointed only from among the indigenous nobility of a particular duchy and that he concede specific electoral capitulations issued by this estates of the duchy⁹². This illustrated both the growing estate-dependency of this office and the strengthening of its connection with the local ruling elites.

These processes which transformed the nature of the office of governor of the duchy were coupled with a clear tendency to view the authority of the king, who was formally a duke of the duchy, not only as competitive, but also as external. This can be considered an illustration of the growing autonomy of the estates within the individual duchies. What seems problematic, though, is the attempt to perform a more accurate evaluation of this regionalism, for it partially resulted from the growing – throughout the 16th century – sense of exercising real authority within Silesia by the Silesia-wide estate assemblies and was expressed by means of the aforementioned demand of the estates that the king enforced his claims towards the hereditary duchy by means of the Diet. In this sense, it could be associated with Silesian regionalism. However, much more often it had a much narrower territorial range and was related to a sense of independence of the estates of particular duchies, not only from the king, but also from the Silesia-wide bodies representing Silesia as an integrated political whole. The internal socio-political structure of Silesia was still locally imbued with the sense of independence of its socio-politically active groups.

The king, by preventing this policy of estate of the hereditary duchies, sought to recruit governors from candidates from outside the duchy, aiming, in particular – just as Ferdinand I had in the mid-1540s in the Duchy of Głogów – to entrust it to the Bohemian nobility⁹³. However, until the Thirty Years' War this strategy faced strong resistance from the estates, as a result of which – though the king at times managed to fill the offices of the Lower Silesian duchies with foreigners (in the case

⁹¹ M. Ptak, *Zgromadzenia stanowe księstwa głogowskiego*, p. 48.

⁹² G. Croon, *Die landständische Verfassung*, p. 64.

⁹³ M. Ptak, *Zgromadzenia stanowe księstwa głogowskiego*, p. 51.

of Upper Silesian duchies the office remained in the hands of the members of local elites) – he actually appointed candidates with the right of *inkolat* in particular duchies or those who had prospects of obtaining this right quickly. He secured their loyalty by offering them advancement to the higher nobility – whose members were, in principle, Catholic – which, as already mentioned, was a manifestation of his explicit pro-Habsburg policy⁹⁴. Taking advantage of the fact that the character of the governor office in the administrative structure of the duchies was growing increasingly collegial, the king formalized this by introducing the board of councillors – a collegial office headed by the governor – which became a specific feature of the hereditary duchies. It would be, nonetheless deceiving to equate the fact of reorganizing the office of the governor of the duchy exclusively with the interference of the monarch in the shape of the office of the governor of Silesia in 1629. What became the model for the formation of the board of councillors in the Silesian duchies where, as mentioned, the growth in the collegiality of this office began as early as in the second half of the 16th century, was its emergence in the vassal Duchy of Legnica, which indicates that the processes of the formation of multi-member bureaucratic institutions were common across the entire region of Silesia, and not associated with one specific power. This reorganization in the hereditary duchies transformed the governor into a royal official, thereby opening the way for further changes within the sphere of administration of hereditary duchies. The office of governor within the duchies developed independently and – particularly in vassal duchies – was not formally subordinate to that of the governor of Silesia. Only in the 17th century was it common for the king to treat these two types of offices as hierarchically subordinated.

The estates of the duchies managed all areas of public life by means of the estate bodies. The estate assemblies, convened in all the duchies and free states, were the primary form of estate administration. Their structure was either two-level or uniform. Larger units, especially the duchies composed of more than one district, constituted the first type. It was based on both the functioning of the estate assembly of the duchy, that is, the higher assembly – which played a central role in particular territories – as well as the lower assembly – the district estate assembly – which was subordinate to the higher assembly. In principle, these were to gather only representatives of the nobility, but permitted the participation of representatives of other ranks. The free states or duchies without districts – like the Duchies

⁹⁴ Jarosław Kuczer, *Obsada urzędów starościńskich w dziedzicznych księstwach śląskich w obliczu absolutyzmu cesarskiego (1629–1741)*, [in:] *Młodsza Europa – od średniowiecza do współczesności*, eds Jan Jurkiewicz, Roman M. Józefiak, Wojciech Strzyżewski, Zielona Góra 2008, pp. 273–286.

of Cieszyn or Krnov – summoned only the estate assembly of the duchy (or of the free state) – but these were not the only type of central-level estate institution. In Silesia, despite the fact that the actual number of duchies was 16, only 14 estate assemblies were in operation as the Duchies of Świdnica-Jawor and Opole-Racibórz joined together in one estate assembly following their union. This number was further extended by six estate assemblies of the free states. The estate assemblies of the duchies, though they were very similar to one another, were never identical. Nor were they interrelated. The estate assemblies of the district, which were of lower status, performed complex functions, including the election of members of the estate assemblies of the duchies and the adoption of resolutions concerning local (district's) issues, or issues which were subsequently examined by the estate assemblies of the duchies.

The intensity of the activity of the estates of the duchies was manifested in a multiplicity of estate assembly forms, regardless of the fact of whether there was a one- or two-stage system in place. The single-estate assemblies functioned when they were formed only by representatives of the nobility or the burghers. Other assemblies were of a multi-estate nature; they could be organized either based on the principle of personal participation of eligible individuals or on the principle of representation, or they had a mixed character. Consequently, we may also distinguish between 'narrow' and mixed common estate assemblies. There were also assemblies which gathered only Evangelical estates. What is more, at the duchy level, not only the estate assemblies functioned, but also, e.g. as in the Duchy of Głogów, the colleges of duchy, conventions of estate officers, senior land officers and land deputies, conventions of senior land officers, or conventions of district cities. Each one of these bodies occurred in several forms, depending on its composition: the college could be composed only of the nobility (single-estate), an extended composition (multi-estate), or they could include representatives of some of the estates of 'closest proximity' or an assembly of estate members who were of the Evangelical denomination⁹⁵. Due to the fact that the Duchies of Legnica, Brzeg and Wołów remained in possession of one single Piast dynastic line until 1675, there also emerged an assembly of three duchies in the form of a specific department recorded as 'the conference'⁹⁶. A unique case among the Silesian duchies was the bishop's duchy, which contained the following units: the land of Nysa, the districts of Otmuchów and of Grodków, and a number of landed estates (*wiązowski* and *ujazdowski*) in the land of

⁹⁵ M. Ptak, *Zgromadzenia stanowe księstwa głogowskiego*, pp. 79-80.

⁹⁶ *Idem*, *Zgromadzenia stanowe księstwa brzeskiego (1311–1742)*, Wrocław 1996 (=Acta Universitatis Wratislaviensis, No. 1853, Prawo 249), p. 44.

Nysa and territorially scattered (*kącki wrocławski, skoroszowski* and *przychowski*). Though the bishop's duchy was treated as a unit of political division in Silesia and each subsequent bishop was its exclusive ruler, its internal constituent territories were not fully united. This was manifested in the development in the case of the *wrocławski, skoroszowski, przychowski* and *kącki* landed estates of separate administrative structures of estates which were described in the literature as estate assemblies of the episcopal landed estates⁹⁷. The last of these estates even possessed its own land statute. What is more, the estate assemblies of the duchies appointed their own bodies, as well as land treasuries⁹⁸. Moreover, in each individual duchy and free state judicial bodies of the nobility operated. They were divided into the court of vassals – which had jurisdiction over the nobility who owned the land based on the vassal code, and *czudy* – judging the nobility who owned allodial land, in line with Polish law. Yet the ethnic differences which were formerly characteristic of these two types of land ownership gradually disappeared. The estate assemblies of the duchies appointed vassal court assessors (*Mannrecht*) and a few land-court assessors (*czud* assessors), which at times required the duke's acceptance. Duchies also differed in terms of the specificity of laws used.

The estate offices in most of the duchies also functioned as district offices and central offices of individual sovereignties, and others, including almost all free states, only as central offices. The estates of each of the territories of Silesia developed their own complex system incorporating these institutions. The most important estate offices were the senior land officers – elected by the estate assembly of the duchy – who were plenipotentiaries of the noble district's corporations, and their main task was to protect the estate interests of the nobility. They participated in the justice system by performing these functions independently, and they were also obliged to participate in the estate land court of the free states⁹⁹. The land plenipotentiary (*Landesbestellte*), whose function was similar to that of the land legal adviser, also supervised the land treasury. The office, originally ducal, of land judge or land-court judge who presided over a court of both German and Polish law, became an estate office in the 16th century. The most important official of the estate financial administration was the tax collector (*Steuer-Einnehmer*), who also managed the land treasury. The land deputies were officers empowered by the nobility to deal – together

⁹⁷ *Idem, Zgromadzenia i urzędy stanowe księstwa nyskiego oraz innych posiadłości biskupstwa wrocławskiego*, Wrocław 1988 (=Acta Universitatis Wratislaviensis, No. 982, Prawo 156), pp. 9-44.

⁹⁸ *Idem, Zgromadzenia i urzędy stanowe księstwa cieszyńskiego*, Wrocław 1992 (=Acta Universitatis Wratislaviensis, No. 1193, Prawo 191), p. 50.

⁹⁹ *Idem, Zgromadzenia i urzędy stanowe wolnego państwa sycowskiego*, Wrocław 1992 (=Acta Universitatis Wratislaviensis, No. 1277, Prawo 197), p. 24.

with senior land officers – with current estate affairs. Additionally, operations were assisted by land cashiers, writers and bailiffs, as well as commissioners who were specialized estate marching officers and whose task was to supervise the marches, accommodation and food supply of the army.

Both the estate assemblies and the estate offices were developed through a process which was, to a large extent, unconnected with the process of the creation of the Silesia-wide bodies, and therefore did not result in generic relationships between these two systems, that is the system of the duchies and the system of institution and offices of the Silesia at the central, country level, that would express their linear, direct and full hierarchical subjection. This was linked to, as mentioned earlier, the problem of recognition of the binding resolutions of the Silesian Diet by the estate assemblies of the duchies¹⁰⁰. Only the estate assemblies of hereditary duchies had direct connections with the Diet. Also in this case, the estates of the duchy adopted the provisions of the Diet of Silesia as general guidelines and determined the methods of their execution themselves. In addition, the relationship was not inalienable in character. It could have been stopped at any time at the moment of the king's transfer of a particular hereditary duchy in feudal possession. In this case, the estates were deprived of their previous opportunity to participate in the Diet's proceedings in favour of the new rulers of the new duchy or state. The Silesia-wide Diet and the estate assemblies of the duchies also varied in terms of their internal structure. The Diet had a permanent three-curia structure and the passing of a resolution took place by counting the votes of the three curias, and later – from the 17th century – also of the fourth body – the *votum conclusivum* of the governor of Silesia. The structure of the estate assemblies differed depending on the duchy and free states¹⁰¹. Some of them were divided into curias, but their number varied from two to four, and in the case of others, despite the existence of the curia, the votes were plenary. There were also bodies with no curias at all. What is more, the composition of the estate assembly's curias was varied and never identical to that of the Diet: the curia in the estate assemblies could include both knights and burghers, as in the case of the estate assembly of the Duchy of Wrocław, or knights and clergy, as in the estate assembly of the Duchy of Głogów. Some estate assemblies lacked city curias, and this was so in the case of Cieszyn or Żagań. There was also no set

¹⁰⁰ Kazimierz Orzechowski, *Sejm i sejmiki w ustroju feudalnego Śląska*, 'Śląski Kwartalnik Historyczny Sobótka', 31, (1976), No. 2, p. 199.

¹⁰¹ Norbert Conrads, *Die schlesische Ständeversammlung im Umbruch – vom altständischen Herzogtum zur preußischen Provinz*, [in:] *Ständetum und Staatsbildung in Brandenburg-Preußen*, ed. Peter Baumgart, Berlin-New York 1983 (=Veröffentlichungen der Historischen Kommission zu Berlin, vol. 55: Forschungen zur preußischen Geschichte, vol. 4), Berlin 1983, p. 362.

procedure of delegating emissaries to the Diet of Silesia, which would be common for all the estate assemblies of hereditary duchies¹⁰². The existence of the slightly better developed curia structure of estate assemblies in the hereditary duchies at times even made the delegation of common emissaries more difficult: it often occurred that the bodies delegated their emissaries separately – the curia of knights most often delegated estate officials, and the curia of the cities used municipal emissaries. The lack of relations between the estate assemblies of duchies and the Diet of Silesia also resulted in a lack of institutional forms enabling the cooperation among the members of the entire Silesian nobility, which could have created an opportunity for them to present themselves as members of one Silesia-wide social estate. The nobility of feudal duchies did not reveal itself at any of the Silesia-wide forums.

This discontinuous structure of the Silesian institutions and offices, on both a vertical plane (from the level of individual duchies to the region-wide level) and a horizontal one (composed of individual duchies) was evidenced by the continuous presence of the country's internal structural, organizational, political and institutional divisions which inhibited the processes of integration of the region as a whole. This factor, which had a regional-destructive power, can be observed in the period of the co-regency of the king and the estates, that is until the period of the Thirty Years' War. The oscillation of the Silesian elites between attempts to consolidate internal territorial-political fragmentations and aspirations to unify the region by means of Silesia-wide institutions weakened Silesia as a country engaged in a continuous quest to achieve equal status with the stronger and more integrated regions of Moravia and Bohemia within the Bohemian monarchy. When at the end of the 1620s the practical scope of royal authority was far greater in relation to Silesia as a whole, this discontinuous internal structure of Silesian institutions became in turn an inhibitor of attempts to melt the institutions and systems of Silesia into the 'post-Battle of White Mountain' political system of the monarchy. The estates of each of the powers of Silesia enjoyed individual privileges which legally supported the existing institutions and estate offices of individual territorial units. Extending this political-territorial system by new institutions or new ways of administration was a difficult task. The introduction of new rules regarding the Silesian bodies of authority did not have a direct impact on the functioning of the estate offices in individual duchies, because they were not organizationally dependent on the central institutions of Silesia. Nor could they function within the vassal duchies in the second half of the 17th century, for these were not subject to the royal authority.

¹⁰² *Idem, Schlesiens frühe Neuzeit (1469-1740)*, [in:] *Deutsche Geschichte im Osten Europa. Schlesien*, ed. *idem*, Berlin 1994, (=Deutsche Geschichte in Osten Europas, vol. 4), p. 201.

The investitures allowed this type of authority to remain in the hands of the dukes. Despite the fact that the legal importance of the privileges of hereditary duchies significantly decreased in the second half of the 17th century, the monarch – faced with persistent and long-term complaints of the estates – was still required to introduce changes through separate, specific decisions in relation to each of the duchies individually. One example of this is the royal efforts to introduce supervision over the organization of the estate assemblies in the hereditary duchies in the second half of the 17th century, which were completely different from the effectiveness of royal policy with regard to the Silesian Diet. For the estates of the Duchy of Głogów the order prohibiting the estate assembly from being convened by the estates themselves had already been proclaimed by Ferdinand in 1564, but it was not respected and the estate assembly was convened until 1670 by the senior land officers. Only in that year did Leopold I manage to ensure the enforcement of the resolution for the estate assembly to be convened by the government of the duchy, with simultaneous assurances that this was happening on the initiative of the estates¹⁰³. In the Duchy of Świdnica-Jawor, from 1549, the ban on the summoning of the estate assembly was in effect, and at the same time, the governor of the duchy was obliged to summon it regularly. The estates of the duchy kept demanding the right to organize spontaneous meetings, and finally managed to obtain this right in the years 1674-1697¹⁰⁴.

Inasmuch as the composite structure of the entire Kingdom of Bohemia was – as has been pointed out – a remarkably strong stimulus in maintaining or even consolidating the regionalisms of its constituent countries, the similar political-territorial structure of Silesia should be perceived as an ambivalent stimulus: one which could potentially lead to its territorial decomposition, and at the same time act as a barrier to it being penetrated by and included in the scope of supra-Silesian offices; that is, it helped protect the region against outside influences but did not protect its internal contents. The possession by each of the Silesian duchies and free states of distinct legal status in relation to the royal office still granted them political-legal distinctness from Silesia as a whole, but at the same time it constituted a barrier against attempts to introduce by the central authority innovations in the area of Silesian administration. The political-territorial system of Silesia in the period of royal and estate rule in the 16th century and up till the 1620s proved to be an obstacle for its being infiltrated by the centralizing powers from outside Silesia, and

¹⁰³ M. Ptak, *Zgromadzenia stanowe księstwa głogowskiego*, pp. 119-121.

¹⁰⁴ G. Croon, *Die landständische Verfassung*, p. 85.

during the period of absolutism it became an important factor which prevented the possibility of the monarch's interference in Silesian affairs.

The power elites in the modern period were increasingly preoccupied with allocating their authority in institutions. The institutions were therefore created for particular purposes. The force of active political and social groups was a crucially important factor in the power between the king, the Bohemian estates and the Silesian estates. But the consequences of particular actions, and the actual extent of the competence of the institutions created by these forces to affect living social processes, were – we have tried to show – already largely independent of the intentional purposes of their creators, but were still being associated with these forces, and it was possible to make adjustments both to their form and scope of operation. The third aspect of the phenomenon, which continues to escape the attention of the contemporary researchers, was the configuration of all elements of social administration. In Silesia, this aspect was uniquely diverse, mostly because of the political forces which used it to exercise power, for it comprised the Silesian estate bodies (the Diet, the Supreme Ducal Tribunal) and the Silesian monarchic-estate bodies (the governor of Silesia), the central-level estate bodies of individual duchies and free states of Silesia (the estate assemblies of duchy, the land colleges) and the local-level bodies distributed according to territorial divisions (estate assemblies of districts), ducal-level bodies of the duchies and of the free states, as well as the estate-ducal, municipal, and monarchic bodies – both central (the Appeals Chamber, the Bohemian chancellor; following 1627) and regional (the governor of Silesia from 1629, the Superior Office), the Bohemian central estate-monarchic bodies (Bohemian chancellor until 1627) and the supra-regional royal bodies linked to the centre of power (the Bohemian Camera, until 1556, the Wrocław royal Camera from 1556, and the court council of war in the 18th century). The presented findings should be, however, supplemented with two important concerns. In the period up to 1740, authority was not entirely manifested by the institutions and their formal administrative structures. An important factor which also strongly influenced public decisions at the time was the social status of a person or a group of persons related to their origin and belonging to a particular social stratum. There were also many non-institutional ways of exerting a political impact, which were especially used by the central authorities in relation to public affairs. If, therefore, one were to raise a question about power and the decision-making centres, and not about the institutions, the presented argumentation would be to some extent different. In addition, most of the modern institutions operating in Silesia did not fully correspond to the institutions in their mature, contemporary form. The institutions of estate

governance, especially those at the local administrative level, only in the modern period managed to complete the stage which may be described as socially recognized forms of regulation of social co-existence within communities matching their sociological characteristics. Also, the institutions introduced by the royal authority, developed with the idea and prior knowledge of their functioning, showed more fluency in their basic characteristics, such as the organization of people within their structures and stability of their competences within individual institutions.

The centralizing modern-age institutions of the monarchy which operated in Silesia were characteristic for the fact that they either did not develop administrative links with the Silesian bodies or they did so to a very limited extent. Even the most deeply rooted, newly-reorganized institution in the country, the royal Camera, which began to function in an institutionally-undeveloped space of the administration of royal finances, functioned alongside the institution created by the Silesian dukes and estates. In the mid-17th century, conditions were created for its functional, though not directly institutional, connection to the country's revenue institutions, but at the same time, an additional military authority was established which duplicated both part of its competence, as well as the competence of the general estate tax office. This was one of the manifestations of the inconsistent institutional policy of the Habsburgs, but also an expression of the difficulties faced in overcoming the specificity of the contemporary regional estate administration. The central institutions were also incompatible with the Silesian ones which potentially corresponded to them. This was best illustrated by the relationship between the general estate assembly in Prague and the Silesian Diet, as well as by official relations between the governor of Silesia and the Bohemian chancellor.

The group of institutions operating in Silesia did not form a homogeneous system of country administration. This comment applies principally to the system of estate institutions of various levels within Silesia. Silesia had no legal order which would govern its general internal affairs, either constitutional or institutional, nor did it have a general codification of the common law – as opposed to Bohemia (where such an act was in effect from 1500) and Moravia (*Tobitscher Buch*). The only document relating to the whole of Silesia, the privilege of Ladislaus Jagiellon of 1498, revealed the incompleteness of centralization at the Silesia-wide level. The failure to endow Silesia with a similar act which was issued separately for Bohemia and Moravia (in the years 1627 and 1628 respectively) entitled *Odnowiony porządek ziemski* (which thoroughly transformed the structure and the functioning of the institutions of these countries, bringing them closer to absolutism), was partially caused by the so-called Dresden Accord (1621), which virtually guaranteed the

political *status quo ante bellum* in Silesia, but above all by the very difficult to interfere in the unclear and highly complex legal-structural-institutional system of Silesia. In relation to each other, the bodies developed by the Silesian communities were often incompatible or to some extent they duplicated their competences. The internal institutional diversity, both difficult to manage and reform consistently by the central, monarchical power, became one of the reasons for which the region of Silesia continued to be preserved between the 1629 and 1740.

The discussion on the heterogeneity of the systems of administration in different areas of Silesia also applies to the relationships between the structures of Silesian and supra-Silesian institutions. Up until the Thirty Years' War its loose configuration resulted from attempts to reactivate old institutions, mostly those dating back to the Luxembourg period, or to create new institutions of governance in Silesia by the Bohemian king and Bohemian estates. Applying them to the network of Silesian institutions which were either developed bottom-up by the estates or made independent in the 15th and early 16th centuries, and the enforcement of their spheres of competence, resulted in the fact that until the Thirty Years' War, the regionalization of the elites of Silesia was identified with the protection of institutional autonomy against pro-centralist political forces. From the time of the political transformations that took place during the war until the end of the era in 1740, despite the limiting of the spheres of political regionalization, the institutional regionalization of Silesia was still maintained, which was determined by two factors: the development of the regional and to a large extent effective system of institutions for the country's administration, and the possibilities for its adaptation by the royal authority in order to obtain two basic benefits from the country of Silesia: tax income and financial resources for military purposes. The royal authority initiated resolutions in terms of finances and military defence, and when it comes to the regulation of the country's internal life, the principal role continued to be played by the representative estate institutions and their bodies and offices, which, in order to legalize their workings, were obliged to submit them for the ruler's approval. Therefore, the Habsburgs, in the period of absolutism, continued to make use of the Silesian administration bodies formed by the Silesian estates, and modified their operation through their supervision and consequent abolition of the monocratic character of offices for the sake of their collegiality: the division of responsibility brought about the reduction of the independency in the execution of power by Silesian officials. In the period of absolutism, regionalization became the principal method of exercising authority both in Silesia and in other Habsburg countries. The strong

centralization of power policy consistently pursued by the Habsburgs was accompanied by a much weaker institutional centralization imperative.

