

PIOTR BUŁAWA

Uniwersytet Śląski w Katowicach, Polska
University of Silesia in Katowice, Poland
e-mail: piotr.bulawa@us.edu.pl
<https://orcid.org/0000-0001-5368-1020>

The Austro-Hungarian Bank as a prototype of the Independent Central Bank in Central Europe in the first half of the 20th century – an analysis of bank statutes*

Introduction

The end of the First World War brought about the partition of the Habsburg monarchy and the declaration of independence of nation-states in Central Europe, including Austria, Czechoslovakia and, in part, Poland.¹ These events inevitably resulted in the dismantling of the monarchy and its associated institutions, and the emergence of new institutions of nation-states. This change also affected the monetary and banking system. Symbolic of these changes was the introduction of new currencies and, unfortunately, post-war inflation. In the shadow of these changes, one of the oldest central banks in the world, the Austro-Hungarian Bank (Oesterreichisch-ungarisch Bank) was liquidated.² Pursuant to Article 206(6) of the Treaty of

* The research activities are co-financed by the funds granted under the Research Excellence Initiative of the University of Silesia in Katowice.

¹ The Second Republic of Poland included the western part of Galicia and the eastern part of Austrian Silesia (Cieszyn Silesia).

² C. Jobst, H. Kernbauer, *Die Bank. Das Geld. Der Staat. Nationalbank und Währungspolitik in Österreich 1816–2016*, Frankfurt a. Main 2016, p. 7.

Saint-Germain³ and Article 189 of the Treaty of Trianon⁴, the Austro-Hungarian Bank was declared liquidated on the day following the signing of the treaty. It is assumed in the literature that this bank is the direct or indirect ancestor of:

- the Austrian National Bank (Oesterreichische Nationalbank),
- the National Bank of Hungary (Magyar Nemzeti Bank)⁵,
- the Czech National Bank (Česká národní banka)⁶,
- the National Bank of Slovakia (Národná Banka Slovenska)⁷.

On the other hand, the Austro-Hungarian Bank is not an ancestor to the National Bank of the Kingdom of Serbs, Croats, and Slovenes (Народна банка Краљевине Срба, Хрвата и Словенаца/ Narodna banka Kraljevine Srba, Hrvata i Slovenaca) since that was established on the basis of the Privileged National Bank of the Kingdom of Serbia. The former bank simply expanded its operations to cover the Croatian and Slovenian parts of the former Monarchy and changed its name.⁸

The existence of such a relationship is not indicated in the case of Poland. In the literature, it is said that the protoplast of the Polish central bank, the Bank of Poland S.A. (Bank Polski S.A.), is the Bank of Poland (Bank Polski), founded in 1820 by the Emperor of Russia, Alexander I.⁹ There are many reasons for such an opinion, but these are beyond the scope of this article. It is a fact that the Second Republic of Poland, unlike Austria, Czechoslovakia, and Hungary, was formed from lands that had previously been part not only of the Habsburg monarchy, but also of the Romanov and Hohenzollern monarchies. However, the above opinion does not preclude the fact that the Bank of Poland S.A. could also be an ancestor to the Austro-Hungarian Bank, as it was established at the same time and in similar circumstances as both the Austrian National Bank and the Czechoslovak National Bank. The proving of such ancestry is, therefore, the main aim of the following analysis. The indication of this relationship is cognitive in nature – it allows explaining the genesis of the central bank independence in Central European countries, including Poland; one of the key

³ Staatsvertrag von Saint-Germain-en-Laye vom 10. September 1919 (StGBI. No. 303/1920).

⁴ Treaty of Peace with Hungary, signed at Trianon, Parliamentary Paper, Treaty Series No 10 (1920) [Cmd. 896].

⁵ Magyar Nemzeti Bank, *History*, <https://www.mnb.hu/en/the-central-bank/organisation/history> [access: 28.02.2025].

⁶ T. Vrba, *Česká národní banka její postavení a činnost*, 2008, https://dspace.cuni.cz/bitstream/handle/20.500.11956/19507/DPTX_2008_1_11220_HS9999_32382_0_64725.pdf?sequence=1&isAllowed=y [access: 28.02.2025], p. 4.

⁷ P. Jančov, *Centrálna banka a jej vývojové etapy po roku 1918*, 2011, https://is.ambis.cz/th/gegz4/BAKALaRSKA_PRaCA_PAVEL_JANCOV.pdf [access: 28.02.2025], pp. 18–19.

⁸ M. Kolar-Dimitrijević, *The History of Money in Croatia*, Zagreb 2018, pp. 156–157.

⁹ C. Leszczyńska, *Zarys historii polskiej bankowości centralnej*, Warszawa 2010, pp. 6–13; W. Baka, *Bankowość centralna. Funkcje – metody – organizacja*, Warszawa 2001, p. 18.

elements of a modern, democratic state based on the rule of law, not yet explicitly expressed in the Polish constitutional order.¹⁰

In order to confirm that the Austro-Hungarian Bank was a model for central banks in Central Europe after World War I, including the Polish central bank, an analysis of the bank statutes (hereinafter the “papers”) was carried out based on the common core approach, i.e., significant similarities and differences in these statutes were sought.¹¹ The analysis does not cover the actual history of the given banks or their independence after their statutes were established, as this would exceed the scope of the work. Similarly, the analysis does not cover the legal regulation of the State Bank of the Russian Empire (Государственный банк Российской Империи) or the Polish State Loan Bank (Polska Krajowa Kasa Pożyczkowa), as these banks were not joint-stock companies. Finally, due to linguistic differences and the length of the papers, the analysis does not cover the legal regulation of the National Bank of Hungary.

The analysis criteria included answers to the questions of whether and to what extent the analysed central banks performed the functions of a modern central bank: the management of the currency issue, government’s bank, and bankers’ bank.¹² It is worth noting that the central bank, with some exceptions such as the Bank of England, is essentially a twentieth century phenomenon.¹³ The concept of the modern central bank was created by Henry Thornton in his book ‘Paper Credit’ in 1802, which was based on exercising control over all the liabilities of commercial banks (the function of the bankers’ bank).¹⁴ The concept of modern central banking, based on the three aforementioned functions, crystallised at the end of the nineteenth century,¹⁵ so it was already well established by the time the banks in the papers came into existence.

In addition, the analysis was extended to include questions of bank independence from other state institutions which will be considered from the point of view of the functional, personal, and financial independence of the central bank,¹⁶ as well as

¹⁰ The judgment of the Polish Constitutional Tribunal of 13 September 2011, No. K 26/03, (OTK-A 2003, No. 9, item 95).

¹¹ M. Reinmann, R. Zimmermann, *The Oxford Handbook of Comparative Law*, Oxford 2008, p. 342.

¹² M. Swinburne, M. Castello-Branco, *Central Bank Independence and Central Bank Function* [in:] P. Downes, R. Vaez-Zadeh (eds.), *The Evolving Role of Central Bank*, Washington D.C. 1991, p. 435; W. Miemiec, P. Zawadzka (eds.), *Prawo finansów publicznych z kazusami i pytaniami*, Warszawa 2023, p. 447.

¹³ F. Capie, *The Evolution of Central Banking*, Washington D.C. 1995, p. 4.

¹⁴ R.L. Hetzel, *Henry Thornton: Seminal Monetary Theorist and Father of the Modern Central Bank*, “FRB Richmond Economic Review” 1987, no. 4, p. 15.

¹⁵ F. Capie, *The Evolution...*, p. 4.

¹⁶ M. Zubik, *Narodowy Bank Polski (analiza konstytucyjno-ustrojowa)*, “Państwo i Prawo” 2001, no. 6, p. 40.

indicators of bank independence proposed by Vittorio Grilli, Donato Masciandaro, and Guido Tabellini with respect to political independence.¹⁷ In the nineteenth century, as central banking developed as an institution, liberal policies (*laissez-faire*) and the gold standard prevailed, effectively guaranteeing the independence of the emerging central banks. This came to an end with the First World War. The institutionalisation of bank independence was seen as the solution,¹⁸ which is why it is an important aspect of this analysis. However, this analysis of bank independence is limited to *de jure* independence, since the papers focus on the bank statutes. Any analysis of how bank independence was realised in practice would clearly go beyond the scope of this work.

In order to validate the results of the analysis, the statute of the Reichsbank was also included as a comparative analysis. The Reichsbank was a German central bank that existed before and after the First World War. It had also operated in the territories incorporated into the Polish Second Republic after World War I. Its statute and broadly legal statutes could be a model for newly established central banks in Central Europe, alongside the Austro-Hungarian Bank.

1. Austro-Hungarian Bank

After many years of negotiations between the Austrian and Hungarian parts of the Habsburg monarchy, a compromise was reached in 1878; both parts of the Monarchy should establish one central bank – the Austro-Hungarian Bank, with headquarters in Vienna and Budapest. The establishment of the joint bank was achieved via the implementation of the Austro-Hungarian settlement of 1867, which created Austria-Hungary. This bank replaced the first central bank in the Habsburg monarchy, the Privilegierte Österreichische National-Zettel-Bank seated in Vienna, which had been established in 1816. Like its predecessor, the Austro-Hungarian Bank was granted a 10-year issuance privilege, which was subsequently extended in 1887, 1899 and 1910.¹⁹ It is noteworthy that during this period, in many countries, the right to issue money was still granted at the same time to few institutions, many times to public and private entities simultaneously.²⁰

The subject of the analysis is the articles of association of the Austro-Hungarian Bank, which were adopted by imperial decree of 21 August 1899, issued on the basis of Austrian and Hungarian law²¹ and amended in 1910; however, in a manner

¹⁷ R. Huterski, *Niezależność banku centralnego*, Warszawa 2020, p. 154.

¹⁸ F. Capie, *The Evolution...*, p. 9.

¹⁹ C. Jobst, H. Kernbauer, *Die Bank...*, p. 120.

²⁰ Ibidem, p. 20.

²¹ S. Pressburger, *Das österreichische Noteninstitut. 1816–1966*, Wien 1972, pp. 967–998.

irrelevant to the present analysis.²² The articles consisted of 114 paragraphs and were divided into the following chapters: 1) the Bank's name and registered office, 2) share capital, shares, and shareholders, 3) the General Assembly, 4) the Bank's administration, 5) the conduct of the Bank's affairs and the Bank's staff, 6) auditors, 7) the relationship to the state administration, 8) the Bank's activities, 9) banknotes, 10) the Bank's special rights, 11) the annual balance sheet and weekly report, 12) the period of privilege and the dissolution of the Bank, 13) transitional provisions.

The bank was established as a joint-stock company (*Aktiengesellschaft*) to which the provisions of Austrian (and Hungarian) commercial law applied unless the articles of association provided otherwise (Article 91). The share capital of the bank was covered by 150,000 shares of 1,400 Krone each (Article 4). Capital increase required the approval not only of the bank's general assembly but also of the legislature of both parts of the Monarchy (Article 4).

The statutes provided for the following bodies of the bank: General Assembly (*Generalversammlung*), General Council (*Generalrat*), Executive Committee (*Exekutivkomitee*), President (*Gouverner*), and Commissioner (*Kommisär*). The General Assembly was the representative body of the bank's shareholders. Only Austrian and Hungarian citizens could participate in the Assembly. In addition, a shareholder had to deposit 20 shares in order to participate in the Assembly (Article 14).

The General Council was the executive body of the bank, which represented the bank externally. It had the power to set interest rates for bill discounts and loans at its free discretion (freie Ermessen) (Article 25). The Council consisted of the President, two vice-presidents, and 12 members. From among its members, the Council elected the Executive Committee for a one-year term. The President of the Bank was appointed by the Kaiser on the joint proposal of the Austrian and Hungarian Finance Minister for a 5-year term. The function of the President from 1900 to 1909 was held by Leon Biliński, a prominent member of the Polish Circle in Vienna²³ and later Minister of the Treasury in the Polish Second Republic. The Bank's vice-presidents were appointed by the Kaiser on the autonomous proposal of the Austrian and Hungarian Minister of Finance. The members of the Council (*Generalräte*) were directly elected by the Assembly for a 5-year term. The election then had to be approved by the Kaiser (Article 30). The members of the Council had to own at least 25 shares in the Bank.

The Bank was entitled to carry out a wide range of banking activities (Article 56), which included:

²² In 1910, Articles 1, 82, 83, 84, 93, 102, and 111 of the Statute were amended, and Articles 109, 110, 112, 113, and 114 were deleted. *Ibidem*, pp. 1431–1442.

²³ C. Jobst, H. Kernbauer, *Die Bank...*, p. 122.

- discounting bills of exchange for up to three months,
- granting secured loans for up to three months,
- acceptance of deposits for safekeeping and administration,
- securitisation,
- day-to-day handling of cash, bills of exchange, and securities (*Effekten*) for public and private entities,
- making remittances (*Anweisungen*),
- bank services based on commission (*kommissionsweise Geschäfte*),
- handling of securities (*Effekten*) issued by the Bank,
- handling of bills of exchange and cheques in international trade,
- granting mortgage loans,
- sale and purchase of own mortgage bonds (*Pfandbriefe*).

The Bank could also, with the approval of the General Assembly, discount bills of exchange of the Austrian or Hungarian administration. In addition, the Bank could provide banking services based on commission to the public administration (Article 55).

Austrian monetary policy was traditionally based on silver, not gold, until 1892.²⁴ The Bank's articles of association of 1899 already included gold parity, and two-fifths of the banknotes in circulation should be based on gold. The remainder should be based on bills of exchange, securities, and other noble metals.

The specific body of the Bank was the Commissioner, whose task was to ensure that the bank's business (*Bankgesellschaft*) was run in accordance with the laws, the articles of association, and the State's interest (*Staatsinteresse*). The Bank had two Commissioners appointed by the Austrian and Hungarian governments, respectively. The most important competence of the Commissioner was the right to object (*Einsprache*) to any decisions of the Assembly, the Council, or the Committee if such a decision was contrary to the laws, the articles of association, or the interests of one of two parts of the State (*Staatsgebiet*) (Article 52). The filing of an objection was suspensive (Article 53). If no agreement was reached between the Bank and the government regarding the Commissioner's objection, the matter was to be decided by the Arbitration Court (*Schiedsgericht*). The court consisted of seven members, i.e., three judges of the Supreme Court in Vienna (*Oberster Gerichtshof*), three judges of the Royal Curia in Budapest (*königlich Ungarische Kurie*), and the chairman. The chairman rotated among the presidents of these courts (Article 53). In other disputes between the Austrian and Hungarian state administration and the Bank, the Supreme Court in Vienna or the Royal Curia in Budapest, respectively, had jurisdiction (Art. 54). The Bank's independence from state authorities also had a symbolic dimension; the money issued by the Bank never intentionally bore an

²⁴ Ibidem, p. 125.

image of Kaiser Franz Joseph I, Emperor of Austria and King of Hungary. This was to emphasise the Bank's independence.²⁵

In practice, in the period up to the First World War, the Bank intensively expanded its network of banking branches, increased its involvement in non-cash transactions, and gradually strengthened its central role in the banking system of the Monarchy.²⁶ With the defeat of the Austrian-Hungary Monarchy in the First World War, the liquidation of the Bank was supposed to take place on the day after the signing of the Treaty of Saint-Germain on 11 September 1919. In fact, it took a long time to liquidate the Bank. The Inter-Allied Reparation Commission was appointed in February 1920. Representatives of the successor states then spent two years negotiating the liquidation. An agreement on the liquidation of the Bank was signed in Vienna on 14 March 1922.²⁷ The countries which had previously been a part of the Monarchy were also a party to this agreement. At the last general meeting of the Bank's shareholders on 18 December 1918 in Budapest, the representative of the Czechoslovak government, Vladimír Valnýček, and the representative of the Polish government, Nathan Löwenstein von Opoka, also appeared.²⁸

2. Austrian National Bank

Within the newly formed Austrian Republic, the Austrian-Hungarian Bank continued its activities after 31 December 1919 on the basis of the law of 23 December 1919.²⁹ According to this law, the Bank was to continue its function until the end of 1923 despite the provisions of the Treaty of Saint-Germain. In fact, on the basis of the Act on the Smooth Takeover of the Activities of the Austro-Hungarian Bank,³⁰ the Austrian National Bank entered into its activities on 1 January 1923.

The Bank was established on the basis of the Act on the Establishing of a Bank of Issue of 24 July 1922.³¹ Subsequently, pursuant to Article 6(c) of the Third Geneva

²⁵ Ibidem, p. 100.

²⁶ Ibidem, p. 131.

²⁷ Vyhláška ministra financí, kterou se uveřejňují úmluvy o likvidaci Rakousko-uherské banky, schválené vládou republiky Československé dne 14. září 1922, jakož i rozhodnutími Reparaci komise ze dne 18. června 1921, č. 1373, a ze dne 25. dubna 1922, č. 1904 (Collection of Laws No. 237/1923).

²⁸ S. Pressburger, *Das österreichische...*, p. 1977.

²⁹ Gesetz vom 20. December 1919 über die Ermächtigung der Staatsregierung zu vorläufigen Verfügungen auf dem Gebiet des Notenbankwesens (StGBI. No. 574/1919).

³⁰ Bundesgesetz vom 12 Jänner 1923, betreffend Überleitung der Geschäfte der Oesterreichisch-ungarischen, österreichische Geschäftsführung, auf die Oesterreichische Nationalbank (BGBI. No. 44/1923).

³¹ Bundesgesetz vom 24. Juli 1922 über die Errichtung einer Notenbank (BGBI. No. 490/1922).

Protocol of 2 December 1922,³² the Austrian Government was obliged to guarantee the central bank full autonomy *vis-à-vis* the Government. This was a condition for granting of the loan to Austria. However, the Bank's articles of association guaranteeing such autonomy had already been adopted earlier, on 22 November 1922, in the form of an attachment to the act amending the act of 24 July 1922.³³ The articles contained 123 paragraphs divided into the following chapters: 1) general provisions, 2) share capital, shares, and shareholders, 3) General Assembly, 4) administration of the Bank, 5) staff of the Bank, 6) auditor, 7) relationship with the state administration, 8) takeover of assets and liabilities of the Austro-Hungarian Bank, 9) banking activities, 10) banknotes, 11) annual balance sheet and weekly reports, 12) period of privilege and dissolution of the Bank, 13) special rights of the Bank, 14) the first general assembly.

According to the articles of association, the Bank was established as a joint stock company (*Aktiengesellschaft*). The issuing privilege was granted to the Bank for a limited period until 31 December 1942 (Article 102). In practice, the privilege was not extended due to the annexation of Austria to Germany in 1938. The share capital of the Bank was 300,000 shares of 100 gold crowns each (Article 5). The institution of quarter shares (*Viertelaktien*) was introduced (Article 7) as any increase in the share capital required approval by law (Article 5).

The organs of the Bank were the General Assembly (*Generalversammlung*), the General Council (*Generalrat*), the Directorate (*Direktorium*), and the President (*Präsident*). The Assembly represented the interests of the shareholders, preferring smaller shareholders. At the General Assembly, there was one vote per 25 shares, and one shareholder was entitled to no more than 100 votes at the Assembly (Article 14). The Assembly elected the members of the Council, but according to the key interest groups, the banking sector, industry, commerce, agriculture, and trade unions had to be represented on the Council (Article 22). The introduction of such an arrangement reflected the social partnership (*Sozialpartnerschaft*) that has been an important element of Austrian politics and constitutional order.³⁴ Supervision of the Bank on behalf of the Assembly was carried out by five auditors (*Rechnungsprüfer*) appointed by the Assembly (Article 44).

The General Council consisted of the President, 13 members, and four deputies (Article 25). Members of the Council had to hold 50 shares, and representatives of agriculture had to hold 20 shares (Article 29). In addition, foreigners could also be

³² Staatsvertrag: Genfer Protokolle vom 4. Oktober 1922, (BGBl. No. 842/1922).

³³ Bundesgesetz vom 14 November 1922, betreffend die Abänderung und Ergänzung des Bundesgesetzes vom 24. Juli 1922, B.G.Bl. Nr. 490, über die Errichtung einer Notenbank (BGBl. No. 823/1922).

³⁴ W. Berka, *Verfassungstecht. Grundzüge des österreichischen Verfassungsrechts für das juri stische Studium*, Wien 2016, p. 45.

members of the Council. The President of the Bank was appointed by the President of the Republic on the proposal of the Government for a 5-year term (Article 26). The other members were elected by the Assembly and their election did not require the approval of the Government or the President of the Republic, which significantly affected the independence of the Bank, given that the Republic of Austria was a minority shareholder in the Bank.³⁵ The Council elected the Director General (*Generaldirektor*) and 3-5 directors (Article 38), who formed the Directorate, which directed all banking activities of the Bank (Article 37).

The Bank was entitled to provide banking services based on commission to the Government, although no indebtedness could arise on the part of the Government as a result of carrying out these services (Article 51). The Bank could also take the following actions:

- discount bills of exchange for up to three months,
- make secured loans for up to three months,
- accept deposits, contributions, and run giro transfers,
- make remittances (*Anweisungen*),
- handle domestic commission orders,
- buy and sell gold and silver,
- buy and sell bills of exchange abroad.

Supervision of the Bank on behalf of the Government was exercised by the State Commissioner (*Staatskommissär*) and his deputy (Article 45). The Commissioner had the right to object (*Einspruch*) to any decision of the Assembly, the Council, or the Directorate. The objection had a suspensive effect and was submitted to the Government (Article 47). If the Bank and the Government did not reach an agreement, the matter was finally decided by the arbitration court (*Schiedsgericht*). The court consisted of the President of the Supreme Court (*Oberster Gericht*), four members nominated by the Government and two members nominated by the Bank. The arbitration did not violate the right to a constitutional complaint (Article 47).

In 1925, the Austrian krone was replaced by the schilling. On 17 March 1938, after the Anschluss of Austria to Germany, the liquidation of the Bank began. The role of the Austrian National Bank was taken over by the Reichsbank.³⁶

3. Czechoslovak National Bank

On 28 October 1918, the establishment of the Czechoslovak Republic was proclaimed. Pursuant to Article 2 and 3 of the Act on the Establishment of the In-

³⁵ C. Jobst, H. Kernbauer, *Die Bank...*, p. 160.

³⁶ Ibidem, p. 189.

dependent Czechoslovak State³⁷, adopted on the same day, the previously existing Austrian law remained in full force and Austrian state entities, including the Austro-Hungarian Bank, continued to operate within the newly established state.³⁸ However, a conflict between the Czechoslovak Government and the Austro-Hungarian Bank over the bank's refinancing of war loans (by their collateralisation) resulted in Czechoslovakia's rapid departure from the Austrian krone and the replacement of the Austro-Hungarian Bank with a national issuing institution.³⁹

The result of the above actions was the establishment of the Banking Office of the Ministry of Finance (Bankovní úřad ministerstva finance) on 6 March 1919. The Office consisted of 10 members, including the Minister of Finance as chairman. At the same time, there were discussions as to whether a bank of issue should be established as a state bank or as a bank with an autonomous character *vis-à-vis* the state, e.g., as a bank in the form of a joint-stock company.⁴⁰ On 14 April 1920, the Act on a joint stock bank of issue was adopted.⁴¹ However, despite the adoption of the Act, the establishment of the bank did not take place, as it was pointed out that suitable economic conditions did not exist for the establishment of such a bank.⁴² On 23 April 1925, the Act in question was amended⁴³ and finally, on 1 April 1926, the Banking Office ceased its activity and the Czechoslovak National Bank began its operations on the basis of the regulation of the Minister of Finance.⁴⁴

The Bank's articles of association were incorporated directly into the Act mentioned above as § 52 et seq. The articles contained 91 paragraphs divided into the following chapters: 1) general provisions and special rights of the Bank, 2) administration of the Bank, 3) rules of conduct, 4) state supervision, 5) employees of the Bank, 6) General Meetings, 7) banking operations, and 8) accounting, reporting, and liquidation. In accordance with the articles of association, the Bank was established as a joint stock company. The company was set up for a fixed term, i.e., a period of 20 years (§ 52).

³⁷ Zákon Národního výboru československého ze dne 28. října 1918 o zřízení samostatného československého (Collection of Laws No. 11/1918).

³⁸ B. Černá, *Česká národní banka, její právní postavení a náplň činnosti*, 2022, <https://dspace5.zcu.cz/bitstream/11025/48193/1/Ceska%20narodni%20banka%2C%20jeji%20pravni%20postaveni%20a%20napln%20cinnosti.pdf> [access: 28.02.2025], p. 11.

³⁹ M. Pracny, *Czechosłowacka reforma walutowa z 1919 roku*, „*Studia Prawno-Ekonomiczne*“ 2020, vol. 117, p. 319.

⁴⁰ F. Vencovský, *Měnová politika v české historii*, Praha 2001, p. 32.

⁴¹ Zákon ze dne 14. dubna 1920 o akciové bance cedulové (Collection of Laws No. 347/1920).

⁴² T. Vrba, *Česká národní banka...*, pp. 6–7.

⁴³ Zákon ze dne 23. dubna 1925, kterým se mění a doplňuje zákon ze dne 14. dubna 1920, č. 347 Sb. z. a n., akciové bance cedulové (Collection of Laws No. 102/1925).

⁴⁴ Vyhláška ministra financí ze dne 1. dubna 1926 o zahájení činnosti Národní banky Československé (Collection of Laws No. 43/1926).

The share capital was to be covered by 150,000 shares of 500 gold units each (§ 58). Any increase in the share capital required the approval of the Minister of Finance (§ 58). The articles also allowed for issuing collective shares (*hromadné akce*) (§ 59). The State was to take up one-third of the shares, i.e., 50,000 (§ 44). The State's contribution to the Bank's shares was to come primarily from the State's share in the liquidation of the Austro-Hungarian Bank and funds from the liquidation of the Banking Office of the Minister of Finance (§ 44). The State, holding one-third of the Bank's shares, in practice controlled the Bank.⁴⁵

In performing its issuing duties, the Bank acted as a public authority. Unless otherwise stipulated by law, the legal provisions on joint-stock companies applied to the Bank (§ 57). The organs of the Bank were the General Assembly (*valná hromada akcionářů*), the Audit Committee (*revidující výbor*), and the Bank Council (*bankovní rada*). Only Czechoslovak citizens were allowed to participate in the General Assembly (§ 110). The General Assembly appointed the members of the Bank Council and the Audit Committee. However, resolutions of the General Assembly required the approval of the Ministry of Finance (§ 120).

The Bank Council consisted of the Governor (*Guvernér*) and nine members. In addition, the organs of the Council were the Executive Council (*užší výbor*) and [its] departments (*odbory*). All members of the Council had to be Czechoslovak citizens (§ 79). Moreover, the members of the Council had to hold 20 Bank shares each (§ 80). The Governor was appointed by the President of the Republic for a 5-year term, and the Governor could be dismissed or suspended by the President at the request of the Government (§ 72). The other members of the Council were appointed for a term of six years. Six members were elected by the General Assembly, and three were appointed by the President of the Republic (§ 74).

The Bank could undertake the following activities (§ 121):

- discounting secured bills of exchange for up to 92 days,
- grant loans against collateral for up to 3 months,
- accept deposits, including running giro accounts,
- issue remittances,
- handling collections, bills of exchange, etc.,
- pay out interest on securities,
- handling state loans or other securities,
- buy up foreign bills of exchange,
- buy up and sell gold and silver.

The Bank could also make financial settlements for public entities, but could not make loans to these entities (§ 129).

⁴⁵ B. Černá, *Česká národní banka...*, p. 13.

Supervision of the Bank on behalf of the Government was exercised by the Commissioner (*vládní komisař*) – an official of the Ministry of Finance (§ 97). The Commissioner and his deputy were appointed by the Government. The Commissioner could lodge an objection (*odpor*) to any decision of the Bank's organs which was contrary to the law or the interest of the State. The objection had a suspensive effect (§ 98). Decisions taken by the Executive Council, any department, or the Audit Committee were first submitted to the Bank Council for decision. The matter was then subject to negotiations between the Bank and the Government. If there was no agreement between the Bank and the Government, the matter was finally decided by the arbitration court. The court consisted of five members, with two members each appointed by the Bank and the Government, and the members of the court so elected chose the chairman of the court (§ 98).

As a result of the German aggression against the Czechoslovak Republic, President Emil Hacha, on 16 March 1939, agreed to the creation of the Protectorate of Bohemia and Moravia. The consequence of this was the termination of the Bank's activity outside the Protectorate on 31 March 1939, and within the Protectorate, the establishment of the National Bank for Bohemia and Moravia in Prague (Národní banka pro Čechy a Moravu v Praze),⁴⁶ which was directly under the control of the Third Reich.

3. Bank of Poland

At the turn of October and November 1918, the independence of Poland was proclaimed.⁴⁷ Unlike the case of Austria and Czechoslovakia, the newly formed Polish state consisted of lands where various institutions performed the function of a central bank. These included not only the central banks of the partitioning states: Austro-Hungarian Bank, Reichsbank, and the State Bank of the Russian Empire but also the Polish State Loan Bank established on 9 December 1916 by the German authorities for the Governor General of Warsaw.⁴⁸ This created a wide range of possibilities for shaping the model of the central bank in the Polish Second Republic, either based on the model of one of the existing issuing banks or creating a new model.

⁴⁶ Vládní nařízení ze dne 31. března 1939 o zastavení působnosti Národní banky Česko-Slovenské na území mimo Protektorátu Čech a Morava (Collection of Laws No. 96/1939).

⁴⁷ Regarding the date of the Declaration of Independence vide P. Szlanta, *Od kiedy Niepodległa?*, 2019, https://muzeumpilsudski.pl/wp-content/uploads/2019/04/P_Szlanta_Od_kiedy_niepodlegla.pdf [access: 25.07.2024].

⁴⁸ Rozporządzenie z dnia 9 grudnia 1916 r. generała-gubernatora dla obszaru Generalnego Gubernatorstwa Warszawskiego o powołaniu Polskiej Krajowej Kasy Pożyczkowej (Dz. Rozp. dla Jen.-Gub. Warsz. of 13 December 1916, No. 57, item 222).

In the first period after the declaration of independence, the function of the central bank was taken over by the Polish State Loan Bank on the basis of the Act of 7 December 1918.⁴⁹ It was responsible for issuing the Polish mark on the territory of the capital of the newly formed state. The legal regulation of this institution was modelled on German regulations concerning the Reichsbank.⁵⁰ On the other hand, Article 1 of this Act explicitly indicated that this Bank would perform this function temporarily, only until the Bank of Poland was established by a resolution of the Polish Parliament.

The need to establish a central bank was also gaining interest in business circles. In May 1919, Stanisław Karpiński, the then Minister of the Treasury, presented a draft of the statute of the Bank of Poland as a state institution.⁵¹ It is worth pointing out that, before the First World War, only two central banks have the statute of a state institution: the State Bank of the Russian Empire and Swedish Bank (Sveriges Riksbank).⁵²

The idea of establishing the Bank of Poland was revived by Władysław Grabski, Minister of the Treasury, who was chairman of the Polish delegation to the Brussels International Financial Conference in 1920, where the establishment of a central bank independent of the State was recommended.⁵³ Grabski entrusted the drafting of the bank's articles of association to Roman Rybarski, a professor at the Jagiellonian University until 1920.⁵⁴ The articles of the Austrian National Bank were to be used as a model for the articles of the newly established bank.⁵⁵ Eventually, in accordance with Article 1(11)(b) of the Act of 11 January 1924 on repair of the State Treasury and currency reform,⁵⁶ it was decided to establish 'a bank of issue under a special articles of association as a joint-stock bank with the participation of the State, subject to state supervision with right to appoint the bank's president, to approve managers, and to grant the bank of issue the right to issue bank notes, being legal tender covered at least in one quarter to one third part by gold or a stock of foreign exchanges and

⁴⁹ Ustawa z 7 grudnia 1918 r. Polskiej Krajowej Kasy Pożyczkowej (Journal of Laws 1918, No. 19, item 56).

⁵⁰ W. Bernaruk, *Tymczasowość w strukturze Polskiej Krajowej Kasy Pożyczkowej*, "Biuletyn Stowarzyszenia Absolwentów Przyjaciół Wydziału Prawa Katolickiego Uniwersytetu Lubelskiego" 2017, no. 14, p. 24.

⁵¹ A. Jezierski, C. Leszczyńska, *Bank Polski S A 1924–1952*, Warszawa 1994, p. 21.

⁵² G. Garvy, *Banking Under the Tsars and the Soviets*, "The Journal of Economic History" 1972, vol. 32, p. 872.

⁵³ A. Jezierski, C. Leszczyńska, *Bank Polski S A...*, p. 21.

⁵⁴ Ibidem, pp. 21–22.

⁵⁵ T.J. Buczkowski, *Statut Banku Polskiego*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 1927, no. 7, p. 150.

⁵⁶ Ustawa z dnia 11 stycznia 1924 r. o naprawie Skarbu Państwa i reformie walutowej (Journal of Laws 1924, No. 4, item 28).

currencies, being not subject to major exchange rate fluctuations'. The state assets held by the Polish Land Loan Bank should be transferred to the bank of issue by way of cession. In addition, the State may, if need be, conclude an agreement with the bank of issue establishing its relationships with the State Treasury; however, the Treasury may not use credits from the bank of issue to cover either current administrative or investment needs.

The Bank's articles were adopted on 20 January 1924 in the form of a Presidential Decree⁵⁷ containing 93 articles, and were divided into the following chapters: 1) general provisions, 2) share capital and shares, 3) authorities of the Bank, privilege of issuing notes of the Bank, 5) banking operations, 6) report, balance sheet, and distribution of profits, 7) liquidation of the Bank, 8) special rights of the Bank, 9) transitional provisions.

The Bank in the form of a joint-stock company was established under the name of Bank Polski S.A. The Bank was granted an exclusive privilege of issue until 31 December 1944 (Article 46). The share capital of the Bank consisted of one million shares of 100 zlotys each (Article 4), and its increase required the consent of Parliament (Article 12). Collective shares could be issued on the basis of a resolution of the Bank Council (Article 5). On the other hand, the tradability of the shares was restricted. A new shareholder could participate in the General Meeting and in the election of the Bank's Council only after obtaining the approval of the President of the Bank to acquire these shares (Article 7).

The organs of the Bank were the General Assembly, the Bank Council, the Bank Directorate (*Dyrekcja*), the President (*Prezes*), and the Audit Committee. The General Meeting represented the interests of the Bank's shareholders. However, a regulation was introduced limiting the rights of large shareholders. There was one vote per 25 shares, and a shareholder could not have more than 500 votes (Article 18). The Bank Council gave general direction to the Bank's activities (Article 24). The Council consisted of a President, two Vice-Presidents, and 12 members (Article 25). The President and Vice-Presidents were appointed by the President of the Republic on the proposal of the Council of Ministers for a 5-year term (Article 35), and the members of the Council by the General Assembly (Article 25). The Minister of the Treasury could object to the election of the Council members by the General Assembly (Article 26). A member of the Council had to hold at least 100 shares in the Bank (Article 27). The Bank Directorate was the executive and administrative body, which consisted of the Chief Director and directors. The members of the Directorate were appointed by the Council and approved by the Minister of the Treasury (Article 42). The Audit Committee consisted of five members and was elected by the General Assembly to examine the Bank's balance sheet (Article 45).

⁵⁷ Rozporządzenie Prezydenta Rzeczypospolitej z 20 stycznia 1924 r. w przedmiocie ustanowienia statutu dla banku emisyjnego (Journal of Laws 1924, No. 8, item 75).

The President had supreme supervision over all bank activities (Article 38). In practice, the President was obliged to submit a monthly report on the Bank's activities to the Minister of the Treasury (Article 39). The President also had the right to suspend a resolution of the Council and submit it to the Prime Minister if the resolution was inconsistent with the law, the Bank's articles, or the state interest. If the President or the Prime Minister approves the objection, the resolution is not enforceable (Article 38).

The Bank was authorised to carry out the following activities (Article 55):

- discount bills of exchange secured for up to three months,
- grant loans secured for up to three months,
- purchase gold and silver,
- buying up and selling currencies,
- accept deposits and run giro accounts,
- sell remittances,
- collect bills of exchange,
- accept deposits,
- handling banking commission orders.

In addition, the Bank could carry out all operations for the account of the Treasury, including deposits and withdrawals from the account (Article 70), and could discount state and municipal securities (Article 60).

The Articles also introduced the institution of arbitration in the form of an arbitration Commission, which should settle any disputes between the Government and the Bank arising from the application of the Articles and the granted privilege of issue. The Arbitration Commission consisted of the President of the Supreme Court as chairman and four members, two appointed by the Prime Minister and two appointed by the Bank Council. In ruling, the Commission was not bound by any legal regulations. However, it had to give reasons for its rulings (Article 90).

As a result of the German aggression against Poland, Bank of Poland S.A. was evacuated with its gold to England in 1939 and returned to Poland in the spring of 1946.⁵⁸ In the meantime, a new bank of issue was established in Poland – the National Bank of Poland (Narodowy Bank Polski). Pursuant to Article 44 of the Decree establishing the new Bank, the privilege of issue granted to the Bank of Poland S.A. was revoked.⁵⁹ By the decision of the Minister of Finance of 7 January 1952, the Bank of Poland S.A. in liquidation was declared liquidated.⁶⁰

⁵⁸ J. Gliniecka, J. Harasimowicz, R. Krasnodębski, *Polskie prawo bankowe (1918–1996)*, Warszawa 1996, p. 14.

⁵⁹ Dekret z 15 stycznia 1945 r. o Narodowym Banku Polskim (Journal of Laws 1945, No. 4, item 14 and 15).

⁶⁰ Decyzja Ministra Finansów z dnia 7 stycznia 1952 r. w sprawie uznania Banku Polskiego w likwidacji za zlikwidowany (Official Gazette of the Republic of Poland, 1952, No. 10, item 103).

4. Reichsbank

The Reichsbank was established on 1 January 1876 as the successor of the Bank of Prussia (*Preußische Bank*).⁶¹ This change was a consequence of the unification of Germany in 1871 under the leadership of the Kingdom of Prussia. The Bank's statute was promulgated by Kaiser Wilhelm on 21 May 1875 on the basis of § 40 of the German Banking Act of 1875.⁶² The Bank was granted the right of issue for an indefinite period. However, this was not an exclusive right of issue. At that time, there were 33 other banks of issue in the Reich, the number of which subsequently declined,⁶³ but in 1924, there were still four local banks of issue in addition to the Reichsbank.⁶⁴ The existence of the other banks of issue was explicitly regulated in §§ 42–54 of the German Banking Act. Unlike the articles of association analysed earlier, the Reichsbank statute⁶⁵ is shorter, consisting of 34 paragraphs without chapter divisions, and regulates only some of the issues compared to the analysed statutes, which is why the provisions of the German Banking Law of 1875 are also the subject of analysis in the following section.

The Bank was established as a legal entity under the German Banking Law of 1875 (§ 12 of the Act), i.e., as a legal entity under public law, the establishment of which was financed with private funds.⁶⁶ The Bank's share capital was covered by 40,000 shares of 300 marks (§ 23). Each share had one vote, but one shareholder could not exercise more than 100 votes (§ 17 of the Act). The Reich had the right to dissolve the Bank and take over the Bank's real estate at book value, as well as the share option for all the Bank's shares to buy them per nominal value. This privilege was granted for a fixed period of 10 years, but with the option for extension (§ 41 of the Act).

The organs of the Bank were the General Assembly (*Generalversammlung*), the Standing Central Committee (*ständige Zentralausschuss*), the Directory (*Reichsbank-Direktorium*), and the President (*Präsident*). The shareholders exercised their rights through the General Assembly, and the Standing Central Committee was elected from among the shareholders (§ 30 of the Act). The General Assembly met

⁶¹ K.R. Bopp, *Reichsbank operations. 1876–1914*, 1953, https://fraser.stlouisfed.org/files/docs/historical/frbphi/presidents/bopp/bopp_msc_1953.pdf [access: 28.02.2025], p. 2.

⁶² Bankgesetz vom 14. März 1875 (Deutsches RGBl 1875, No. 15, pp. 177–198).

⁶³ J. Meyer, *Meyers Konversationslexikon*, Leipzig–Wien, 1885, p. 332.

⁶⁴ According to § 1 Privatnotenbankgesetz vom 30 August 1924 (German RGBl 1924, Part II, p. 246), there were still the following banks of issue in the German Reich: Bayerische Notenbank in Munich, Sächsische Bank zu Dresden in Dresden, Württembergische Bank in Stuttgart and Badische Bank in Karlsruhe.

⁶⁵ Statut der Reichsbank vom 21. Mai 1875 (German RGBl 1875, No. 18, pp. 203–214).

⁶⁶ N.F. Krieghoff, *Banking Regulation in a Federal System: Lessons from American and German Banking History*, 2013, http://etheses.lse.ac.uk/758/1/Krieghoff_Banking_regulation_federal.pdf [access: 25.07.2024], p. 58.

under the chairmanship of the Reich Chancellor or his representative (§ 19 of the Articles). The committee consisted of 50 members, each of whom had to hold three shares in the Bank (§ 31 of the Act).

The management of the Bank on behalf of the Reich was exercised by the Reich Chancellor and the Directory (§ 26 of the Act). The Directory managed and represented the Bank, although it was to exercise its powers in accordance with the Chancellor's directives (§ 27 of the Act). The Directory consisted of a President and ordinary members. All were nominated by the Kaiser on the proposal of the Bundesrat for life (§ 27). Supervision on behalf of the Reich was exercised by the Board of Trustees (*Kuratorium*), which consisted of the Reich Chancellor as chairman, one member appointed by the Kaiser and three members appointed by the Bundesrat (§ 25 of the Act). In addition, the Bank's financial statements were under the control of the Reich Court of Auditors (§ 29 of the Act).

The Bank was entitled to undertake the following operations:

- buy and sell gold and silver,
- discount bills secured for up to three months,
- grant loans secured for up to three months,
- make collections and transfers for private and public entities,
- sell securities (*Effekten*) for a third account,
- accept deposits and run giro accounts,
- accept valuables for deposit and administration.

The Bank could also discount bills of exchange of the Reich and public entities and make loans to the Reich. The law also introduced partial gold parity. One third of the banknotes were to be covered by German money (*deutsche Gelde, Reichs-, Kassenscheinen*), gold, or foreign currencies.

Disputes between shareholders and the Reich should be settled by the Directory, appointed for life but entirely by the Kaiser. The Articles and the German Banking Law did not provide for an arbitration clause concerning disputes between the Reich (the Government) and the Bank. Moreover, the Chancellor took part directly in the Bank's issues, including its management. Therefore, it must be considered that the Reichsbank during this period did not have the character of an independent bank. Such a status is attributed to the Reichsbank in the literature, but after 1924, when it was institutionally reformed with the participation of the Allies.⁶⁷

5. Comparative analysis

The articles of association of the analysed banks show many significant similarities as regards the content of the legal institutions and legislative technique itself, but

⁶⁷ W. Baka, *Bankowość centralna...,* p. 229.

differ, however, from the Reichsbank's articles of association. Similarities between the Polish, Czechoslovak, and Austrian regulations are also pointed out by Tomasz Józef Buczkowski.⁶⁸ These banks were established as joint stock companies, while the Reichsbank was established as a state bank (a legal person established under public law). Subsequently, the articles of the analysed banks are similar in the scope of their regulations and structure. The content of these statutes is significantly different from that of the Reichsbank, which, as well as being shorter, has many issues concerning its activities regulated outside the articles in the German Banking Law of 1875.

5.1. Bank of issue

All the banks have the status of a bank of issue, including the Reichsbank. Having the status of a bank of issue is the common denominator for central banks. The founding dates of the oldest central banks – the Bank of Sweden and the Bank of England – are counted from obtaining the status of a bank of issue. Unlike the other banks in question, the Reichsbank had the status of a bank of issue for an indefinite period (with a unilateral right of liquidation of the Bank by the Reich). Furthermore, the privilege of issue enjoyed by the Reichsbank was not exclusive. It is worth noting that, on the territory of the Habsburg monarchy as a dualist state, and in the Second Republic of Poland as a country consisting of three partitions, it was also possible to grant the right of issue for local banks, as was done in the German Reich. But the Habsburgs and Poland decided to establish one bank of issue. Therefore, both banks played an integrative role within the states.

5.2. State's Bank

All five analysed banks were entitled to provide banking services to the state and other public entities. However, the banks' articles provided for restrictions on financing public debt, which led to a redefinition of the role of the central bank as the state's bank. The primary purpose of the state's bank was no longer to finance the state but only to provide its day-to-day services. It is worth noting that the primary task of a central bank in the Habsburg monarchy until the Spring of Nations in 1848 was precisely to refinance the state.⁶⁹

In the case of the Austro-Hungarian Bank, the discounting of bills of exchange of the Austrian or Hungarian state administration required the approval of the General Assembly, i.e., the shareholders. In the case of the Czechoslovak Bank, there was a total prohibition on lending to public entities. Similarly, the banking services provided by the Austrian National Bank to the Government could not lead to its

⁶⁸ J. Buczkowski, *Statut...*, pp. 157–158.

⁶⁹ C. Jobst, H. Kernbauer, *Die Bank...*, p. 81.

financing. On the other hand, the Bank of Poland S.A. and the Reichsbank could discount state securities.

5.3. Bank of banks

For all the banks in question, including the Reichsbank, the range of possible activities was broad and similar. The provision of services was not limited to institutional customers. The articles do not impose a subject limitation in terms of potential customers. All the banks were allowed to discount bills secured for up to 3 months and to grant loans secured for up to three months – which were their basic economic-administrative tools.⁷⁰ The banks could also act as lender of last resort; however, only the Austro-Hungarian Bank could grant mortgage loans and sell and buy its own mortgage bonds.

5.4. Independence of the bank

The organisational form of the joint stock company was to be the basis for the independence of the banks. The state influence in a joint stock company was to be counterbalanced by the shareholders, who, in principle, should be guided by the economic interest of the bank. The demand for the establishment of the central banks as joint stock companies in order to increase their independence was also expressed at the Brussels International Financial Conference in 1920, which had an impact, *inter alia*, on the decisions taken by Grabski's Government. The Austrian-Hungarian Bank was a model in terms of the organisational form of the independent central bank for the newly established republics in Central Europe, as evidenced by the convergence of the content and structure of the articles of association, which were so different from those of the Reichsbank. The Austro-Hungarian Bank, in this role, was a natural model, bearing in mind that the Reichsbank and the State Bank of the Russian Empire were not joint stock companies.

The choice of the joint stock company form influenced the selection of the banks' organs. In the case of all four banks, the ordinary members of the bank council were elected by the shareholders, i.e., by private investors (in the case of the Czechoslovak National Bank, three were appointed by the President of the Republic), while the presidents (governors) of the banks were appointed by the state represented by the Emperor or the President of the Republic. The council members elected by the shareholders had to be approved by the state. In addition, the council members had to hold shares in the bank. In the case of the Reichsbank, the equivalent of the bank council was the Directory, which was entirely appointed by the Kaiser. Furthermore,

⁷⁰ W. Baka, *Bankowość centralna...,* p. 57.

Table 1. Central bank independent indicators
according to V. Grilli, D. Masciandaro, G. Tabellini

	Questions	Austro-Hungarian Bank	Austrian National Bank	Czechoslovak National Bank	Bank of Poland	Reichsbank
1	The bank president is not appointed by the government	(+) the Kaiser	(+) the President	(+) the President	(+) the President	(+) the Kaiser
2	The bank president is appointed for a term of at least five years	(+) 5 years	(+) 5 years	(+) 5 years	(+) 5 years	(+) for life
3	Ordinary members of the general assembly are not appointed by the government	(+) share-holders	(+) share-holders	(+) share-holders	(+) share-holders	(+) the Kaiser
4	Ordinary members of the general assembly are appointed for a term of at least five years	(-) 4 year	(+) 5 years	(+) 6 years	(-) 3 years	(+) for life
5	No participation of a government representative with decisive vote	(+/-) right to object	(+/-) right to object	(+/-) right to object	(+)	(-) supervised by the Chancellor
6	The government does not approve the frame of the monetary policy	(+)	(+)	(+)	(+)	(-)
7	One of the statutory/contractual objectives of the central bank is monetary stability	(-)	(-)	(-)	(-)	(-)
8	Legal grounds for strengthening the position of the central bank in the event of a conflict with the government	(+) arbitration court	(+) arbitration court	(+) arbitration court	(+) arbitration court	(+) arbitrator (Director) appointed by the Kaiser

Source: own elaboration based on R. Huterski, *Niezależność banku centralnego*, Warszawa 2020, p. 154.

the management of the bank on behalf of the Reich was exercised not only by the Directory but also by the Chancellor, which in itself undermines the position of the Reichsbank as an independent central bank.

The next common institution connecting the analysed banks is the Commissioner (*Komissär, Staatskommissär, vládní komisař, komisarz*), the person who performed su-

pervisory duties on behalf of the state. In the case of the Reichsbank, the supervisory authority on behalf of the state was a multi-personal Board of Trustees. In contrast to the actions of the Board of Trustees, objections raised by the Commissioner against the bank's actions could be appealed to an arbitration court. The establishment of the institution of the arbitration court in the articles of association of the central banks in question appears to be the most distinctive common feature of the articles and significantly enhances the independence of central banks. This institution is still in force in the Republic of Austria.⁷¹

This common approach to bank independence also confirms the analysis of the bank statutes conducted using the indicators of bank independence proposed by Vittorio Grilli, Donato Masciandaro, and Guido Tabellini with respect to political independence.⁷² The table 1 shows that the central banks of Poland, Czechoslovakia, and Austria were *de jure* independent institutions, and highlights some differences in this regard, as far as the Reichsbank is concerned.

Conclusion

The Austro-Hungarian Bank and its legal regulation had an important influence on the adopted central bank model in the Republic of Austria, the Czechoslovak Republic, and the Second Republic of Poland. The similarity in the articles of association is evident in many aspects. This is particularly evident in the content and structure of the articles of association and in the design of the institution guaranteeing the central bank's independence. Therefore, it can be assumed that the Austro-Hungarian Bank was a model for an independent central bank in Central Europe.

The extent of similarity in legal regulation between the Austro-Hungarian Bank and the Bank of Poland S.A. makes it possible to point to a certain continuity between these banks. Therefore, despite the name itself, it is justified to include the Austro-Hungarian Bank in the history of Polish central banking. This is also an argument for emphasising the independence of the central bank in Poland. Because the roots of central bank independence go back not only to 1924, the date when Bank of Poland S.A. was founded, but much earlier, when the Austro-Hungarian Bank was established. The same can be said about the Austrian National Bank and the Czechoslovak National Bank.

⁷¹ Ibidem, p. 180.

⁷² R. Huterski, *Niezależność...*, p. 154.

BIBLIOGRAPHY

Legal sources

Bankgesetz vom 14. März 1875 (German RGBI 1875, No. 15).

Bundesgesetz vom 12 Jänner 1923, betreffend Überleitung der Geschäfte der Oesterreichisch-ungarischen, österreichische Geschäftsführung, auf die Oesterreichische Nationalbank (BGBI. No. 44/1923).

Bundesgesetz vom 24. Juli 1922 über die Errichtung einer Notenbank (BGBI. No. 490/1922).

Bundesgesetz vom 14 November 1922, betreffend die Abänderung und Ergänzung des Bundesgesetzes vom 24. Juli 1922, B.G.BI. No. 490, über die Errichtung einer Notenbank (BGBI. No. 823/1922).

Decyzja Ministra Finansów z dnia 7 stycznia 1952 r. w sprawie uznania Banku Polskiego w likwidacji za zlikwidowany (The Official Gazette of the Republic of Poland, 1952, No. 10, item 103).

Dekret z 15 stycznia 1945 r. o Narodowym Banku Polskim (Journal of Laws 1945, No. 4, item 14 and 15).

Gesetz vom 20. December 1919 über die Ermächtigung der Staatsregierung zu vorläufigen Verfügungen auf dem Gebiet des Notenbankwesens (StGBI. No. 574/1919).

Privatnotenbankgesetz vom 30 August 1924 (German RGBI 1924, Part II).

Rozporządzenie Prezydenta Rzeczypospolitej z 20 stycznia 1924 r. w przedmiocie ustanowienia statutu dla banku emisyjnego (Journal of Laws 1924, No. 8, item 75).

Rozporządzenie z dnia 9 grudnia 1916 r. generała-gubernatora dla obszaru Generalnego Gubernatorstwa Warszawskiego o powołaniu Polskiej Krajowej Kasy Pożyczkowej (Dz. Rozp. dla Jen.-Gub. Warsz. of 13 December 1916, No. 57, item 222).

Staatsvertrag von Saint-Germain-en-Laye vom 10. September 1919 (StGBI. No. 303/1920).

Staatsvertrag: Genfer Protokolle vom 4. Oktober 1922, (BGBI. No. 842/1922).

Statut der Reichsbank vom 21. Mai 1875 (German RGBI 1875, No 18).

The judgment of the Polish Constitutional Tribunal of 13 September 2011, No. K 26/03, (OTK-A 2003, No. 9, item. 95).

Treaty of Peace with Hungary, signed at Trianon, Parliamentary Paper, Treaty Series No 10 (1920) [Cmd. 896].

Ustawa z 7 grudnia 1918 r. Polskiej Krajowej Kasy Pożyczkowej (Journal of Laws 1918, No. 19, item 56).

Ustawa z dnia 11 stycznia 1924 r. o naprawie Skarbu Państwa i reformie walutowej (Journal of Laws 1924, No. 4, item 28).

Vládní nařízení ze dne 31. března 1939 o zastavení působnosti Národní banky Česko-Slovenské na území mimo Protektorátu Čech a Morava (Collection of Laws No. 96/1939).

Vyhláška ministra financí ze dne 1. dubna 1926 o zahájení činnosti Národní banky Československé (Collection of Laws No. 43/1926).

Vyhláška ministra financí, kterou se uveřejňují úmluvy o likvidaci Rakousko-uherské banky, schválené vládou republiky Československé dne 14. září 1922, jakož i rozhodnutími Reparační komise ze dne 18. června 1921, č. 1373, a ze dne 25. dubna 1922, č. 1904 (Collection of Laws No. 237/1923).

Zákon Národního výboru československého ze dne 28. října 1918 o zřízení samostatného československého (Collection of Laws No. 11/1918).

Zákon ze dne 14. dubna 1920 o akciové bance cedulové (Collection of Laws No. 347/1920).

Zákon ze dne 23. dubna 1925, kterým se mění a doplňuje zákon ze dne 14. dubna 1920, č. 347 Sb. z. a n., akciové bance cedulové (Collection of Laws No. 102/1925).

Studies

Baka W., *Bankowość centralna. Funkcje – metody – organizacja*, Warszawa 2001.

Berka W., *Verfassungstecht. Grundzüge des österreichischen Verfassungsrechts für das juristische Studium*, Wien 2016.

Bernaruk W., *Tymczasowość w strukturze Polskiej Krajowej Kasy Pozyczkowej*, "Biuletyn Stowarzyszenia Absolwentów Przyjaciół Wydziału Prawa Katolickiego Uniwersytetu Lubelskiego" 2017, no. 14, pp. 23–35.

Buczkowski T.J., *Statut Banku Polskiego*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 1927, no. 7, pp. 149–160.

Capie F., *The Evolution of Central Banking*, Washington D.C. 1995.

Garvy G., *Banking Under the Tsars and the Soviets*, "The Journal of Economic History" 1972, vol. 32, pp. 869–893.

Gliniecka J., Harasimowicz J., Krasnodębski R., *Polskie prawo bankowe (1918–1996)*, Warszawa 1996.

Hetzl R.L., *Henry Thornton: Seminal Monetary Theorist and Father of the Modern Central Bank*, "FRB Richmond Economic Review" 1987, no. 4, pp. 3–16.

Huterski R., *Niezależność banku centralnego*, Warszawa 2020.

Jezierski A., Leszczyńska C., *Bank Polski S.A. 1924–1952*, Warszawa 1994.

Jobst C., Kernbauer H., *Die Bank. Das Geld. Der Staat. Nationalbank und Währungspolitik in Österreich 1816–2016*, Frankfurt a. Main 2016.

Kolar-Dimitrijević M., *The History of Money in Croatia*, Zagreb 2018.

Leszczyńska C., *Zarys historii polskiej bankowości centralnej*, Warszawa 2010.

Meyer J., *Meyers Konversationslexikon*, Leipzig–Wien 1885.

Miemiec W., Zawadzka P. (eds.), *Prawo finansów publicznych z kazusami i pytaniami*, Warszawa 2023.

Pracny M., *Czechosłowacka reforma walutowa z 1919 roku*, "Studia Prawno-Ekonomiczne" 2020, vol. 117, pp. 315–333.

Pressburger S., *Das österreichische Noteninstitut. 1816–1966*, Wien 1972.

Reinmann M., Zimmermann R., *The Oxford Handbook of Comparative Law*, Oxford 2008.

Swinburne M., Castello-Branco M., *Central Bank Independence and Central Bank Function* [in:] P. Downes, R. Vaez-Zadeh, *The Evolving Role of Central Bank*, Washington D.C. 1991, pp. 414–444.

Vencovský F., *Měnová politika v české historii*, Praha 2001.

Zubik M., *Narodowy Bank Polski (analiza konstytucyjno-ustrojowa)*, "Państwo i Prawo" 2001, no. 6, pp. 32–51.

Internet sources

Bopp K.R., *Reichsbank operations, 1876–1914*, 1953, https://fraser.stlouisfed.org/files/docs/historical/frbphi/presidents/bopp/bopp_msc_1953.pdf.

Černá B., *Česká národní banka, její právní postavení a náplň činnosti*, 2022, <https://dspace5.zcu.cz/bitstream/11025/48193/1/Ceska%20narodni%20banka%2C%20jeji%20pravni%20postaveni%20a%20napln%20cinnosti.pdf>.

Jančov P., *Centrálna banka a jej vývojové etapy po roku 1918*, 2021, https://is.ambis.cz/th/gegz4/BAKALaRSKA_PRaCA_PAVEL_JANC OV.pdf.

Krieghoff N.F., *Banking Regulation in a Federal System: Lessons from American and German Banking History*, 2013, http://etheses.lse.ac.uk/758/1/Krieghoff_Banking_regulation_federal.pdf.

Magyar Nemzeti Bank, *History*, <https://www.mnb.hu/en/the-central-bank/organisation/history>.

Szlanta P., *Od kiedy Niepodległa?*, 2019, https://muzeumpilsudski.pl/wp-content/uploads/2019/04/P_Szlanta_Od_kiedy_niepodlegla.pdf.

Vrba T., *Česká národní banka její postavení a činnost*, 2018, https://dspace.cuni.cz/bitstream/handle/20.500.11956/19507/DPTX_2008_1_11220_HS9999_32382_0_64725.pdf?sequence=1&isAllowed=y.

**THE AUSTRO-HUNGARIAN BANK
AS A PROTOTYPE OF THE INDEPENDENT CENTRAL BANK
IN CENTRAL EUROPE IN THE FIRST HALF OF THE 20TH CENTURY –
AN ANALYSIS OF BANK STATUTES**

Abstract

The Austro-Hungarian Bank was the prototype for the regulation of the legal status of central banks in the newly established states in Central Europe after the First World War. This relationship is overlooked in the Polish literature, as the genesis of Polish central banking is based solely on the Bank of Poland, founded in 1820. The exemplary nature of the Austro-Hungarian Bank is confirmed by a common core approach analysis of its articles of association with the articles of the Austrian National Bank, the Czechoslovak National Bank, Bank of Poland S.A., and the Reichsbank. This analysis shows similarities in the content and structure of the articles and the legal institution used in all banks except the Reichsbank. The similarity is particularly evident in the establishment of the banks as independent banks. All banks were established as joint-stock companies, and disputes between the central bank and the state were to be settled by an arbitration court, except for the Reichsbank.

Keywords: central bank, Bank of Poland, Austro-Hungarian Bank, bank articles of association, Czechoslovak National Bank, Austrian National Bank, state arbitration