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## TO REGULATE OR TO LIBERATE? BUSINESS DEVELOPMENT AND THE DILEMMAS OF THE AUTHORITIES REGARDING THE SHAPE OF ECONOMIC POLICY IN THE YEARS 1989–1995

*In the history of Poland, it is very clear that the year 1989 is one of the most distinctive turning points – a final break with the political, social, and economic system built in the period of the Polish People’s Republic, and reinstatement of democracy and free market economy upon the will of the nation. The world had never witnessed a transformation process as large as the one that occurred in Poland after the year 1989. Importantly, this transformation could not be programmed. Therefore, economic policy implemented by governments of the time was constantly amended as problems arose. The course of ownership transformation was monitored. It was observed that the so-called Privatization Act of July 13, 1990 lacked regulations concerning environment protection. Freedom to establish truck transport companies resulted with many anomalies, as it enabled, for instance, the use of trucks in poor technical condition. New regulations in insurance law, which lifted mandatory insurance of production assets against damage from natural disasters, meant that many entrepreneurs decided not to have this insurance. Such was the shape of the economic reality in the first years of the transition, between 1989 and 1995. The state did not want to regulate all aspects of economic life. However, as time went by, politicians and MPs received information from the free market, indicating a need for solutions regulating some sectors of the economy. This article discusses the three aspects of economic life mentioned above, and points out how the governmental and parliamentary strategies towards these aspects of economic life changed in the first years of transformation (1989–1995).*

**Keywords:** *political and economic transformation, ownership transformation, truck transport, voluntary insurance against damage caused by natural disasters, natural environment protection, entrepreneurs and entrepreneurship*

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### INTRODUCTION

In the history of Poland, it is very clear that the year 1989 is one of the most distinctive turning points – a final break with the political, social, and economic system built in the period of the Polish People’s Republic,

and reinstatement of democracy and free market economy upon the will of the nation. This was an unprecedented event in the history of the world, and the process was launched in Poland in 1989. Transformation of both political and economic life was an extremely complex and difficult task to accomplish. As professor S. Kowal pointed out, there is no doubt that “the transformation did not proceed according to any plan or schedule prepared in advance, because it became a phenomenon shaped by market processes not only in Poland and Europe, but also around the world. The economy in these processes reacted as problems arose, rather than following any agenda prepared in advance. Therefore, the methods of implementing the economic policy were constantly amended” [Kowal S. 2015: 287]. This conclusion is illustrated by a statement of Jan Krzysztof Bielecki from 2014. Recalling the first decade of the economic and political transformation in Poland, he noticed:

Back then, in 1989, my way of thinking was: there is too much state intervention, the state is oppressing us, there is not enough freedom and private property. Therefore, if we want to change the world, we must be more Hayekian than Hayek himself. [*Jak kusi kasa* (How cash tempts you), 2014: 14].

The most important task for the Polish authorities at the time was achieving budgetary balance and tackling inflation. Information coming from the free market was analyzed on a daily basis, for instance to monitor changes in prices. The course of the ownership transformation was also monitored, and problems were solved as they arose. It was observed that the so-called Privatization Act of July 13, 1990 lacked regulations concerning environment protection. Freedom to establish truck transport companies, provided to businesses, gave rise to many anomalies, as it enabled, for instance, the use of trucks in poor technical condition. New regulations in insurance law, which lifted mandatory insurance of production assets against damage from natural disasters, meant that many entrepreneurs decided not to have this insurance. Such was the shape of the economic reality in the first years of the transition, between 1989 and 1995. The state did not want to regulate all aspects of economic life. However, as time went by, politicians and MPs received information from the free market, indicating a need for solutions regulating some sectors of the economy. Politicians made sure not to regulate all aspects of economic life, and not to harm dynamically developing private businesses. However, the lack of regulations gave rise to a number of irregularities. For the purpose of this article, three above mentioned aspects of economic life are reviewed: pro-

tection of the environment against excessive human activity, development of the truck transport services sector, and voluntary insurance of production assets against damage caused by natural disasters. Of course, these three subjects do not exhaust the problem.

## OWNERSHIP TRANSFORMATION AND NATURAL ENVIRONMENT PROTECTION

The direction of reforms proposed in the so-called “Balcerowicz Plan” of late 1989 had been drafted a little earlier – in the last years of the Polish People’s Republic. On December 23, 1988, the parliament put a halt to state-controlled economy and adopted the Act on Business Activity. It stipulated that everyone has an equal right to start and run business activity. These regulations introduced a principle of equal treatment of economic entities regardless of the form of ownership. As a consequence, Poles displayed their entrepreneurial spirit, deeply concealed in the period of the Polish People’s Republic. What prompted Poles to open businesses was consumers’ unlimited demand for all products, postponed during the years of the shortage economy.

From September 1, 1990, under the Act of July 14, 1990 on the Privatization of State Enterprises, the process of ownership transformation started in Polish state-owned enterprises. Their commercialization (transformation into companies fully owned by the State Treasury) for their further privatization was conducted by the Ministry of Ownership Transformation (of the State Treasury), and a commercialization permission had to be granted by all staff members of the enterprise, trade unions operating there, and workers’ self-government. Therefore, the process of ownership transformation was initiated jointly by the staff and the management of the enterprise. From the point of view of the microeconomic interest of a single enterprise, the ownership transformation was meant to result with the “introduction of technological and organizational innovations, selection of intellectual capital and its improvement, and entering into cooperation with more technologically advanced organizations” [Kowal S. 2015: 269]. Professor Stefan Kowal also observed that in the first years of the Polish economic transformation, the Polish government did not have a consistent long-term policy for particular sectors of the economy (the industry, agriculture, or defense, to name a few), which directly produced insecurity among entrepreneurs, who were often surprised by

the decisions of the government and the parliament [Kowal S. 2015: 270]. Legal provisions were also not durable, and the policy towards economic entities was not consistent or fair – which is essential for running business. The government and entrepreneurs distrusted each other. The authorities acted under political pressure of powerful trade movements and never-ending political disputes.

In the Act of July 13, 1990 on the Privatization of State Enterprises, and in another key act – the Act of April 30, 1993 on National Investment Funds and Their Privatization – there were no provisions regulating the issue of environment protection [Kamosiński S. 2013: 307–326]. According to experts, the lack of such provisions naturally led to difficulties in terms of assigning environmental accountability in privatized state enterprises [Tudruj J. 1996: 42]. The significance of the problem of environment protection during the ownership transformation process is best evidenced by the fact that the environmental accountability of entrepreneurs interested in, for instance, the purchase of the enterprise could take the form of historical or current accountability. For many businessmen, historical contamination was particularly important, as they did not want to be made accountable for it as the new owners. In the course of the debate, a question was posed about who should be responsible for the destruction of the natural environment, for instance, for soil contamination with oil derivatives which had occurred in the 1970s. The debate focused on whether it should be the selling party (the State Treasury) or the purchasing party (the new owner). In the end, the Council of Ministers decided that in the course of trade negotiations related to the sale of a company fully owned by the State treasury, environmental accountability for historical contamination was individually transferred to new owners. This was possible due to one of the key documents in the process of transforming the enterprise into a company fully owned by the State Treasury, titled “The Environmental Review of the Enterprise”, and due to the provision of the Act of July 13, 1990 where the legislator stipulated that the newly established company took over all rights and responsibilities of the transformed state enterprise. Therefore, the new company was bound by all previously issued administrative decisions on environment protection [Tudruj J. 1996: 42]. In relation to such interpretation of the provisions of the Act of July 13, 1990, Jacek Tudruj, representing the Ministry of Ownership Transformation in 1996, demonstrated that:

owing to this provision, transforming a state enterprise into a company does not entail the need to issue new decisions, including those related to environment protection. Therefore, the company’s accountability related to such important issues as clear-

ing soil and underground water contamination that had occurred in the past, and to following the applicable environmental requirements defined prior to commercialization, are transferred to the new owner [Tudruj J. 1996: 43].

In the years 1992–1993, as a consequence of the acceleration in the restructuring of companies fully owned by the state and their sale, as well as the process of merging, dividing, and acquiring the property of state enterprises (which is natural with such transactions), the bodies of state administration lost track of the ownership types and deeds for many assets belonging to former state enterprises. Therefore, natural obstacles appeared with regard to enforcing unpaid environmental fees and penalties [Stodulski W. 1996: 58]. There was also another problem. In 1993, it was said that “there are many companies which could be closed down immediately based on ecological criteria” [Czaja S. et al. 1994: 55]. On the other hand, it was pointed out that “environment protection in Poland must become one of the main objectives of development policy, but at the same time, it remains one of its main obstacles” [Czaja S. et al. 1994: 55]. The clash between social and environmental considerations, and the priority given to social objectives, meant that the Polish government would send mixed signals regarding ecological policy to companies. This informational and decisional chaos directly led to the “dismantling” of the environment protection policy. This is one of the reasons why in November 1992, the government, pressured and even blackmailed by companies in arrears with their environmental fee payments, decided to reduce the fees. As a consequence of this decision, companies “paid approximately ten times less in 1992 than they should have according to the rates determined in December 1991” [Czaja S. et al. 1994: 54]. The government justified this decision by saying that “from the point of view of the economy, it is not the best the moment for sorting out environmental issues” [Czaja S. et al. 1994: 54].

Lack of environment protection provisions in the above mentioned acts related to the ownership transformation did not deprive the government of initiative in this respect. The government wanted to make up for its mistake, and undertook an initiative to draw attention to the issue of environment protection. In November 1990, the Council of Ministers adopted a program called *Polityka ekologiczna państwa* [The Environmental Policy of the State]. The first sentence stated that:

Poland, a country struck by an environmental disaster, is faced with a very difficult task of introducing fundamental changes in the state’s environmental policy in the conditions of deep systemic transformations [Polityka ekologiczna państwa (The Environmental Policy of the State), 1990].

The similarity between eco-development policy and the economic interest of the state and the economy was also highlighted, as:

The existing technological gap in procuring, processing, and using natural resources, which causes waste, large costs, and low quality of production, demonstrates the size of potential economic benefits [Polityka ekologiczna państwa, 1990].

In the next part of the document, the Council of Ministers points out that:

the likelihood of acquiring these benefits increases, especially in the time when the economy is being privatized. Therefore, broadly understood environment protection will be an ally of modern, efficient, and economical economy [Polityka ekologiczna państwa, 1990].

A declaration was also made that:

achieving significant results in the field of environment protection requires transformation of those sectors of the economy that are the main source of threats to the environment, that is the energy sector, industry, and transport, and also large-scale introduction of eco-development principles in those sectors of the economy which are directly involved in exploiting natural resources (mining, agriculture, and forestry, to name a few) [Polityka ekologiczna państwa, 1990].

Important information regarding the need to include natural environment protection when privatizing state enterprises only appeared in the resolution of the Polish Sejm of February 12, 1993 concerning basic directions of privatization in 1993. When discussing the objectives and conditions of privatization, the Sejm pointed out the need for investments reducing adverse environmental effects of the enterprises' operation [The resolution of the Polish Sejm of February 12, 1993; Bukowski Z. 1997: 55]. This problem was included again in attachment 10 to the budget act adopted for implementation in 1994, titled *Kierunki prywatyzacji w 1994 roku* [Directions of privatization in 1994]. Among the priorities of ownership transformation, the legislator included the need to directly connect the privatization projects with restructuring programs and projects for increasing domestic and foreign investment, with priority objectives regarding the reduction of adverse environmental effects of the enterprises' operation. The document stated that in the process of direct privatization, commitments related to the protection of natural environment will also be the subject of negotiations, beside the price, payment conditions, employment guarantees, and investment programs. The same rules were to be applied when bringing the enterprises into companies [*Kierunki prywatyzacji w 1994 roku* (Directions of privatization in 1994)].

The Act on Sustainable Development, adopted by the Polish Sejm on January 19, 1995, had a fundamental impact on the shape of environment protection policy. In this act, the parliament advised the government to improve interdisciplinary and multilateral actions in economic and foreign policies to ensure compliance with sustainable development principles. The Polish Sejm pointed out that the implementation of the principle of sustainable development is the responsibility of not only the Ministry of Environment, but also of other central bodies of the state administration [The resolution of the Polish Sejm of January 19, 1995]. As it was emphasized in the resolution of the Polish Sejm of January 19, 1995, for modern civilization sustainable development is a must and one of its responsibilities.

#### OWNERSHIP TRANSFORMATION AND THE SHAPE OF THE TRUCK TRANSPORT SERVICES MARKET

In the first years of transformation (between 1989 and 1995), the transport services market was shaped according to the rule of free access. This type of economic activity was regulated by the Act of December 23, 1988 on Business Activity. In the discussed period, the act made it possible to establish companies (usually small) involved in truck transport of goods [Kamosiński S. 2014: 315–336]. Their characteristic was that they were very flexible and instantly adapted to the needs of clients. According to the laws of the time, entrepreneurs transporting goods by trucks did not need to present evidence of adequate professional training, financial guarantees, or good reputation [Bronk H. 1996: 24]. Liberalization of the transport services market and equal access to provision of these services allowed for quick de-monopolization of the truck transport market. This was very beneficial for customers, who could freely choose the company matching their needs. It must be noted, though, that maintaining free access to the market for businessmen led to the emergence of a whole range of abnormalities. Most carriers had a fleet of old and dilapidated vehicles, with small capacities and poor technical parameters. Furthermore, it was observed that the carriers did not have practical knowledge on transporting goods, which generally lowered the quality of their services and led to the emergence of a number of disputes between service providers and customers in this segment of the market [Letkiewicz A. 2003: 47].

The situation was different in the international transport services market. Carriers operating in this segment did not have the complete free-

dom that existed in the domestic market. In international transport, every country was subjected to the so-called entry quotas, determined during bilateral negotiations between particular countries. Bilateral agreements were one of the main reasons why the Polish parliament undertook legislative works to regulate the market of international transport services. The result was the Act of July 26, 1991 on the conditions of international road transport [Act of July 26, 1991]. As of January 1, 1992, this act introduced new requirements for entrepreneurs in the international transport services sector. These provisions were considered a remedy to the situation from the years 1989–1991 [Bentkowska-Senator A., Kordel Z. 2007: 23]. The act stipulated that an entrepreneur who wants to perform international transport must have a license issued by the Ministry of Transport in an administrative decision. The license was issued for a specific vehicle, not for the entire company. It was granted to an entrepreneur and covered transport of goods to one or more countries, with one or more vehicles, for all or some types of operations. The number of licenses or promissory licenses for a given calendar year was determined by the Minister of Transport on the basis of consultation with Polish nationwide organizations of international road carriers. Licenses were issued for a charge, and the income was to be transferred to a separate account of the General Directorate of Public Roads, to be used for construction and maintenance of national roads. Still, no licenses were required for carriers operating domestically [Bentkowska-Senator A., Kordel Z. 2007: 23]. As previously, this market was only regulated by the Act of December 1988 on Business Activity.

The regulation of international truck transport services discussed above was the direct reason why, even though in the years 1988–1991 the number of trucks for international transport of goods increased more than 17-fold, from 2000 to 35 000, only 27 000 licenses for rendering services in international transport of goods were issued in the years 1992–1994. Further verification of licenses allowed for decreasing their number to 17 500 [Letkiewicz A. 2003: 49–50]. The introduced regulations directly resulted in increased quality of international transport services, and eliminated carriers using vehicles whose age and technical condition left much to be desired.

A statement of Ewald Raben, head of the Raben Group in Poland, says a lot about the progress that resulted from the post-1989 liberalization of international road transport services in Poland. He noticed that when he registered a logistics company in Poznań in the early 1990s in Poznań:

Nobody knew what it meant. Apart from the army. In Poland, I heard the word “logistics” for the first time when a garrison in Poznań organized a logistics conference. I think this was in 1992. So, instead of “logistics” I said “transport”, and everything was clear [Kostrzewski L., Międzyński P. 2012: 276].

Free access to the truck transport services sector was the reason for the phenomenon referred to as “substitution” between rail and car transport, observed in the internal market. This concept essentially meant that four times more goods were transported by cars than by trains [Mindur M. 207: 69]. Maciej Mindur had a negative view of this phenomenon, blaming the authorities for failing to “create sustainable transport development” [Mindur M. 207: 69]. He pointed out that “lack of state’s intervention led to a situation where transport of goods and people is fully dominated by car transport” [Mindur M. 207: 68]. This change was particularly difficult for the rail transport sector, under-invested by the state.

In Poland, a significant increase in the number of companies rendering truck transport services after 1989 was caused by a liberation of entrepreneurial spirit in many people. Its sources should also be sought in a tradition preserved from the times of the Polish Peoples’ Republic. In that period, the sector of truck transport of goods was not fully controlled by the state. Apart from state enterprises, small private truck transport companies also operated, officially only satisfying their own needs. Hence, trucks and delivery vans were obligatorily labeled “for own use” at the time. After 1989, as a result of the explosion of private entrepreneurship in the transport of goods, a phenomenon described as “reverse proportions in ownership relations” was observed [Letkiewicz A. 2003: 51]. In the late 1994, 92.1% of trucks were in private hands [Letkiewicz A. 2003: 51].

## OWNERSHIP TRANSFORMATION AND THE MARKET OF VOLUNTARY INSURANCE AGAINST DAMAGE CAUSED BY NATURAL DISASTERS

The modernization of Poland, adopted as the main objective of political and economic transformation, in fact covered every aspect of human and social activity and all institutions. The authorities struggled with a problem that was difficult to define, but could in fact be summarized in a simple question: which aspects of economic life, reserved for the state until 1989, should still be perceived as subjected to the will of state insti-

tutions after 1989, and which should be liberated from state control and treated as dependent only upon the personal decisions of an individual (entrepreneur)? One important aspect requiring an answer to this question was the problem of insuring entrepreneurs against damage caused by natural disasters [Kamosiński S. 2016: 349–363].

The Act of July 28, 1990 on Insurance [The Act of July 28, 1990, Kowalewski E. 2002: 13–14] completely changed the system of insurance applied until then. This act defined the relationship of insurance as a civil law contract. Division of insurance into statutory and contractual, known from the period of the Polish People's Republic, was abolished. It was replaced with a division into mandatory contractual insurance and voluntary contractual insurance [Kowalewski E. 2002: 21]. A reservation was also made that mandatory insurance, which directly affects citizens' rights, could only be introduced with an act, and its introduction, according to professor Andrzej Wąsiewicz, should be done carefully, and limited to cases where it is socially and economically justified [Wąsiewicz A. 1994: 21]. The following types of insurance were listed as mandatory by the legislator: motor vehicle liability insurance against damage caused as a result of using these vehicles, insurance of buildings comprising an agricultural holding against fire and other unforeseeable circumstances (flood, hurricane, hailstorm), civil liability insurance of farmers for the operation of an agricultural holding [Wąsiewicz A. 1997: 21].

The changes introduced in insurance law were revolutionary at the time. Insurance against disasters, which had been mandatory in the Polish People's Republic until 1989, became voluntary. This included insurance of rural and urban buildings against fire and insurance against damage to crops caused by natural disasters (including hailstorm, hurricane, and flood damage). Livestock kept in agricultural holdings was also included in some form of mandatory insurance in the Polish Peoples' Republic. Mandatory insurance in the Polish Peoples' Republic included all citizens, whether they wanted it or not – it was considered “automatically applicable”, i.e. a form of statutory insurance. As stated by Marzena Bac, premiums for this insurance resembled tax liabilities, as they were obligatorily collected with taxes [Bac M. 2009: 189–199]. For farmers, the insurance premium was included in the agricultural tax. This fulfilled the “collective precaution” principle, which transferred the decisions concerning compensation for damage from individual holding level to the state level [Klimkowski C. 2002: 22].

Discontinuation of mandatory insurance of production assets against damage caused by natural disasters in 1990, and replacing it with voluntary insurance, triggered an astonishing social reaction. Many entrepreneurs decided not to have this type of insurance. This problem concerned not only entrepreneurs, but also farmers and natural persons. In March 1997, it was revealed that “almost 1 in 7 Polish enterprises does not have any insurance” [Holly R. 1997: 52].

Statistical data collected by Demoskop in the spring of 1997 demonstrated that 15% of all enterprises did not have any type of insurance. More precisely, it was noted that “13% of cooperatives, 10% of state-owned companies, and 22% of privately-owned companies were not insured” [Holly R. 1997: 52–53]. It was also noted that entrepreneurs who decided to have insurance mainly insured the company’s assets against damage caused by natural disasters, including fire, flood, or hurricane (74% of insurance policies), and against theft and failure of machines and equipment (61%). The situation was similar in agriculture. According to the estimates, in 1996, policies covering voluntary insurance of crops against damage caused by natural disasters were only taken out by 9,400 agricultural holdings (approx. 0.5% of all holdings). Slightly more farmers decided to take out voluntary livestock insurance (26,200 holdings, i.e. 1.26%). Voluntary insurance of movable property in agricultural holdings was taken out by approx. 9% of all holdings in Poland, i.e. approx. 187,700 [Fok K. 1997: 10].

Having analyzed the above data, the main question is why Polish entrepreneurs gave up taking out insurance policies that became voluntary after 1990, including policies protecting their assets against damage caused by natural disasters, on such a massive scale. It has been pointed out that the departure from voluntary insurance after 1990 was “unintentional and caused by the speed of the reform and lack of sufficient information” [Klimkowski C. 2002: 23]. This argument is probably true. Entrepreneurs in the agricultural and non-agricultural sector calculated their production costs and aimed at lowering them, while at the same time strived to increase their competitive edge in the free market. Therefore, they decided not to take out voluntary insurance policies against damage caused by natural disasters. Such behavior of entrepreneurs must be treated as a form of a gamble. Entrepreneurs and farmers gambled with their own assets against the forces of nature. This example shows that Polish entrepreneurs in the 1990s lacked modern knowledge on managing business and all its aspects. They were most certainly entrepreneurial individuals,

who nonetheless underestimated the importance of risk management in an organization. Notably, the conscious decision of many entrepreneurs not to have insurance confirmed the low level of trust in formal solutions in Poland.

## CONCLUSIONS

The Act on Business Activity of December 1988, which was friendly to entrepreneurs and was not amended in subsequent years, enabled a rapid development of private enterprises. Therefore, it had a positive impact on the labor market, troubled by growing unemployment. Natural persons had no difficulty in starting a business. This is the reason why many businesses were established for a short period of time, and the main aim of running business was to make a quick profit, collect capital, and prepare to run a bigger business that requires large capital. Those were probably the reasons behind the decisions made by entrepreneurs at the time, many of which are incomprehensible from the point of view of rational management.

As pointed out in this article, at the time, politicians in power made decisions regarding the economy based on feedback from the evolving free market. The number of entrepreneurs who chose not to take out voluntary insurance of production assets against damage caused by natural disasters was certainly surprising. Many entrepreneurs were still struggling, and saved every penny to reinvest it and increase the scale of production. Some profit made from business was lost as a result of inflation. Therefore, voluntary insurance was not a top priority for businessmen. The condition of Polish business in the initial years of transformation is clearly illustrated by the quick development of transport services in the truck transport sector. Liberation of the transport services sector and free access to the profession of a carrier meant that Polish roads were full of old, faulty, overexploited and dilapidated trucks. This might be explained by the fact that many businessmen did not start their business thinking it would be a long-term venture. They typically only chose this sector to make a quick profit. The problem of natural environment protection, disregarded in the act of July 13, 1990, was included in the process of ownership transformation as a result of a broad interpretation of the applicable provisions by the Council of Ministers. It must be emphasized, though, that a lack of clear regulations in this respect in the years 1990–1995 en-

couraged many businessmen to decide against installing equipment that could reduce adverse environmental impact at the early stages of their business operation. Ecological awareness was rising gradually over time. Polish entrepreneurs were still learning how to do business in a free market economy, and often obtained capital for further investment at the risk of losing assets as a result of natural disasters, rendering services using out-of-order equipment, or excessive impact on the natural environment. By increasing the scale of production and range of services, they made a decision to compete with foreign companies, and tried to be present in the European markets. Over time – with the increase of free market awareness and education – being “green” and complying with environment protection standards became a component of a company’s reputation and brand. Entrepreneurs’ awareness regarding risk management in the company also increased. Corporate social responsibility became an inseparable element of nearly every business activity.

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