

litigation on charges of committing political crimes. It deals with the origin and development of the Ukrainian Union of Lawyers, the contribution to the protection of the Ukrainians in Poland, the development of Ukrainian legal thought and terminology, and it discusses the role of the first jurist magazine in Ukrainian language under the title «Life and Law».

Key words: Bar, Eastern Galicia, Poland, professional government, crime, political process, prosecution of Ukrainians.

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Polish Banking System after the World War II (Part II)

The banking model in Poland and regulations on this matter have been subject to profound changes after World War II and aimed at «ideologisation» of these areas. In fact, all the positive trends initiated before 1939 have been reversed to the negative side. Process of renaming and nationalizing of banks started, while keeping their total subordination to the state and party apparatus. Partly new institutions such as the Narodowy Bank Polski were created or pre-war institution as the Bank Gospodarstwa Krajowego was reactivated. The Narodowy Bank Polski was exempt from all state and local taxes. All the evidence issued by the bank was free from stamp duties, banking books and other writings, included in the accounting and extracts thereof certified by the bank, had probative value of public documents. On the other hand, what is especially important documents stating the obligations of the bank statement, that based on this claim is enforceable and legally mature for execution, had the power to writs of execution. Executors' clause to these titles was given by the appropriate town court according to the provisions of the Code of Civil Procedure.

Key words: Polish banking system; Polish banks; banking law.

General description. After World War II inhibited the development of the banking system, which contributed to stabilizing the period of the Second Republic the banking law. After World War II followed major changes in the Polish banking system for nationalized banks and most banks were given other names.

Simultaneously, the new institutions as Cash Department or The Polish National Bank were being created, which additionally referred to tradition of a pre-war Polish Bank. Also broadcast the banks more and more privileges, especially enforcement, which, in retrospect, be regarded as unjustified as in all judicial proceeding banks always had an edge over the others participants of business transactions. It was not until 25 years after the introduction of democracy in Poland and the social market economy in the judgement of Constitutional Tribunal on 14 April 2015 (signatures of acts P 45/12) the rules of banking executive has been deemed legally incorrect with polish constitute.

Period 1958-1968. In the early years of the period in question important for the banking system have two laws. The first one – The Law of 2 December 1958 on the National Polish Bank, the second one is Act of 13 April 1960 banking law novelised by the act of 25 February 1964 on the amendment of the Law on banking.

The Polish National Bank same as entire banking apparatus was subject to Minister of Finance. The new law was a specific attempt to connect the bank's independence with the central role of Minister of Finance in the range of monetary and credit policy. It allowed the organizational independence of The Polish National Bank and the freedom of his actions in the selection of ways and methods of performing tasks. The affects of Minister of Finance on the activities of The Polish National Bank is manifested in two ways: through guidelines for the political activities of banks and through determining the details of the individual fields of its activities. The first form of rights was limited to setting guidelines for monetary and credit policy and reconciliation of cash and credit plans. Whereas the detailed powers of the Minister of Finance included: establishing at the request of the President of The Polish National Bank patterns, lengths and the nominal value of the currency, issuing orders on their withdrawal; consider and submit to the Cabinet for approval of

plans of credit and cash, supervision of foreign exchange; examination of the balance sheet and annual report.

Pursuant to the Law on The Polish National Bank authorities were president of the bank, the bank's board and management. Art.6 of the Act provided that the bank's president directs its activities in compliance with the guidelines of the Ministry of Finance and on the basis of resolutions of the Management Board and represents the Bank externally. The bank's management adopts resolutions necessary to perform the task and it consists of: president-as a chairman, vice-presidents and other members of the board are appointed and dismissed by the Minister of Finance at the request of the President of the bank. President was appointed and dismissed by the Council of Ministers at the request of the Prime Minister. To make declarations on the rights and obligations of the bank were authorized: the president of the bank- alone or two persons acting jointly from the other board members or representatives appointed by the President or by a person designated by him to an authorized operating within the limits of their powers of attorney. According to Art. 8 an advisory body to the board of the bank's board of the bank, established to ensure closer links between the work of the bank with the needs of the national economy. Its tasks included consideration of cases related to the core business of the bank, taking into account the interests of individual sectors of the national economy. The Board of the bank consisted of: bank president as chairman, the members appointed from economic activists, eminent experts in various fields of economy and science workers. Members of the bank are being appointed and dismissed by the Prime Minister at the request of the Minister of Finance agreed with the president of the bank.

The Polish National Bank entitled, on the basis of art. 10 exclusive right to issue money. The currency notes and coins were claiming a gold or pennies, which were issued by the bank as legal tender on the territory of the Polish People's Republic. All monetary liabilities could be repaid without limitation as to the amount of each type of currency issued by the bank.

It is worth noting that the particular growth advantages of banking at the level of the Act of 2 December 1958 on the NBP, which sets the following specific powers of the bank: the right bank pledge, the right to deduct bank equipment bank documents in the power of public documents, the right to issue bank enforcement titles, the right to choose the mode of execution, the privilege of the place of jurisdiction, the protection of the bank before the execution and release the bank from taxes and fees.

Law on banking of 13 of April 1960 came into force on 25 June this year and had a great importance for the development of the Polish banking and what's interesting on the basis of art. 49 avoided after 32 years of the Regulation of 17 March 1928 years of banking law and three decrees of 25 October 1948 years regulating the banking system. This Act recognize the scope of activities of banks in a framework specifying the art. 1 the following types of banking operations: collection of cash units of the national economy and monetary savings of the population; providing loans for economic needs; financing of the investment; conducting monetary settlements units of the national economy; financial services for foreign trade.

For performing the above, the bank was entitled: state banks, in the form of joint-stock companies, cooperatives, savings- loan. As indicated above, the Minister of Finance exercised oversight over the activities of banks and the performance by cooperatives and savings- bank lending activities. Entities authorized to carry out banking activities were required to observe confidentiality regarding the turnover and the status of their accounts, customers, and information in this area could provide only account holders, their units and the superior authorities entitled to under the existing rules.

Personal scope of the Act was specified only in the transitional provisions and final. In art. 44 listed the following banks, created on the basis of the decree of 25 October 1948 year banking reform: Investment Bank, Agricultural Bank and Universal Savings Bank as a state-owned banks. It is worth noting none of them law does not devote special attention. In contrast, the only bank, which is discussed in the Act was the Economic National Bank.

They were discussed issues related to authorities, credit, settlement and control, investigation of commitments, legal personality, or exemption from fees and taxes. Generally it can be said that the law was characterized by great framework its provisions and regular repatriation to specific legislation, which were to be issued by the Council of Ministers or the Minister of Finance. It can be said that this bill had the facade as it did not regulate the scope of banks' activities, assuming that this will be done at the level of implementing rules.

New quality in this act was only a shift of powers from the Parliament on the level of government and the strengthening of the same executive authority in the field of banking. With regard to state banks functions of government relied on the right to create them, determining the powers and their disposal. In relation to banks in the form of joint-stock companies finance minister acknowledged the right to approve and dismiss all members of the board, and even in some cases the appointment of board appointments. With

regard to the cooperative banking institutions supervision of the minister of finance has been greatly expanded in this regard.

During this period, the Agricultural Bank pursued a policy of state funding in the field of agriculture, forestry and timber industry investment economy. Also made loans to rural housing. Investment Bank has remained a special bank, although the scope of its activities has changed since he limited the possibility of financing investments of the socialized economy, and put the emphasis on lending by him housing. On the basis of the resolution of the Council of Ministers of 3 January 1961 on the establishment of the basic tasks of the Universal Bank Savings, its tasks has not changed. On the basis of the Minister of Finance of 24 September 1963 on the transfer of the National Bank Polish to The Commercial Bank in Warsaw agencies and assets and liabilities related to settlements of payment abroad - Commercial Bank acquired all settlements of foreign trade state.

Outlined the structure of banking in this period had many flaws that were visible especially in the field of investment financing. Investments cooperative industrial and commercial were financed by the Polish National Bank, the investment budget entities in the field of construction by the Investment Bank, and in terms of purchases by the Polish National Bank. It should be also aware that flawed structure that gave birth to the problem of determining the competence of the banks was not the only drawback. Urgent regulation required the issue of which bank will finance the entire investment industry, construction and trade in goods. Ultimately, however, these tasks entrusted to the Polish National Bank.

Period 1968-1980. Circled these two dates, the period had two distinctive moments. First, it came down to try to integrate the tottering in previous years, the system of financing investment in the national economy. Second, boiled down to the enactment of the Law of banking of 12 June 1975, which was amended act on the amendment of the Banking Act on 3 July 1981. A peculiar novelty of the Banking Act of 1975 was that he incorporated it – largely – the provisions of the repealed Article 64 item 1 p.1 of the Polish National Bank on 2 December 1958.

To integrate the sources of financing, it was the Council of Ministers of 23 October 1969 on the rules and procedure of liquidation of the Invest Bank under which combined with effect from 1 January 1970, the activities of the NBP and the Investment Bank.

As a result of this operation, The Commercial Bank took over on 1 December 1969 at the agenda and the assets and liabilities related to financing and lending to investment activities of foreign trade enterprises and all subordinate to the ministry of foreign trade. Universal Savings Bank took over from 1 December 1969 at the Agenda, and the assets and liabilities associated with: the granting of loans to non-agricultural population construction and renovation of residential buildings and complement the contributions of housing or construction of housing cooperatives; Providing on behalf of the Minister of Finance loans to individuals and units of the socialized economy.

From 1 January 1970 The Polish National Bank on the basis of § 1 of the Minister of Finance dated 4 December 1969 took over from the Agricultural Bank of agencies and assets and liabilities related to: Financing and crediting central investment and investment unions and investment in housing implemented by state-owned enterprises and the reunification of the department assigned to the national economy industry and subordinate to the minister of forestry and wood industry; Financing and lending activities of operational and investment projects office paper industry and wood; Financing investment activities of the Institute of Wood Technology and the Institute of Cellulose and Paper.

The Polish National Bank, in addition to the function of the issue, directly financed and credited the entire national economy, except for agriculture, agri-food, foreign trade and individual housing construction. The Polish National Bank conducted and controlled cash settlement units of the national economy, performing cashier settlement service of the state budget, collect the foreign exchange operations and will undertake them and to accept the deposit of foreign exchange and documents

As previously advertised important moment was the adoption of the new Banking Act on 12 June 1975. This date coincided with the change in the administrative division of the state. The banking system of the country, the same as the mechanism of functioning of the economy, they wanted to adapt to the needs of policy State. Generally sought to further reduce the number of central banking institutions. Connected to the Polish National Bank and the Universal Building Society Savings Bank and a new Food Economy, which was created from the combination of the camera and the assets liquidated Agricultural Bank and the Central Association of Cooperative Savings-Loan.

The Law Banking Law of 1975 already in the art. 1 determined the close relationship between the sideburns and state authorities or even the established ratio of far-reaching subordination stating that the main task of the bank is to collect money and power of the national economy in the financial resources necessary for its proper functioning and development, in line with the objectives laid down in the national

plans for socio-economic. Banks were obliged under this Act in the performance of their duties to cooperate with the relevant state administration bodies and units of the socialized economy in the direction of: increasing the effectiveness of the management units of the socialized economy and balance of investment and sourcing; providing monetary balance – goods and the balance of payments and strengthening financial discipline and economic policy. The Polish National Bank on the basis of art. 5 of the Banking Act of 1975 served as a coordinating role in relation to other banks in the field of development of the system and the credit plan, organization and planning of cash transactions and savings, clearing organizations and banking operations, as well as foreign exchange operations and foreign exchange.

Thus formed the banking system was very inefficient, because the monopoly of the banks in their relevant *ex catedra* sectors of the economy did not favour their activity. Of course, competition in the prevailing conditions of the planned economy and the communist system had to be completely forgotten.

The banking system during 1980-1989. In parallel with the discussion on the need for fundamental reforms of the socio-economic and political, after the events of August 1980, it was initiated debate on changes in the banking system. It was on the canvas a broad discussion on the objectives of the reform of the national economy: changes of banking law at first – invoked already mentioned – act on the amendment of the Banking Act of 3 July 1981, and the Act of the Banking Law of 26 February 1982 and the Law of the same date on the statute of the Polish National Bank.

In the preamble to the amendment of the banking law in 1981 it stated that in order to enhance the role of banks in the system of planning and management of the national economy and to create conditions for the comprehensive reform of the banking system adopts the provisions of the Act. From the text it can be inferred that the legislature itself came to the conclusion that formed far model socialist monobank resulting from the implementation of the doctrinal concept of adjusting the structure of banking to the principles of command economy- the distribution is in the long run unsustainable and that changes in this area must be serious and therefore occur in two stages: first boiled down to the novel in 1981 and the second to the enactment of the new banking law in 1982. Changes made in the first stage excluded the banks from the finance ministry and gave them some autonomy, strengthen the position of President of the NBP which henceforth appoint and dismiss the Parliament at the request of the Prime Minister. President of the NBP was also obliged to participate in the meetings of the Council of Ministers.

The new banking law passed on 26 February 1982 years to take into account the changes resulting from the implementation of the first stage of the reform of the banking and economic reform more broadly. In art. 2 of the Act states that banks are autonomous bodies with legal personality and operate under the law and the statutes. The main task was to collect their cash, credit activities and organizing settlements.

To fulfill its tasks the banks perform banking operations such as: Issuing of currency and bank securities; Maintaining bank accounts; Conducting monetary settlements; Lending and borrowing and lending; Accepting and placing deposits in domestic and foreign banks; Sureties and guarantees; Storing objects and securities and leasing of safe parliamentary; Financial and settlement of foreign trade, including making settlements in all forms accepted in international banking relations; Granting foreign exchange permits.

It is worth noting related to the method of regulating NBP after 1980. Well, in the Banking Act of 1982 was dedicated to him a whole chapter called «Polish National Bank», and the act of statutory rank was granted the statute, which defined the detailed scope of activities of the bank, its authorities, organization, procedure of submitting statements regarding rights and obligations property, the size of own funds, the creation and use of special funds, principles of financial management and the principles of settlements with the budget. It was the practice of regulating this matter previously unknown in Polish law. In accordance with art. 44 The Polish National Bank was the central bank of the state. Authority issue the state and the central institution of credit, settlement and foreign exchange, which organizes and coordinates the activities of monetary-credit and controls its implementation. In the following, however, he ran over the commercial activities of its lending units of the socialized economy and not socialized and individuals, as well as leading to these units and individuals bank accounts. Competence in the field of exchange rate policy were divided between the government and the NBP. Therefore, the basic rules for determining the zloty determined the council of ministers and the basic zloty determined the president of the Polish National Bank, in consultation with the Ministry of Finance and the Ministry of Foreign Trade. The current exchange rate of foreign currencies determined the zloty and announced the president of the Polish National Bank. The President of the Polish National Bank appoint and dismiss the Parliament at the request of the Prime Minister and the Vice-Presidents of the Polish National Bank appoint and dismiss the Prime Minister, at the request of the President of the Polish National Bank. The remaining members of the board of National Bank of Poland – President of the Polish National Bank, which was due to take part in the meetings of the government. As you

can see the whole mechanism of selecting authorities NBP remained the same as under the Act to amend the Banking Act of 3 July 1981 year.

The President of the Polish National Bank was obliged to control the complementation of plans for the credit and monetary policy; to the extent permitted by law determined the foreign exchange policy and exercise control over its implementation; establish uniform accounting principles and bank reporting; determining cash management principles and organizing the supervision of their use in cash-clearing units of the socialized economy; supervise and coordinate the activities of other banks in terms of the tasks arising from the provisions on the universal duty to defend the Polish People's Republic and the organization of protection of property.

Adopted regulations has had important practical reference, since reinforced the independence of the central bank. Henceforth NBP was independent from the Ministry of Finance, as well as – to some extent – from the government. The central bank acquired primarily the right to self- submit to the monetary policy assumptions - credit and currency issue .

It can be assumed that the model of the banking system formed in 1982 take into account the changes resulting from the implementation of the first stage of economic reform, but after some time revealed some imperfections. Future somehow proved the veracity of the criticism about the fact that the banking law is of a blanket, and subject to its regulation are not banking but only the organization of the banking system.

Despite the many shortcomings of the banking law of 1982 was the part of the development of the Polish banking sector. Its role is particularly emphasized in the introduction of elements to banking operations, although independent banks in deciding on the scope of its activities was still limited. The activities of banks lacked fulfilment of the basic assumptions of economic reform: the principle of self-financing and competitiveness. Relations between banks and traders were still compulsory in nature.

Conclusions. The Polish National Bank having such privileged position was – in connection to the others state banks – efficient tool in the hand of governing communist party.

The fact that on the canvas of political reforms after 1989' the balance was not restored if it comes down to legal position of banks – creditors and their clients – debtors should be negatively assessed. While in communist times the privileged position of banks as institutions nationalized by the state , fully subordinated to him and forming part of the state apparatus was explainable from the point of view professed then the philosophy of law and the principles of the ruling party. This is the preservation of the privileges of the bank in a democratic state after 1989, where one of the fundamental principles of equality before the law was far from unreasonable. The explanation maintaining a similar extent as in the PRL privileges bank in Poland after 1989 – unprecedented in extent in the European Union – was the focus of a strong banking lobby on the environment affecting the shape of the legislation in Poland.

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Сура Р. Польська банківська система після Другої світової війни (частина II). У повоєнний час польський Національний банк, який був ефективним інструментом в руках правлячої комуністичної партії, займав привілейоване становище порівняно із іншими державними банками. У комуністичні часи привілейоване становище банків, установ, націоналізованих державою і повністю їй підпорядкованих як частини державного апарату, було зрозуміле з точки зору панівної тоді філософії права і принципів правлячої партії. На тлі політичних реформ після 1989 року баланс у банківській системі не був відновлений, що оцінюється нами негативно. Таке збереження привілеїв Польського національного банку в демократичній державі після 1989 року було цілком незрозумілим,

адже принцип рівності перед законом був проголошений як один з основоположних. Підтримка з боку держави Польського національного банку у такій мірі після 1989 року є безпрецедентним явищем у Європейському Союзі. Таке неконкурентне становище пояснюється впливом сильного банківського лоббі на законодавчу діяльність у Польщі.

Ключові слова: банківська система; банки; банківське право; Польща.

Сура Р. Польская банковская система после Второй мировой войны (часть II). В послевоенное время польский Национальный банк, который был эффективным инструментом в руках правящей коммунистической партии, занимал привилегированное положение по сравнению с другими государственными банками. В коммунистические времена привилегированное положение банков, учреждений, национализированных государством и полностью ей подчиненных как части государственного аппарата, было понятно с точки зрения господствующей тогда философии права и принципов правящей партии. На фоне политических реформ после 1989 года баланс в банковской системе не был восстановлен, что оценивается нами негативно. Такое сохранение привилегий Польского национального банка в демократическом государстве после 1989 года было вполне непонятным, ведь принцип равенства перед законом был провозглашен как один из основополагающих. Поддержка со стороны государства Польского национального банка в такой степени после 1989 года является беспрецедентным явлением в Европейском Союзе. Такое неконкурентное положение объясняется влиянием сильного банковского лобби на законодательную деятельность в Польше

Ключевые слова: банковская система; банки; банковское право; Польша.