

Robert Staniszewski

Structure and Directions of Change in Economic Policy

KEY WORDS:

*system transformation, political transformation, economic transformation,
economic policy, ownership transformations, privatization,
competitiveness, innovativeness, capital flow*

STUDIA I ANALIZY

Introduction

One of the fundamental elements of the structural economic policy aimed at increased economic competitiveness of the country, i.e. the highest possible development and a high rate of long-term economic growth, is the policy of ownership transformations, without which the transformation of the political system in Poland after 1989 would not have been possible. The most important process of the policy of ownership transformations is privatization of the public sector, especially state-owned enterprises.

Two meanings of privatization can be found in the literature of the subject. In the broad (structural) meaning, it includes the activities that are aimed at changing the ownership structure in a given country for the benefit of private ownership with simultaneously reduced involvement of the state in the economy, which leads to a greater role of the market and competition. Privatization in a narrow sense, which is called the proper one, means transfer of state-owned enterprises to the private sector and the techniques and procedures involved in this kind of ownership transformations.

In the conditions of the Polish economic transformation, privatization in a broad (structural) sense comes down to four basic processes¹: 1) bottom-up (founding) privatization, which means establishing new private economic entities; 2) privatization (payable or gratuitous) of non-economic public (state-owned and communal) property, including land privatization, transfer of buildings, constructions to private hands; 3) direct privatization, which means that the state owner sells (or gives away) small and medium-sized enterprises to concrete purchasers, usually to physical persons; 4) capital privatization, referring to selling, also in a public offer, or giving away the shares of state-owned joint-stock companies, both production companies as well as public utility companies and natural monopolists.

Privatization in the narrow sense (proper one) comes down to two latter processes, namely direct privatization and capital privatization.

Looking at the goals of ownership transformations in the context of two contemporary economic doctrines, we can formulate them in the following manner. According to neoclassical economy, the basic goal is increasing the efficiency of the functioning of transformed enterprises, followed by a better use of the existing resources. In the understanding of institutional economy, transforming the enterprises is a necessary condition for the process of desirable institutional changes characteristic of developed capitalist economy. In both cases, ownership transformations free the government from the supervising functions towards state-owned enterprises, in addition to causing general economic consequences such as increased competitiveness of the economy and the development of the capital market.

The basic effect of this process is changing the structure of the economy, which above all comes down to its denationalization, which means allocation of the property of state-owned enterprises in private economic entities.

It is worth mentioning here that the socialized sector of the Polish economy at the end of the 1980's produced more than 80.0% of the national income, including about 70.0% produced by the state sector, where approximately 70.0% of professionally active people were employed. The economy of the so-called real socialism at the end of the 1980's was characterized by strong concentration of production. Over two fifths of industrial production (44.0%) was produced by 7.1% of the major

¹ M. Bałtowski, *Przekształcenia własnościowe przedsiębiorstw państwowych w Polsce*, Warszawa 2002.

production enterprises, which employed about 45.0% of all workers. The average employment rate in this type of enterprises exceeded 2,000 people. The analysis of the data from that period shows that more than 40.0% of total production was the “production superfluous on the market”². Thus, the Polish economy faced a historical challenge connected with the change of its ownership structure, increased economic effectiveness and the development of new markets such as the capital market.

While analyzing the structure and directions of changes in the economic policy in Poland after 1989, special attention should be paid to the fact that privatization changed the ownership structure of the economy in addition to influencing a number of phenomena and macro-economic processes such as the rate of economic growth, the dynamics of investment outlays, the balance of trade on the current account of Poland's balance of payments, or the level of unemployment. These phenomena and processes affect the material situation of Polish households. Thus, the economic aspect of the system transformation is closely connected with the social one. On the one hand, looking at the directions of changes in the economic policy one can speak about the advantages of this process, which are reflected, for example, in increased effectiveness of enterprises or a better quality of goods and services. On the other hand, this process is followed by a lot of social consequences, the most important ones including such occurrence as changes of the social structure and the employment structure, changes in the division of incomes, or, finally, socially the most painful phenomenon, which is unemployment. Adopting the above assumption makes it possible to conclude most generally that the system transformation is not only of economic-political character but above all the process of changes in the social consciousness, the most important determinant of which is that a considerable part of the society interiorizes a different system of values characteristic of the individualist-competitive (neo-liberal) concept.

Evolution of the concept concerning ownership transformations of the Polish economy can be divided into a few stages:

- I. The beginnings of the concept of privatization of the Polish economy.
- II. Limiting the role of the state in the economy, which is the first step towards privatization (adopting the laws on state-owned enterprises and the self-government of the staff of a state enterprise).

² A. Lipowski (ed.), *Struktura gospodarki transformującej się. Polska 1990–1998 i projekcja do roku 2010*, Warszawa 2000.

- III. Nomenclature privatization.
- IV. New economic order (adopting the law on economic activity).
- V. Privatization during the "Round Table Talks".
- VI. Preparation of the first plan of privatization (the plan of so-called Beksiak's group).
- VII. Adoption of the law on privatization of state enterprises.
- VIII. Adoption of the act on the National Investment Funds.
- IX. Adoption of the act on commercialization and privatization of state enterprises.

Beginnings of privatization concepts

The beginnings of privatization concepts of the Polish economy go back to the 1970's. The first to notice a need to reform the economic system were individual opposition politicians – S. Kisielewski, J. Korwin-Mikke and M. Dzielski. Thinking along these terms in the period under discussion was a marginal phenomenon both within the society and in the intellectual elites. It should be mentioned that the dominating doctrine in Poland in that period was the so-called real socialism, which assumed, *inter alia*, the leading role of state ownership in the economy, above all in the sphere of production, and planning on the social scale, which was a logical consequence of nationalization of the economy.

Limiting the role of the state in the economy – the first step towards privatization

The views on limiting the state's role in the Polish economy did not begin to take a concrete form of legal solutions until the beginning of the 1980's, in the period of the so-called "first Solidarity". The economic elites of the "Solidarity" trade union did not formulate any privatization postulates but they set requirements aimed at limiting the scope of centralist management of the economy and leading to partial socialization of ownership and extended participation of employees in managing the enterprises. Those views were reflected in two acts from 25 September 1981 on state enterprises and on self-government body of the staff of state enterprises³. Those acts replaced a decree from

³ Journal of Laws No. 24, item 122 and item 123.

26 October 1950 on state enterprises and the law from 20 December 1958 on employee self-management. In practice, as a result of passing the laws on state enterprises and self-government body of the staff of state enterprises, the directions of evolution of Polish state enterprises were established for 10 years. The law on state enterprises legalized independent, self-governing and self-financing enterprises which had a possibility of managing a separate property assigned to them by the state, with a considerable role of the workers' representation and the staff self-government body. Practically, the principle of independence was identified as a partial leave away from centralized economy. The principle of self-government was understood as the workers' participation in managing the enterprise, while the principle of self-financing introduced the economic calculation and resulted in separating the enterprise from the state's budget. The other crucial legal regulations made it possible to liquidate enterprises for economic reasons or in a situation when "the social demand for the kind of activity for which the enterprise was called ceased or considerably decreased"⁴. The act on state enterprises and the auxiliary act on self-government body of the staff of state enterprises were the first step before later privatization of enterprises. As a result of an increasingly worse economic situation, i.e. the macroeconomic destabilization and the constantly growing inflation, the second half of the 1980's can be characterized as the final break-up of the economy of real socialism. In 1987 the "governmental" side presented "Theses on the second stage of economic reform". That was the first official document in the history of post-war Poland which dealt with equal plurality of economic ownership forms. Its assumptions said about the possibility of transforming state enterprises into the partnerships of the State Treasury and introduced the rule of contribution of capital, which meant replacing the founding bodies of state enterprises by commercial banks. The response of the "Solidarity" movement to the second stage of the reform was the economic program, which assumed equation of the sectors, enfranchisement of the staffs of state enterprises, free access to the market and increased participation of the private sector in the economy.

⁴ Journal of Laws No. 31, item 170.

Nomenclature privatization

Parallel to the changes in the opinion-forming sphere, changes in the sphere of economy took place. In February 1988 a possibility arose to create private companies on the basis of the property of state enterprises. In practice, the motif to form this type of companies was to avoid paying the tax on overtime pay in state enterprises. That phenomenon was called nomenclature or controlled privatization.

New economic order

A breakthrough in the creation of market economy in Poland, including the conditions for the development of privatization, was adoption by the Parliament the Act on economic activity in 1988, which was in the period when M. Rakowski hold the position of Prime Minister. The principles of the new economic order sanctioned by that act stood in opposition to the doctrine of economic law which was then binding. The act, which was a specific kind of declaration of economic freedom, formulates three rules of the new economic order: 1) the rule of economic freedom, which enabled free access to all economic entities, excluding the few areas subject to licensing; 2) the rule of equality of economic entities, on the basis of which law treated economic entities from various ownership sectors in the same way; 3) the rule of legalism, according to which all economic activity should be based on universally binding regulations of statutory acts.

The act on economic activity was the first real sign of thinking about free market economy. As a consequence, a very strong demand for investment and production goods arose, which resulted in the appearance of a market for assets of falling or liquidated enterprises. Another, very important effect of the act on economic activity was beginning the mass process of bottom-up privatization.

Privatization during the “Round Table Talks”

In 1988, after an “outbreak” of another wave of protests, the government started to realize that they had exhausted the system of governing, the consequence of which were the “Round Table Talks” between the political powers wielding the power then and a part of the

opposition. The talks were commenced on 6 February 1989 in Warsaw. Groups were formed for the matters concerning political reforms, reforms of the economy, social policy and trade union pluralism. Within those groups, subgroups were established. The effect of their work was signing the "Round Table" documents on 5 April. The main decisions taken by the government and the opposition referred to political issues. During the debates of the "Round Table" the problem of privatization was not particularly exposed although a need for ownership and institutional transformations was noticed. The main goal in the economic dimension was to improve the management of the state property, and not a radical change of the ownership structure. Problems that appeared then concerned above all macroeconomic balance, whose major threat was the growing inflation. Signing the "Round Table" documents began the peaceful process of moving on to democracy and free market economy.

The first privatization plan

As a result of the decisions included in the "Round Table" documents from 7 April 1989, the Sejm passed a new electoral law, and then changed the Constitution introducing two new institutions, i.e. President and Senate.

The next step to create a democratic system were the first in the post-war history of Poland elections, partly free, which were held on 4 June 1989. Despite the fact that a little less than 62% of those entitled to vote participated in the voting, the elections proved to be a huge success of the "Solidarity" movement. Out of 161 seats in the Sejm intended for independent candidates, 160 won in the first ballot, while in the Senate 92 candidates won out of 100. The coalition of PRON⁵ to the Sejm managed to introduce only 3 candidates. In the second ballot, with very low turnout of only 25%, the "Solidarity" side obtained one missing mandate in the Sejm and 7 out of 8 seats in the Senate.

The greatest disagreements in the Sejm concerned filling the posts of President and Prime Minister. Finally, W. Jaruzelski⁶, with a majority of one vote, was elected for the presidential office by the National

⁵ PRON – Patriotic Movement for National Rebirth or National Renaissance Patriotic was a form of a communist people's front, joining the communist party and political organizations cooperating with it.

⁶ For a long time, the first secretary of the communist party.

Assembly. After an unsuccessful attempt made by Cz. Kiszczak⁷ to form the government, T. Mazowiecki⁸ was appointed the Prime Minister on 24 August 1989.

In his exposé, T. Mazowiecki spoke for the policy of a so-called „thick line”, which was supposed to prevent collective responsibility of former communist activists. One of the fundamental goals of Mazowiecki’s government was to stop the degradation of the economy. The challenges facing the government were unprecedented on the world scale. Such a unfavorable phenomena as hyper-inflation should be mentioned, also enfranchisement of the state property by the political nomenclature, unclear ownership relations, huge debts or a lack of financial instruments that were commonly used in free market economy.

The problem of privatization, although not the foremost issue in the course of preparing the assumptions of reforming the economic system of Poland, was closely connected with the dilemmas of the economic policy faced at the end of 1989 by the government headed by T. Mazowiecki. Those dilemmas came down to the following choice: a shock or evolutionary transformation. L. Balcerowicz’s⁹ plan submitted to the Sejm in October 1989, and next accepted in the form of a law at the end of the year, assumed that the crucial actions should include “coping with such macroeconomic problems as the budget deficit, inflation, currency reserves and foreign debts, and then the basic, difficult and time-consuming issue of microeconomic inefficiency”¹⁰. Macroeconomic issues and microeconomic liberalization were to be resolved by way of shock transformation whereas the problems related to ownership transformation were to be dealt with gradually.

The most important reforms that were implemented by T. Mazowiecki’s government and that were aimed at healing the economy include: 1) progressive taxation of excessive rise of salaries in state enterprises; 2) limiting subsidies from NBP (National Bank of Poland); 3) increasing the interest rate on credits to the level of the expected inflation rate; 4) unification of the exchange rate of the zloty in relation to the dollar; 5) limiting subsidies for coal and fuels. The effect of those reforms was decreasing the rate of inflation with a simultaneous decrease

⁷ Minister of the Interior, for many years the head of the communist political police.

⁸ One of the leaders of the anti-communist opposition.

⁹ Minister of finances in T. Mazowiecki’s government.

¹⁰ E. Łukawer, *Poglądy polskich ekonomistów na ogólne założenia transformacji systemowej*, „Ekonomista” 1994, No. 6.

of the macroeconomic rates concerning the level of economic activity, life standard and unemployment.

A breakthrough in a complex approach to the problems concerning privatization of the Polish economy was the so-called plan of Professor J. Beksiak's¹¹ group. The plan was prepared for the Civic Parliamentary Club in the period of August–September 1989. It defined three principal premises of system changes in the Polish economy, namely: 1) liberalization of economic relations; 2) establishing institutions of market economy, and 3) privatization. According to the authors of the plan, privatization was to be a fast and singular process, i.e. it was to include a big group of enterprises and it was to be correlated with broad enfranchisement of the staffs. The plan of Beksiak's group differentiated the manner of privatization of state enterprises depending on the number of workers employed. The program did not include state enterprises of the national range such as the Polish State Railways, the Polish Post or armaments plants.

The act on privatization of state enterprises

In October 1989 the Office of the Plenipotentiary of the Government for ownership transformation started to function. K. Lis became the Ombudsman in the rank of under-secretary of state. The goal set for the Office of the Plenipotentiary was to prepare a concept of privatization of the Polish economy, and next prepare the adequate normative acts, including above all a draft of the privatization act and a draft of the act on trading in securities ownership. The additional goal for the Office of the Plenipotentiary was to regulate the processes of ownership transformations in state enterprises.

The views represented by K. Lis and experts cooperating with him were subject to considerable evolution. Ultimately, under a considerable influence of foreign advisors, they set about preparing a draft of a separate act on privatization. That concept referred to the categories of the capital market. Its essence was to make a possibly wide use of the tested models of privatization from Western countries with a simultaneous emphasis on increased efficiency.

On the basis of the adopted assumptions, at the beginning of 1990 K. Lis's team presented initial projects of three documents that were

¹¹ M. Bałtowski, *Przekształcenia własnościowe...*

aimed at regulating the problems of privatization of the Polish economy. Those documents were¹²:

- Assumptions of the program of privatization of state enterprises.
- A draft of the act on privatization of state enterprises.
- A project of changes to the act on privatization of state enterprises.

The solutions adopted by the Ombudsman assumed the priority of commercialization over privatization, i.e. transforming state enterprises into commercial law companies before selling them to the final investor.

The final version of the act on privatization of state enterprises was passed by the Sejm on 13 July 1990¹³. 328 deputies voted for, and 2 voted against. The Senate did not introduce any amendments to the act.

The act from 13 July 1990 on privatization of state enterprises was the basic normative act which regulated the process of ownership transformations for more than six years. Looking from today's perspective, a thesis can be suggested that the act had historical significance because it enabled to change the ownership structure of state enterprises on a mass scale.

The law for the first time precisely defined the principles and standards of privatization. The purpose of transformations, as defined in the title of the normative act, was to be privatization, understood as transfer of ownership titles to third parties. Another, very important issue raised in the act was a precise definition of the principles and course of transferring state enterprises into sole traders of the State Treasury as well as the rules of acquiring stocks and shares in those companies. The act made an assumption that as a result of ownership transformations, the sole traders of the State Treasury were only a transitory stage. They could remain the property of the State Treasury for a period of up to two years, and then their privatization was to take place. The enterprises that were subject to transformation into partnerships had an obligation to determine the financial situation, present plans of restructuring and explain the legal state of the property ownership.

In accordance with the act from 13 July 1990, state enterprises, regardless of their size, position on the market or profitability, were to be submitted to ownership transformations. The regulations of the act, however, were not applicable to budgetary enterprises or cooperatives; in addition, they excluded coal mines, energetic enterprises and military

¹² Ibid.

¹³ The act from 13 July 1990 on privatization of state enterprises, *Journal of Laws* from 1990, No. 51, item 298.

enterprises from the process of privatization. The act established various methods of privatization in the case of big enterprises of good standing as well as small and medium-sized enterprises. It allowed for the following procedures of privatization, so-called privatization paths: indirect (capital) and direct (liquidation) ones. The act also provided for a possibility to realize the Program of Mass Privatization.

Together with the act on privatization of state enterprises the Parliament passed a normative act¹⁴, by virtue of which all matters connected with ownership transformations were passed on to the specially established body of the state administration – the Ministry for Ownership Transformations. The basic task that was set for the newly established ministry was to stimulate and supervise the process of ownership transformations.

The act in the shape that was accepted was to secure the so-called “top-down” privatization. It was assumed that annually about 100 companies will be privatized by way of capital (indirect) privatization, while about 200–300 companies – by way of direct privatization. An additional path of privatization was to be the Program of Mass Privatization, which was supposed to include about 2,000 state enterprises. Long-term goals assumed privatization of over half of the enterprises from the state sector within 5–10 years.

The period of more than six years when the act on privatization of state enterprises functioned enables to assess its real advantages and deficiencies. The main advantage was the very concept, which provided the basis for specially established bodies of state administration to control privatization. The act very precisely defined capital privatization, which was fundamental for the ownership transformations of state enterprises. The basic flaw of the act was an imprecise description of the procedures related to direct privatization and vagueness of the concepts used there. The imperfect character of the law was not corrected until a new act on commercialization and privatization of state enterprises was passed on 30 August 1996.

¹⁴ The act from 13 July 1990 on the Establishment of the Office of the Minister for Ownership Transformations *Journal of Laws* from 1990, No. 51, item 299.

The Law on the National Investment Funds

Programs of mass privatization began to appear at the end of the 1980s and at the beginning of the 1990s. The basis of those ideas was an assumption that a necessary condition to conduct economic, social and political reforms was to transfer in a non-equivalent manner the ownership titles of the state property onto a possibly the widest group of citizens.

The first legal regulations concerning mass privatization appeared as early as in 1990 in the act on privatization of state enterprises. It included a regulation according to which on the motion of the Council of Ministers the Sejm can pass a law on introducing financial instruments (e.g. privatization vouchers) enabling the third parties to participate in privatization¹⁵. The basic rule in the issue of vouchers was to be universality and equality, i.e. everybody was to obtain the vouchers of the same value.

The first official version of the Program of Mass Privatization was publicly presented on 27 June 1991 after J.K. Bielecki took the office of Prime Minister. The program assumed that those citizens who would express their willingness to take part in the program would have a special entry in their ID card, which would entitle them to receive a participation certificate after a period of about two years. The certificate was to enable the purchase of shares in the institutions possessing blocks of shares. Those institutions were to be established by the authorities, and foreign managerial companies were to manage them. It was planned that the program would comprise about 400 large state enterprises which were in good economic condition.

As a result of a political compromise, on 30 April 1993 the Sejm passed a law on the national investment funds and their privatization¹⁶, which came into force on 16 June 1993.

The new law first of all determined the rules of establishment, operation and privatization of the national investment funds in addition to defining the role of the companies managing the funds and the principles of remunerating them.

The major assumption of the law was an indirect way of privatization of sole traders of the State Treasury participating in the program. The

¹⁵ The act on privatization..., art. 25, 26.

¹⁶ The law on the national investment funds and their privatization, "Journal of Laws", No. 44, item 202.

link between the citizens and the enterprises was made by 15 National Investment Funds (NIF), which managed 512 sole traders of the State Treasury.

The goal of the funds was to multiply their property, especially by increasing the value of the stocks of the companies whose stockholder were the funds.

The citizens of Poland who turned 18 could participate in the program of the National Investment Funds. The first step was to purchase a share certificate for an equivalent of 10% of the average salary. 25,880 people, which was 96% of those entitled, received the certificates. An acquired certificate was then to be sold in public trading or OTC, or exchanged for the shares in the National Investment Funds via brokerage offices. One stock of each fund fell for one share certificate. In June 1996, the first stage began which was introducing the certificates to exchange trading, so-called dematerialization, and in July 1996 universal share certificates appeared for the first time on Warsaw Stock Exchange. A separate market of the National Investment Funds was established for them. The next step of the program was to allow all National Investment Funds in the public exchange trading.

The introduction of the stocks of the National Investment Funds in the Warsaw Stock Exchange practically closed the stage of administrative management of NIF program. Since then the market operation of the funds aimed at finding ownership.

The analysis of the functioning of the National Investment Funds leads to the conclusion that expectations concerning their role in the process of economic transformation were not satisfied. The phenomenon was an effect of little efficiency of the managing companies and a vague ownership structure, the effect of which was that at the moment the program was closed the value of the managed property was lower than at the beginning of the NIF program. On 1 January 2013 the Law on the National Investment Funds and their privatization ceased to exist.

The Act on Commercialization and Privatization of State Enterprises

Issuing the act on commercialization and privatization of state enterprises was preceded by two events that determined the final shape of the privatization process in Poland. The first one was initialing of the Enterprise Pact in 1993. Its assumptions included, for example, new

reductions for the workers of state enterprises privatized via the capital path, a greater role of employees in supervisory boards and giving the state enterprises that due to their size could not be privatized only via the capital path the right to choose the manner of privatization independently. The other important event was the adoption of the governmental program "Strategy for Poland"¹⁷ in 1994. The program declared, for instance, "acceleration of leasing small and medium-sized enterprises to employee-owned companies through simplifying the procedures and softening the leasing conditions". Thus, the direction of further changes was determined which increased the workers' participation in the process of ownership transformations and extended the privileges for employees.

In 1995, five years after the Parliament issued the law on privatization of state enterprises, J. Oleksy's government proposed to the Sejm a project of the act on commercialization and privatization of state enterprises¹⁸. On 30 June 1995 the project was passed with the votes of the SLD-PSL coalition. The act in the form accepted by the Parliament was vetoed by President L. Wałęsa and directed to the Sejm again. At the Sejm sitting on 21 July 1995 the veto was rejected with the required majority of 2/3 votes. President L. Wałęsa questioned the compatibility of some articles of the act with the Constitution so he directed it to be examined by the Constitutional Tribunal. On 22 November 1995 the Constitutional Tribunal agreed with the President's opinion, acknowledging the act as incompatible with the Constitution.

After the questioned articles of the act on commercialization and privatization of state enterprises were removed, the government directed the project to be re-examined by the Parliament. On 28 June 1996 it was accepted by the Sejm and three days later, when the Senate's amendments were examined, the act¹⁹ was signed by President A. Kwaśniewski, who had been elected a year earlier. Initially, the act was to be binding from 8 January 1997; however, after the amendment from 20 December 1996²⁰ it entered into force on 8 April 1997.

According to most economists and lawyers, the act on commercialization and privatization of state enterprises extended the privatization law from 1990. Like in that normative act, two basic privatization paths

¹⁷ *Strategia dla Polski*, Rada Ministrów RP, Warszawa 1994.

¹⁸ A governmental project of the act on commercialization and privatization of state enterprises, „Rzeczpospolita” 1995, No. 131.

¹⁹ The act on commercialization and privatization of state enterprises, *Journal of Laws* from 1996, No. 118, item 561.

²⁰ *Journal of Laws*, No. 156, item 775.

were preserved here, i.e. indirect (capital) privatization and direct (liquidation) privatization. Within the former, three techniques of privatization were defined (just like it was in 1990), namely: 1) sale of an enterprise; 2) contribution of an enterprise to a company, and 3) giving of an enterprise to a company to be used for consideration. The act did away with a number of legislative errors, especially terminological ones that occurred in the previous law.

The act was adopted during the reform of the state's administrative centre. One of the elements of this reform was closing the Ministry for Ownership Transformations and replacing it with the Ministry of Treasury, which was to supervise the processes connected with ownership transformation of the state sector in the economy. The Privatization Agency, which was to facilitate the process of privatization in Poland, was subordinated to the Ministry of Treasury.

A new solution adopted by the Parliament, and next accepted by the President, was giving the Minister of Treasury the privatization initiative in the sphere of capital and direct privatization. The Minister of Treasury could since then on their own initiative commercialize enterprises to privatize them. According to the law from 1990 that initiative belonged to the enterprises themselves and their founding bodies.

Another important change was increasing the privileges for employees within the framework of all possible privatization paths.

The act on commercialization and privatization of state enterprises defined the concept of commercialization for the first time in the Polish law. Commercialization was defined as transforming a state enterprise into a partnership which enters into all legal relations the subject of which was the state enterprise.

The act on state enterprises and bankruptcy law

Ownership transformations of state enterprises are possible on the basis of Act from 13th of June 1990 on privatization of state enterprises and the regulations of the act from 25 September 1981 on state enterprises. In the latter case we speak of so-called little privatization. Transformations based on the law on state enterprises consist in selling, transferring the enterprise for paid use or transforming the state enterprise into a partnership.

The second privatization path is so-called privatization through liquidation. This procedure eliminates ineffective state enterprise that

lost their economic capacity of further functioning. Liquidation of an enterprise results in canceling it in the register of state enterprises, after which transfer of the property left after the enterprise takes place.

Privatization through liquidation achieved considerable dimensions. The causes of this phenomenon are found in the lack of the proper supervision by the state owner.

Conclusions – assessment and prognoses concerning the future direction and dynamics

In order to assess the economic policy in the aspect of system transformations in Poland after 1989 one should refer to the objectives of privatization that were formulated in the Economic Program of the Council of Ministers²¹ in October 1989. It establishes the essence of ownership changes as “introducing the institutions of market economy tested by developed Western countries”. Privatization was treated in the government’s program as a “way to raise the economic effectiveness and production and to absorb unemployment”. The economic program of the government made an assumption that domination of private property in the economy is conducive to competitiveness and thus it enforces effectiveness, flexibility and pro-innovativeness of the actions of all entities (also those belonging to the public sector) on the market. The document accepted by the government treated privatization as an essential and decisive change of the system. The major objectives of privatization formulated by the government in October 1989 remained practically unchanged throughout the period of system transformation in Poland.

The priority of privatization is, therefore, an increase in the effectiveness of the functioning of enterprises and thus the economy. During the system transformation an assumption was made that a private owner controlling the enterprise has a positive influence on its effectiveness. Nevertheless, realization of this goal is not automatic but it is conditioned by the rate of development of the private sector and the development of the economic system. It is these conditions that ensure increased competitiveness and capital movement.

In reference to the aforementioned objectives in the context of their realization, the following indexes should be verified: participation of the

²¹ Council of Ministers, *Program gospodarczy. Główne założenia i kierunki*, Warszawa 1989.

private sector in GDP, the number and size of private economic subjects as well as the international competitiveness rankings and reports analyzing the perspectives of investments connected to the capital movement.

In the period of transformations fundamental changes took place in the ownership structure of the economy. The role of the private sector significantly increased. Already in 1997 its share in the creation of GDP was 60.0%²², while at the end of 2012 it increased to about 80.0%²³. In the years 1990 – 2012 a remarkable decrease of the number of registered state enterprises was observed. Out of 8,453 enterprises that remained within the state's domain and that functioned on 31 December 1990²⁴, more than 70%, i.e. 5,995 were submitted to ownership transformations by 31 December 2012²⁵. At the same time, there were only 70 state enterprises at the end of 2012, including 23 that pursued activity.

Throughout the period of ownership transformations, i.e. between 1 August 1990 and 31 December 2012²⁶:

- 1,753 state enterprises were commercialized (29.2% of all transformed enterprises), as a result of which the following appeared:
 - 1,736 sole traders of the State's Treasury
 - 17 partnerships with the share of creditors on the basis of Section III of the act of commercialization with the conversion of debt;
 - 2,308 applications for direct privatization were accepted (38.5% of all transformed enterprises);
 - no objections were made concerning 1,934 applications for liquidation due to a bad financial situation (32.2% of all transformed enterprises);
- Moreover:
- stocks/shares were made available in 1,276 sole traders of the Treasury that were established as a result of commercialization, including:
 - 512 – by contribution of stocks/shares to NIF,
 - 527 – through indirect privatization,
 - 128 – by exchanging of debt for stocks/shares through bank settlement procedure (BPU),
 - 67 – by gratuitous transfer of shares to local governmental units,

²² J. Gardawski, L. Gilejko, R. Towalski, *Oceny i oczekiwania różnych grup społecznych wobec polityki właścicielskiej Skarbu Państwa*, Warszawa 1999.

²³ *Polska 2012 Raport o stanie gospodarki*, Ministerstwo Gospodarki, Warszawa 2012.

²⁴ *Biuletyn statystyczny*, Główny Urząd Statystyczny, Warszawa 1991, No. 11.

²⁵ *Przebieg procesów przekształceń własnościowych wg stanu na dzień 31.12.2012 r.*, Ministry of Treasury.

²⁶ *Ibid.*

- 14 – by subscription of shares in the increased capital of sole shareholder companies of the Treasury by entities other than the Treasury and state legal persons,
- 28 – according to another procedure;
- 2,222 state enterprises that were directly privatized were cancelled from the register of entrepreneurs;
- 1,159 state enterprises were cancelled from the register of entrepreneurs after liquidation finished.

Privatization projects realized in the years 1991–2011 brought profits from privatization in the amount of approximately 138 billion PLN²⁷.

As was shown above, changes in the ownership structure of the economy were supposed to be the basic measure that – within the structural economic policy – was to lead to Poland's greater competitiveness. The analysis of international competitiveness (the situation for 2012) clearly shows that the Polish economy is not included within highly competitive economies despite the domination of the private sector. The following rankings are evidence of this:

- The World Bank Report and IFC (Doing business 2012): 62nd place/183 assessed countries.
- Index of Economic Freedom 2012 Heritage Foundation and Wall Street Journal: 64th place/179 assessed countries.
- The Global Competitiveness Report 2011–2012: 41st place/142 assessed countries.
- The World Competitiveness Scoreboard 2012 International Institute for Management Development: 34th place/59 assessed countries.

Nevertheless, attention should be brought to the fact that despite relatively low competitiveness of its economy, Poland is enumerated among the most attractive localizations for direct foreign investments in Europe and in the world. The accumulated value of direct foreign investments at the end of 2010 exceeded 150 billion EURO²⁸. Thus, competitiveness is not the only factor affecting cross-border capital flow. According to foreign investors, Poland's advantages include a big potential of the market generating high purchasing capacity, stable macroeconomic situation and professional managerial staffs. This is evidenced in the following reports:

²⁷ *Raport o ekonomicznych, finansowych i społecznych skutkach prywatyzacji w roku 2011*, Ministry of Treasury, Warszawa 2012.

²⁸ *Polska 2012 Raport o stanie gospodarki...*

- UNCTAD's World Investment Prospects Survey 2010–2012: 12th place in the world and 3rd in Europe.
- Ernst & Young European Attractiveness Survey 2012: 2nd place.

The capital movement is also connected with direct foreign investments realized by Polish enterprises abroad. The accumulated value of Polish direct foreign investments is estimated at almost 30 billion EURO²⁹. For the last few years Polish investments located abroad have shown a distinct increasing tendency despite the global financial crisis. Nevertheless, despite an increase in the value of Polish foreign investments it is hardly likely that in the nearest years Poland will change from an importer of the capital into its exporter. The basic barrier for Polish direct foreign investments is difficult access to the sources of financing, which if the global financial crisis should get deeper, may become the fundamental factor limiting the development of enterprises not only abroad but in Poland as well.

While formulating prognoses concerning the directions of ownership transformation in Poland in the coming years, one should refer to the document prepared by the Ministry of Treasury "Privatization Plan for the years 2012–2013"³⁰. According to this document, about 300 companies are supposed to be included within privatization activity in the analyzed period. At the same time, the Minister of Treasury plans to completely exit the shareholding in 85% of supervised companies included in the Plan. In other companies, from the so-called strategic sectors (energy, finance and defense), majority shareholdings or stakes ensuring corporate governance will be retained. The objectives in the field of ownership transformation for the coming years focus on: 1) modernization of the economy and formation of better conditions for Poland's economic growth, 2) support of public policies, 3) development of the capital markets. The key task in the economic sphere and one of the main goals of privatization is modernization of economic entities, increase of their innovation potential and competitiveness.

The issue of competitiveness of the Polish economy has already been mentioned; therefore, we should refer to its innovativeness. The analysis of the document Innovation Union Scoreboard 2011 prepared for the European Commission shows that Poland score for the Summary Innovation Index (SII) is lower than the average value for the European

²⁹ Ibid.

³⁰ *Plan prywatyzacji na lata 2012–2013*, Ministry of Treasury, Warszawa 2012.

Union countries. Poland fell into the group of so-called “moderate innovators”, occupying the 23rd place among 27 assessed countries.

While analyzing the problems of innovativeness, attention should be drawn to the fact that nearly all member states of the European Union increased their innovativeness in 2011³¹. However, the dynamics of EU innovativeness is decreasing and it is not able to match the world leaders in this category, such as USA, Japan or South Korea. The European leaders of innovativeness include: Sweden, Denmark, Germany and Finland. It is surprising to find out that the greatest delays in the field of innovativeness in EU are seen in the private sector.

The tendency concerning prevalence of the public sector in innovative activity is also confirmed in Poland, where in the period between 2009 and 2011, respectively, 26.1% of industrial enterprises and 20.1% enterprises from the sector of services belonged to the public sector in relation to 15.6% and 11.4% of enterprises belonging to the private sector³². Therefore, one of the main objectives of ownership transformations in Poland seems to be divergent from reality because the public sector can also be innovative, which is shown in research. It is also confirmed by the diagnosis of the factors which are the source of the success of leaders of innovativeness. These factors include the national systems of research and innovation, economic activity and cooperation of the public and private sectors. It seems justified then that in accordance with the Europe 2020 strategy adopted during the summit of the European Union in 2010 stimulating research and innovation should affect greater competitiveness of the Polish economy, new work places, and thus the economic growth.

The final element of “Privatization Plan for the years 2012–2013” which is worth analyzing is the development of Civic Shareholding. An important social objective is to increase informed, public participation in ownership changes. Referring to the Program of Mass Privatization realized in the period of system transformation and to the National Investment Funds³³, this activity in relation to a wide group of society does not seem justified and – in the long term – ineffective. It should

³¹ European Commission – A press release, *Przedsiębiorstwa muszą zwiększyć swoją innowacyjność, gdyż światowa konkurencja staje się coraz silniejsza*, Reference: IP/12/2012, 07.02.2012.

³² *Działalność innowacyjna przedsiębiorstw w latach 2009–2011*, Główny Urząd Statystyczny, Warszawa 2012.

³³ On 1 January 2013 the act from 30 April 1993 on National Investment Funds and their privatization ceased to bind.

be remembered that in the case of PPP and NIF expectations concerning the effectiveness and role in the process of economic transformation did not bring the assumed results either, and the program is frequently called the “most expensive failure of the Third Republic of Poland”.

Summing up the reflections on the effect of the ownership structure of the economy on the increase of competitiveness, it should be stated that transformation itself of the ownership rights from the level of the state to the level of the private entity is insufficient. Barriers should be eliminated within the structural and macroeconomic economic policy that counteract improved competitiveness of the Polish economy and that are not connected with the ownership structure, namely high budget deficit, unstable system of law and taxes, high corruption, high level of corruption, ineffective economic courts, the low level of innovation, barriers resulting from employment relationships, barriers in using structural funds, barriers in environmental protection, or barriers connected with starting economic activity.

Perspectives for the growth of the Polish economy in the coming years do not seem very optimistic despite the constant growth of GDP throughout the period of the global financial crisis. Barriers of development will first of all include fiscal consolidation, the aim of which is to achieve deficit at the level of 3% (in accordance with the requirements of European Union pacts) and decreased export to the markets of the Euro zone. It should be also remembered that Poland as a member of the European Union has neither introduced the Euro nor determined the date of introducing this currency or entering ERM2 mechanism. A chance for Poland's sustainable development is to eliminate the aforementioned barriers and pursue an active policy aimed to stimulate innovation and competitiveness, which should be realized within cooperation between private and public entities.

The state's policy referring to the strategic sectors of the economy will also be very important in the coming years. As shown by the experiences of the years 2008-2012 connected with the global financial crisis, ownership transformations can radically change the direction of “state-owned – private” into “private – state-owned”. This phenomenon is especially well visible in the United States, which nationalized the institutions of the financial sectors, including banks, which were practically going bankrupt.

ABSTRACT

The author of the present article analyzes the most important processes of economic policy in Poland in the period of system transformation, i.e. ownership transformations, without which transformation of the political system after 1989 would not have been possible. The author describes particular stages of shaping the way of thinking about market economy and characterizes them against the background of the most important socio-political events that took place in Poland in the period of transformation. The author also refers to the formal and legal aspects of ownership transformations, with a special regard to the basic normative acts that regulated the process of economic transformation in the years 1990–2012. Reflections on the structure and directions of economic policy in the dimension of ownership transformations are closed with presenting an assessment of the process and the indications concerning the directions of its development in the future, particularly considering such factors as competitiveness and innovativeness of the economy, which in the contemporary world determine the state's position on the international arena.

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