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APPROPRIATION MECHANISMS: THE FUNCTIONING OF “NOMENKLATURA COMPANIES” IN THE PERIOD OF ECONOMIC TRANSFORMATION*

The appropriation of means by *nomenklatura* is one of the topics that has attracted the interest of historians as well as journalists and public opinion. The process of forging political power into control over selected sectors of the economy by the former party and state apparatus has not yet been comprehensively described; although many researchers, including Andrzej Zybertowicz, Jadwiga Staniszkis and Antoni Dudek, have raised this issue before.¹ This paper aims to present those aspects of the phenomenon that have been poorly described so far. This material is an extension to and continuation of my earlier publications, which focused on describing the principles of operation of *nomenklatura* companies.² The key element of this study is to analyse two issues: the politics of the communist authorities towards appropriation and the politics of the Mazowiecki government and other solidarity cabinets regarding this problem. An analysis of how those groups made their decisions and how they chose strategies in dealing with the appropriation of means by *nomenklatura* shall make it evident that this phenomenon was, in principle, an unforeseen side effect

* The article was written as a result of the Polish National Science Center grant “Coalition government in Poland in 1989–2001”, carried out under the contract UMO-2019/35/B/HS3/02406.

¹ A. Dudek, *Reglamentowana rewolucja. Rozkład dyktatury komunistycznej w Polsce 1988–1990* (Cracow, 2014), p. 162 *et seq.*; A. Zybertowicz, *W uścisku tajnych służb. Upadek komunizmu i układ postnomenklaturowy* (Komorów, 1993); J. Staniszkis, *Ontologia socjalizmu* (Warsaw, 1989); J. Staniszkis, *Postkomunizm. Próba opisu* (Gdańsk, 2001). See also W. Kieżun, *Patologia transformacji* (Warsaw, 2011); J. Tittenbrun, *Upadek socjalizmu realnego w Polsce* (Poznań, 1992); *idem*, *Z deszczu pod rynnę. Meandry polskiej prywatyzacji*, vol. 1–4 (Poznań, 2007).

² T. Kozłowski, “Spółki nomenklaturowe – patologia polskiej transformacji” [in:] *Bрудne wspólnoty. Przystępczość zorganizowana w PRL w latach siedemdziesiątych i osiemdziesiątych*, ed. K. Nawrocki, D. Wicenty (Gdańsk–Warsaw, 2018), pp. 98–111. As this text is intended for English speaking reader, it will include basic definitions and basic data published in the text from 2018. The main content, however, concerns other issues.

of economic reforms rather than the result of planned actions. The extension and partial revision of previous findings was possible through a very thorough archival query. The query first covered the documentation from the operation of the control apparatus, that is the Security Service (*Służba Bezpieczeństwa*, SB), the Supreme Chamber of Control (*Najwyższa Izba Kontroli*, NIK) and the General Prosecutor's Office. Then, I studied the materials produced by the Sejm and Senate committees, the Citizens' Parliamentary Club (*Obywatelski Klub Parlamentarny*, OKP), associated Solidarity politicians who joined the parliament as a result of elections in June 1989, and the Council of Ministers.³ Since the topic of appropriation by the *nomenklatura* was studied by journalists, this publication also contains references to the press releases from the early 1990s.

APPROPRIATION AND NOMENKLATURA COMPANIES: DEFINITIONS OF THIS PHENOMENON

I consider the so-called *nomenklatura* company (*spółki nomenklaturowe*) to be the main tool for the appropriation of means during the transformation period. In my research I used the following definition: “[...] a company that was closely related to a state-owned enterprise, and its shareholders were the management of that enterprise as well as members of the party and state apparatus (or members of their families), connected by political party codependence, and administrative or social ties. The actual purpose of establishing and operating the *nomenklatura* company was to use its potential by the company's management to derive personal benefits at the expense of state-owned enterprises.”⁴

Nomenklatura companies usually had two key business schemes. In the first one, the company functioned as a sales agent setting a high margin. In the second scheme, the production plant (enterprise) could make real assets, machinery or specialised equipment available, or sell them, to that company at a low enough price.⁵ In extreme cases, this led to a free transfer of ownership of the state-owned production plants to private entities.

The legality of such activities was a key aspect.⁶ The term “*nomenklatura* companies” was not defined on legal grounds. Undoubtedly, this was a pathological phenomenon but it was not illegal from the point of view of the law in force in 1989 and 1990. Experts in commercial and criminal tax law have brought attention to this problem.⁷ Oktawia Górniok noted: “we are observing some pathological economic behaviours conceived

³ They have not yet been analysed by historians, with the exception of Prof. A. Dudek, who referred to selected entries in the meetings of the Cabinet Council.

⁴ T. Kozłowski, “Spółki nomenklaturowe”, p. 100.

⁵ Such situation was possible due to the lack of specialists and established valuation procedures. As Jerzy Dynier explained: “There are practically no auditors in our country who would be able to make those valuations. They don't do them properly or do it in such a way that they underestimate the value of those assets”. One can also suspect that some of them were simply fraudulent (Biblioteka Sejmowa [The Sejm Library] (hereinafter: BS), Minutes of the meeting of the Committee on the Economic System, Industry and Construction, 28 VII 1989, p. 10).

⁶ A. Zawłocka, “Zmowa milczenia”, *Tygodnik Solidarność* 1990, no. 47.

⁷ W. Modzelewski, “Spółka równoległa”, *Życie Gospodarcze* 1991, no. 21.

at the earliest stages of market economy, not known in its stabilised systems and not criminalised by the Polish legislation, thus undeniably harming the overall economic interest of society”.⁸ At the end of 1989, the Prosecutor General’s Office commissioned extensive audits of those companies, but at the same time their spokesperson pointed out that the term *nomenklatura* companies is a journalistic term, not a legal one and that “the Prosecutor’s office is only interested in whether the companies operate within the law or outside of it”.⁹ However, it is thanks to these commissioned audits that we have the only reliable statistics showing the scale of this phenomenon.

Between January and November, 1989 the audit identified a group of 1,593 entities under suspicion of appropriation activities. We can determine their geographical distribution – the *nomenklatura* companies were established throughout the country (except for the Krosno province). By far, the highest number was identified in the Gdańsk region (240), followed by Katowice (152), Warsaw (140), Łódź (94), Bydgoszcz (64), Szczecin (56) and in Kraków (49). The least were identified in the Ciechanowski region (1), Chełm (3), Olsztyn (7), Suwałki (6), Zamość and Przemyśl (9). The remaining ten *nomenklatura* companies were found in Opolskie. According to these estimates, 700 directors and deputy directors, 300 plant managers and chief accountants, 580 presidents of cooperatives, cooperative associates and board members, 66 employees of state administration (including 9 provinces, 57 presidents and heads of cities and municipalities) were involved (to a various degrees) in these activities. Additionally, about 80 representatives of political, social and professional organisations also participated. It is worth noting that from a legal point of view, the only problem was the public servants’ participation in running those companies. This was the case in 31 out of 49 provinces. A drastic violation of law was committed by voivods and deputy voivods who were shareholders in companies in: Bydgoszcz (2), Częstochowa (1), Jelenia Góra (1), Kielce (1), Siedlce (2) and Tarnów (2). Departmental directors of provincial offices were also represented in large numbers. The record holder was the Toruń province, where head authorities of cities and boroughs held posts in ten *nomenklatura* companies, and in the other two, heads of departments of provincial offices also held posts.¹⁰

From a legal point of view, it was not the activity of the communist party members, social organisations or the factories’ management that was problematic; they were the driving force of *nomenklatura* companies. It was the executives who were always the core of these initiatives, working together with senior staff (chief accountants in particular), additionally supported by members of other sectors of the *nomenklatura*. That is why the slogan “proptertisation of *nomenklatura*” was coined and has since been associated with the functioning of those companies.¹¹

⁸ O. Górniok, “O przestępczości gospodarczej w okresie przechodzenia do gospodarki rynkowej”, *Przegląd Sądowy* 1992, no. 5–6, pp. 7–8.

⁹ J. Kępka, “Przestępczość gospodarcza: spółki”, *Przegląd Techniczny* 1991, no. 10.

¹⁰ The above paragraph is taken from my previously mentioned article (T. Kozłowski, „Spółki nomenklaturowe”, pp. 142–162).

¹¹ The term “proptertisation of *nomenklatura*” [uwłaszczenie *nomenklatury*] (sometimes also translated as “enfranchisement”) is used here to describe the process of the “economic enfranchisement” of *nomenklatura*

In the colloquial language of the late 1980s, the *nomenklatura* was synonymous with the political elite, which is not entirely adequate.¹² From a sociological point of view, one can speak of a specific group which emerged as a result of a specific cadre system in place. One of the simplest definitions of *nomenklatura* was proposed by Andrzej Paczkowski. In his opinion, this was “a list of positions that must be decided (or approved) by the appropriate party body. This also meant persons (members of the *nomenklatura*) who held one of the positions on the *nomenklatura* list or were on the cadre reserve list”.¹³ The *nomenklatura* system covered a constantly growing number of positions throughout the years: in Stalinist times about 70,000; around 130,000 in Gierek’s decade; and in the late eighties over 270,000 positions were filled through this system. This was the peak moment as in 1988 measures were taken to reduce the activity of this system.¹⁴

It should be clearly stated that – contrary to common understanding – this was not a homogeneous group. First, the *nomenklatura* covered various levels: from central to local, from the few but key *nomenklatura* of the Central Committee, through provincial committees, to the most numerous *nomenklatura* of even lower levels. Secondly, it controlled various areas of the state. Stanisław Ehrlich identified five types of *nomenklatura* in the following areas: army, security, party apparatus, state apparatus and economic. When it comes to the issue of appropriation, the economic *nomenklatura* deserves the most attention. It seems that it was the economic *nomenklatura* that was the most important – although not the only – beneficiary of this enfranchisement. As Ehrlich noted: “the economic *nomenklatura* had strong clout over the centre, as well as the ability to influence all echelons of the party and state departments (mainly administration). They had goods at their disposal that were not in direct control of any other *nomenklatura* department”.¹⁵ Moreover, it seemed that in the 1980s the position of the economic sector of the *nomenklatura* was further strengthened.

Jacek Tarkowski pointed out that the *nomenklatura* system was subject to evolution which was accelerated by and connected to the economic crisis in the seventies, the emergence of “Solidarity” and the declaration of martial law. All these events had

members thus giving them right to own and manage state properties and assets (from state owned enterprises). Otherwise the term “appropriation” is used throughout this paper to describe the negative and detrimental practices of the *nomenklatura* through their uncontrollable appropriation of state-owned property and assets. One needs to mention that the Polish term *uwłaszczenie* does not have a precise English translation.

¹² The issue of the relationship between the *nomenklatura* and the elite is complicated and still awaiting a reliable and comprehensive study. An interesting typology was presented by A. Podgórecki, “The Communist and Post-Communist Nomenklatura”, *Polish Sociological Review* 1994, no. 106, pp. 111–123. See also “Elita PPR i PZPR w latach 1944–1970 – próba zdefiniowania” [in:] *Elity komunistyczne w Polsce*, ed. M. Szumiło, M. Żukowski, (Warsaw–Lublin, 2015), pp. 34–60. There were also interesting press releases on this subject, including J. Turowicz, “Nowa nomenklatura”, *Tygodnik Powszechny* 1990, no. 19; A. Wakar, “Totalny system łupów”, *Tygodnik Powszechny* 1990, no. 27.

¹³ A. Paczkowski, “System nomenklatury kadr w Polsce 1950–1970”, *Czasy Nowożytne* 2000, vol. 8 (9), p. 21.

¹⁴ A. Dudek, *Reglamentowana rewolucja*, p. 128; “Drzwi obrotowe (z dr. Jackiem Tarkowskim rozmawiają Anna Bilska i Stefan Marody)”, *Konfrontacje* 1989, no. 7/8, p. 20. *Vide* “From feudalism to capitalism? [An interview with Jacek Tarkowski]”, *Uncaptive Minds* 1989, no. 5, p. 15–16; J. Tarkowski, “Nomenklatura”, *Gazeta Wyborcza* 3 V 1991.

¹⁵ S. Ehrlich, “Nomenklatura – przykład Polski (Próba analizy normatywno-porównawczej)”, *Państwo i Prawo* 1991, vol. 12, p. 30.

a negative effect on the party but at the same time strengthened the economy which was crucial when faced with the upcoming reforms. In this segment of the *nomenklatura*, many people used their power and experience to prepare for the introduction of a mixed economy or indeed, a market economy.¹⁶ One could postulate the theory that this was conducive to the erosion of the authoritarian system, because the party leadership was forced to make concessions to two groups. They had to share power with the political opposition and parts of the *nomenklatura* needed to be allowed to capitalise on its political position.¹⁷ This process intensified as the system weakened when members of the *nomenklatura* more vigorously implemented their individual survival strategies. As Andrzej Konopko from the Personnel Department of the Central Committee of the Polish United Workers' Party (KC PZPR) rightly noted: “Now everything has changed [...] I do not deny that some of the staff, out of concern for their and their family's uncertain future, must make all sorts of deals”.¹⁸ However, members of the economic *nomenklatura* were in the most privileged position. Representatives of other divisions of the *nomenklatura* were to be specially protected if they participated in these undertakings.¹⁹

Sociological research clearly indicates that the mid-level management of the economic sector was the largest beneficiary of regime changes and managed to take a privileged position in business for many years.²⁰ However, the question remains whether it was the effect of appropriation or rather, the result of a specific position that the economic *nomenklatura* started from. It had social networks, experience and a position that made it possible to profit from western investments in Poland. Probably both of these explanations are correct and describe a fragment of reality but the question remains – how large? Anthony Levitas and Piotr Strzałkowski, while studying appropriation mechanisms, pointed out that during the transformation period there were two types of *nomenklatura* representatives. “The first type is a bureaucrat/manager who realises that his position is threatened by the social revolution ahead, and uses the resources accumulated over the years (money and know-how) to establish or join a legitimate business. The second type is a bureaucrat/manager, whose current political position allows him to use the acquisition of state property without any input from his own resources”.²¹ The first type is a member of the economic *nomenklatura* who uses his unique skills, experience and connections to start a career in business. The second type uses his position to transfer assets or sponge off the production plant using a *nomenklatura* company.

¹⁶ “Drzwi obrotowe”, p. 20.

¹⁷ The process of property “enfranchisement” was much more prominent in the Soviet Union. *Vide* J. Winiecki, *Gorbachev's Way Out? A Proposal to Ease Change in the Soviet System by Buying Out the Privileges of the Ruling Stratum* (London, 1988).

¹⁸ “Polowanie na spółki [dyskusja redakcyjna]”, *Zarządzanie* 1990, no. 20.

¹⁹ “Drzwi obrotowe”, p. 20.

²⁰ B.W. Mach, K.M. Słomczyński, “The Polish Experience: From Nomenklatura to Where? Occupational Trajectories of State-Socialist Managers under Conditions of Systemic Change: Poland 1988–1993” [in:] *Zwischenbilanz der Wiedervereinigung. Strukturwandel und Mobilität im Transformationsprozeß*, ed. M. Diewald, K.U. Mayer (Opladen, 1996), p. 154. Cf. *Elity w Polsce, w Rosji i na Węgrzech. Wymiana czy reprodukcja?*, ed. I. Szelenyi, D. Treiman, E. Wnuk-Lipiński (Warsaw, 1995).

²¹ A. Levitas, P. Strzałkowski, “What does ‘uwłaszczenie nomenklatury’ (‘propertisation’ of the *nomenklatura*) really mean?”, *Communist Economies* 1990, vol. 2, no. 3, pp. 413–416.

COMMUNIST AUTHORITIES TOWARDS THE “ENFRANCHISEMENT OF NOMENKLATURA”

The introduction of capitalism in Poland and the replacement of a centrally managed economy is seen as a result of the politics of Tadeusz Mazowiecki's government, and above all, the implementation of the economic plan by deputy Prime Minister and Finance Minister, Leszek Balcerowicz. This is a fact, but one must remember that it was the communists who took first steps into that realm in the late 1980s. This was not only specific to Poland – similar processes took place in all countries of the Eastern Bloc. The authorities of the Soviet Union and its communist satellites were convinced for years that a socialist economy can outweigh capitalism in the long run. Over time, however, it became clear that the promise of rapid modernisation was impossible to fulfil. Already in the seventies, the existing system clearly was not able to cope with the evolution from an industrial society to an information society in which innovation and meeting the needs of an individual were essential values.²²

The experience of the late 20th and the beginning of the 21st century shows that non-democratic regimes held steady in situations of international isolation. Blocking off information, suppressing ideas, imprisoning citizens in their own country gave dictatorships a chance for long-term vegetation even when most inefficiently managed. However, this was not the case with the communist countries of the seventies and eighties and Poland was a prime example of this. The authorities enabled the flow of ideas and opened somewhat the borders for their citizens.²³ At the same time, the economy started to depend on Western loans and imported technologies. In the long run, this turned out to be a recipe for disaster. As Eric Hobsbawm noted: “[...] it was not a confrontation with capitalism that undermined socialism [...] When socialist leaders in the seventies decided to use newly available resources of the world market (easy loans, etc.), instead of taking up the task of reforming their own economic system, they dug it into the grave”²⁴

In the mid-eighties, one more factor added to the economic failure – oil prices fell sharply on world markets. Profits from sales of this commodity were kind of a drip that kept the inefficient economy of the USSR alive. With its disconnection, it was impossible to further postpone reforms. Introduction of market elements to the economies of communist states accelerated. There was even an ideological U-turn of sorts – efforts were made so that the reforms were ideologically consistent. Thus the New Economic Policy was invoked, which was a mixed system based on the coexistence of one dominant single party and the market economy (introduced by Lenin in 1921).²⁵

With these solutions in mind, it was assumed that privileged groups connected with private enterprises would appear in socialist countries. Prime Minister, Mieczysław Rakowski explained this during a government session in early 1989: “Only with the

²² Z. Bauman, “A Post-modern Revolution?” [in:] *From a One-party State to Democracy. Transition in Eastern Europe*, ed. I. Frenzel-Zagorska (Amsterdam, 1993), pp. 15–17.

²³ D. Stola, *Kraj bez wyjścia? Migracje z Polski 1949–1989* (Warsaw, 2010).

²⁴ E. Hobsbawm, *Wiek skrajności. 1914–1991. Spojrzenie na krótkie XX stulecie*, p. 286 (online publication).

²⁵ M. Malia, *O Rewolucji rosyjskiej* (Warsaw, 2017), pp. 267–270.

best tax police in the world can one avoid getting rich in times of such huge shortages. Today, Soviet comrades praise the NEP and say that it is necessary to return to the NEP. But during the NEP there was such a polarisation of a tremendous wealth on one end, where they ate barrels of caviar, and on the other, people in Ukraine were starving to death [...] unfortunately, this is the stage we must go through, or [otherwise] we will strangle the private sector”²⁶

This quote clearly reflects the important premise of reforms introduced by the Rakowski government, which assumed that the increase in social inequality and selected social groups making a fortune is the price for leading the country out of the financial crisis.

Rakowski’s government was the one that accelerated the transformation process from a centrally controlled to market economy. It was implemented as part of the so-called National Economic Consolidation Plan for 1989–1990. It was a true revolution. As deputy Jerzy Modrzejewski from the PZPR aptly noted: “This is the first bill in the Eastern Bloc that breaks the system. It is not changes in the realm of politics that lead to change in the system, but a change of stance towards state ownership”²⁷ One of the pillars of the reform was the Economic Activity Act, which, by its premise, was to develop entrepreneurship by maximising economic freedoms. It went down in history as the “Wilczek Act”, after the name of then Minister of Industry. As part of the plan, the Business Activity Act using foreign capital was also issued and, then in February 1989 an act was issued on certain consolidation conditions of the national economy, which allowed the possibility of transferring state assets to conduct economic activities. In this way, the foundations were laid for a mixed system in which part of the economy would operate according to market rules.²⁸ Dariusz Gala aptly wrote about the “transplant” of a solutions packet, specific to the capitalist economy.²⁹ At that time hardly anyone paid attention to possible pathologies in such extensive reforms. When the issue was discussed at the meeting of the Economic Committee of the Council of Ministers, only the President of the National Bank of Poland, Zdzisław Pakuła raised his concerns about the possibility of controlling state property under the new legislation.³⁰ Meanwhile, laws passed by the Rakowski government created an opportunity to take over or to blatantly exploit the state assets through *nomenklatura* companies.

One of the key research problems related with this topic is the question about the purpose of activities of the communist authorities. Did they really strive for the *nomenklatura* to take over as much national property as possible and thus convert political power into control over economic processes? It is difficult to give a fully unambiguous answer to this

²⁶ Archives of the Chancellery of the Prime Minister (hereinafter: AKPRM), Records of the proceedings of the Presidium of the Council of Ministers on 30 I 1989, k. 5.

²⁷ BS, Minutes of the meeting of the Committee on the Economic System, Industry and Construction, 28 VII 1989, p. 19.

²⁸ A. Zawistowski, “Kapitalizm albo śmierć? Ekonomiczne kulisy upadku władzy Polskiej Zjednoczonej Partii Robotniczej w 1989 roku” [in:] *Krok ku wolności. Wybory czerwcowe 1989 i ich konsekwencje*, ed. K. Białecki, S. Jankowiak, R. Reczek (Poznań, 2015), pp. 20–46.

²⁹ D. Gala, *Reformy gospodarcze w PRL (1982–1989). Próba uratowania socjalizmu* (Warsaw, 2005), p. 319.

³⁰ M. Przeperski, “Początki uwłaszczenia nomenklatury – uwarunkowania prawne i społeczne” [in:] *Brudne wspólnoty. Przestępczość zorganizowana w PRL w latach siedemdziesiątych i osiemdziesiątych*, ed. K. Nawrocki, D. Wicenty (Gdańsk–Warsaw, 2018), p. 118.

question, but it seems that more arguments support the claim that this was a side effect of reforms, difficult to foresee at the time. There was a difference of views between party leaders and technocrats implementing the reforms – the latter considered such pathology a necessary evil. Without a doubt, this division existed before – communists from General Jaruzelski's entourage were much more suspicious of private economic initiatives than the new generation of technocrats who believed there was a need for reforms. Persons responsible for shaping economic processes in the Council of Ministers (Rada Ministrów, RM) and the Economic Committee at the Council of Ministers (Komitet Ekonomiczny Rady Ministrów, KERM), mostly shared a pro-reform philosophy. Deputy Prime Minister Ireneusz Sekuła in June 1989 during the KERM meeting stated that he was well aware of the problems and considered them inevitable: “[...] there is no need to hide it, there is some pathology, there are companies serving other companies to balance out the market. You have to say it honestly: we got some of it right but there are some drawbacks [...] we can't let loose the financial police or other controls, because they will strangle everyone, the good and the bad, and they will scare the rest away [...] we have to endure it or we won't achieve anything”³¹

The scale of the discrepancy between the party and government centre of power is clearly visible here.

However, while Deputy Prime Minister Sekuła reassuringly spoke about this issue at the KERM sitting, the *Politburo*'s discussion about the same had a drastically different tone. On June 27, 1989, the issues of appropriation by the *nomenklatura* were discussed for the first time. The Central Committee Secretary, Marian Stępień while describing this phenomenon, said that “mafia deals are created, shares are quietly sold to directors and public officials for half of nothing”. Władysław Baka, an economist and then a member of the *Politburo*, also pointed to problems arising from such kinds of uncontrolled actions and he questioned many of the Rakowski's government decisions.³² Jan Bednarek, director of “Wistom”, who participated in creating a network of several companies around his plant, mentioned: “Baka wanted to please the masses and threw us under the bus. I was one of the first to set up those companies and I know best how many times I was attacked by the party apparatus – they felt like I was taking the company out of their influence”³³. The appropriation of means by the *nomenklatura* was perceived as a political threat (depletion of power for the party and central government), an economic threat (uncontrolled deregulation of the system) but also a social threat (strengthening the belief in larcenous practices of party members). The *Politburo* demanded the regulations to be tightened. Władysław Baka was to be responsible for this on behalf of the party; from the government end, the Prime Minister, Mieczysław Rakowski himself.

The matter was taken seriously, judging by the activity of the Ministry of the Interior. As early as 1988, the Security Service (SB) carried out a nationwide inspection, targeting

³¹ AKPRM, records of the KERM meeting on 28 VI 1989, pp. 57–58. Minister Wilczek spoke in a similar tone in the interview with Alicja Kos “I respect my friendships” („Szanuje swoje przyjaźnie [z Mieczysławem Wilczkiem rozmawia Alicja Kos]”, *Zarządzanie* 1990, no. 3).

³² W. Baka, *Zmagania o reformę. Z dziennika politycznego 1980–1990* (Warsaw, 2007), p. 243.

³³ “Polowanie na spółki [dyskusja redakcyjna]”, *Zarządzanie* 1990, no. 2.

members of *nomenklatura*. Already at that time there were warnings that: “[...] public servants employed in state offices and institutions or dismissed from their posts in same, [are active] in various types of private or private-state enterprises and companies, and hold positions in management boards, supervisory boards or other bodies. Another related problem is employing close family members of public servants in such capacity”³⁴

The SB administration was convinced that the implementation of market solutions was by nature associated with pathologies and these needed to be prevented.³⁵ In September 1989, Minister Czesław Kiszczak assured deputies in the Administration and the Interior Affairs Committee: “[...] regardless of proper legal regulations, the reforming economy needs to be protected. The department of internal affairs should react where the law is not respected or where it is abused in order to transform ownership. This also applies to those companies that produce nothing but only drain huge amounts of money”³⁶

These were not just assurances and the SB began to control the *nomenklatura* companies, as evidenced in specific case files, preserved in the archives of the Institute of National Remembrance. However, Henryk Dankowski, the head of the SB at the time, noted that the secret services could only start investigations in some cases and they were not able to fight the whole phenomenon, because the companies activities were actually based on bad legislation.³⁷

The Security Service sent warnings to decision-makers responsible for planning the concept of privatisation. In late autumn 1989, the Office of the Government Plenipotentiary for Ownership Transformations sent out a preliminary draft on the concept of creating a securities market and the privatisation of state-owned enterprises. The plenipotentiary bluntly responded that “we received some comments in writing only from the Ministry of the Interior” on the presented concept. The analysis, probably written by officers of the Department of Economic Protection, pointed out that with regard to transformation and, especially interest from foreign companies “there is a real threat of selling national assets below their value”³⁸ The SB tasks planned for November that year focused in particular on detecting and combating crimes related to ownership changes using legal loopholes. After the Supreme Chamber of Control prepared its pioneering report on *nomenklatura* companies and irregularities in the functioning of the economy, the Director of the Department of Economic Protection, General Józef Sasin sent a report to the heads of the WUSW (office for provincial internal affairs) in which he pointed to “an insufficient activity in task completion related to those threats (to the economy)”³⁹

³⁴ Archives of the Institute of National Remembrance (hereinafter: AIPN), Radom, 02/143, vol. 3, Czesław Kiszczak’s letter to Provincial Internal Affairs Offices, 28 IX 1988, p. 71.

³⁵ AIPN, BU 1585/14246, Information on opinions, views and assessments of SB and MO officials regarding political, economic and social changes taking place in the country, as well as intra-departmental problems prepared by the Political and Educational Board of the Ministry of Interior, 16 III 1988, p. 12.

³⁶ BS, Minutes of the meeting of the Administration and Internal Affairs Committee on 8 IX 1989, p. 2.

³⁷ A. Golimont, *Generalowie bezpieki* (Warsaw, 1992), p. 123.

³⁸ AIPN, BU 0727/50/DVD, part 1, Comments sent to the Government Plenipotentiary for Ownership Transformations by the Department of Economy Protection of the Ministry of the Interior, 20 XI 1989, pp. 274–277.

³⁹ *Ibidem*, part 2, Letter from General Józef Sasin to the deputy heads of the WUSW for the Security Service, 15 XII 1989, pp. 325–326.

In December 1989 more information was gathered on “issues related to the setting up and operation of companies”, which highlighted three major problems related to ownership transformation.

First, those companies focused mainly on profitable brokering between producers and buyers. Secondly, they used creative accounting to benefit from tax reliefs granted to newly created business entities. Thirdly, the shareholders of companies, especially those with foreign capital, were allegedly dishonest while evaluating non-cash contributions – they reduced on paper the real value of assets and property contributed by state owned companies to the newly established company (*spółki*). One of the conclusions is worth quoting: “It should be emphasised that all types of irregularities in the operations of those companies (excluding criminal – in some cases – proceedings) occur as if in majesty of the law, using loopholes in the existing regulations or their unfavourable (from a social point of view) interpretation. On the other hand, all amendments to legal acts regulating the economic activity of companies, as postulated by some economic activists, are solely the responsibility of the Sejm of the PRL. However, one should consider that the changes in this regard might be viewed as an example of both economic and legislative instability in Poland”.⁴⁰

The matter was also dealt with by the Prosecutor General’s Office. Some provincial prosecutor’s offices tried to control the activities of *nomenklatura* companies, for example 88 decisions on the allocation of recreational plots were appealed in Chełm; in Gorzów 10 complaints were filed with the Supreme Administrative Court regarding the sale of premises; in Gdańsk 23 complaints were filed with the Supreme Administrative Court regarding the sale of plots of land.⁴¹ We are not able to fully assess the effectiveness of these activities. In 1991, prosecutors carried out 172 criminal proceedings in cases of abuse of law in commercial partnerships, in 116 of those cases investigated dealings of companies with state-owned enterprises. All cases were based on various articles of the Penal Code,⁴² but generally the key to most cases was undervaluation of assets contributed by a state-owned enterprise to the company (in-kind contribution).⁴³ The overwhelming majority of cases were investigated based on audit reports of the Supreme Chamber of Control or tax chambers.⁴⁴ More importantly, the processed cases rarely ended with indictment.

The problem was that the prosecutor’s office did not have the resources to deal with all the cases – the case files that could be easily proven as legal violations were processed first. Complex cases that required long and costly investigations were put at the bottom

⁴⁰ *Ibidem*, Information on problems related to the establishment and operation of companies developed by the Department of Economy Protection of the Ministry of Interior, December 1989, pp. 332–350.

⁴¹ Information of PAP, *Kontrole prokuratury* 31 XII 1989.

⁴² Among others charges were: mismanagement, forgery of documents, fraud, theft and misappropriation, exceeding of or failure to comply with duties, criminal and fiscal offences.

⁴³ M. Grabska-Taczanowska, “Nomenklatura pod lupą”, *Tygodnik Solidarność* 1991, no. 8.

⁴⁴ NIK did not have the resources to carry out a comprehensive audit on a nationwide scale. However, a number of checks were carried out – the statement of conclusions clearly indicated weaknesses in the system that needed repair. Another issue was exactly how detailed these controls were. NIK spokesman, Jan Bieda stated “We do not control companies because we are not entitled to do so. We control state-owned enterprises, and companies to the extent that state budget funds are involved (from I. Jurczenko, “Spółki nomenklaturowe”, *Prawo i Życie* 1991, no. 10).

of a pile. Social pressure was also an important factor in fighting pathologies. The District Prosecutor’s Office in Szczecin began inspecting the Szczecin Shipyard “Odra” and the company “Moder” only after information obtained from the company union Solidarność. It turned out that Moder employed shipyard workers who had been previously granted unpaid leave from Moder. They performed the same tasks and duties as normally, working in the same space, using the same machines. So the plant performed the same tasks, except that the profits went to the company’s account. Moreover, during the inspection it came to light that the shipyard sold the necessary equipment to the company which it then had to buy back at an inflated price.⁴⁵

SOLIDARITY CAMP’S VIEW TOWARDS THE “ENFRANCHISEMENT OF NOMENKLATURA”

After their defeat in the June elections and problems with the formation of a government, the communists had to agree that larger governing power be transferred to Solidarity. When in July 1989 Wojciech Jaruzelski met in a closed meeting with deputies and senators of the Civic Parliamentary Club (*Obywatelski Klub Parlamentarny*, OKP), he remarked: “I am strongly opposed to any attempts to take possession of state property or, as you call it, appropriate it by the *nomenklatura*”, but he also noted that the initiative in this matter is with the Parliament.⁴⁶

Some oppositionists were convinced that the condition for successful reforms, democratisation and the introduction of capitalism was to gain support of the communist elites. The key to success was their involvement in the whole process. Such opinions were published in the press, including in *Gazeta Wyborcza*. Jerzy Szperkowicz explained that: “[...] if by the term appropriation we mean plundering of national property in exchange for poor or weak pledges and obligations, then one cannot consent to this. However, if we understand by appropriation some alternative in life for people who have been actively engaged and showed political loyalty for years, I suggest we do this with no regrets.”⁴⁷

Gazeta Wyborcza also published articles explaining the meanders of company operations, which were referred to as *nomenklatura* companies, but apparently were intended to serve the real interest of employees of those factories.⁴⁸

These types of press releases and only fragmentarily quoted statements meant that later journalism was attributed to *Gazeta Wyborcza* and the leftist opposition (for example, Adam Michnik or Jacek Kuroń) and their alleged acceptance of the former *nomenklatura* members’ enrichment.⁴⁹ One should note, however, that the first reports and warnings

⁴⁵ Archives of the Supreme Audit Office (hereinafter: ANIK), 121/81, Protokół kontroli Stoczni „Odra”, October 1989, k. 13–80; Information from PAP, *Solidarity and prosecutor’s office against false companies* 13 XI 1989.

⁴⁶ Archiwum Senatu [The Senate Archives] (hereinafter: AS), The transcript of plenary session of the OKP, 17 VII 1989, k. 192, 194.

⁴⁷ J. Szperkowicz, “Uwłaszczać i nie żalować”, *Gazeta Wyborcza* 24 IX 1989.

⁴⁸ A. Wróblewska, “Bronię spółek”, *Gazeta Wyborcza* 22 XI 1989.

⁴⁹ R. Ziemkiewicz, *Michnikowszczyzna* (Lublin, 2006).

against the appropriation by the *nomenklatura* appeared in *Gazeta Wyborcza*.⁵⁰ More importantly, some of these statements were taken out of context. This political philosophy is well reflected in the statements of Jacek Kuroń, addressed at the OKP forum. He reiterated that in the new reality there must also be a place for representatives of the old *nomenklatura*, especially its talented, politically uninvolved part, with experience in management. However, he categorically stated: “I want to make it clear that I am not in favour of the idea of ‘enfranchising’ them economically so they would get power over the means of production and then they would be capitalists and everything would be fine. I am not a supporter of this not just because of the sense of justice, but also because I claim that as *nomenklatura* they will take ownership and lead it towards this type of political and economic monopoly.”⁵¹

It was a realistic approach, shared by other representatives of the Solidarity camp.⁵² The issue of *nomenklatura* participating in business was not a problem as such but the Solidarity camp was convinced of the need to fight predatory appropriation.⁵³ The lack of a common stance regarding this pathology was a result of something more than just a moral or political assessment of this phenomenon. The discussion in the government of Tadeusz Mazowiecki that took place in September 1989 is an interesting reflection of this.

When the Minister of Justice, Aleksander Bentkowski brought attention to the thieving practices operated by *nomenklatura* companies, the Minister of Industry, Tadeusz Syryjczyk agreed with him. Immediately afterwards, however, he began to explain that the situation must be regulated by the market itself: “We cannot prohibit, interfere, or license [their operations]”. Jacek Kuroń went even further and stated that policing cannot be applied to the economy.⁵⁴ Such an opinion did not stem from ignorance. At one of the previous meetings, Minister Syryjczyk perfectly analysed the mechanisms of the described pathology. He pointed out that the supervision of the State Treasury became largely illusory: “the director of a state enterprise is no longer a government functionary. This means that he can neither be dismissed nor appointed by the minister in the majority of cases, except in definitive cases, pardon the expression, to lock him up for theft”. In his opinion, the control apparatus was not even inefficient, it simply did not supervise these processes at all. His conclusion appealed to the imagination but it was also terrifying: “for five zlotys you can send a bailiff to a small-time craftsman or to a company but these days and for a million [zlotys] you cannot even dismiss the director of a state-owned company.”⁵⁵ In his opinion, however, this could not have been followed by a definite and

⁵⁰ See, e.g. J. Mujżel, “Stop!”, *Gazeta Wyborcza* 13 VII 1989.

⁵¹ AS, The transcript from the OKP meeting, 20 VII 1989, k. 49–50.

⁵² BS, Minutes of the meeting of the Committee on the Economic System, Industry and Construction, 28 VIII 1989, p. 11.

⁵³ *Ibidem*, The transcript of the Sejm sitting on 1 VIII 1989, pp. 122–123.

⁵⁴ Quoted after A. Dudek, *Od Mazowieckiego do Suchockiej. Polskie rządy w latach 1989–1993* (Cracow, 2019), p. 180.

⁵⁵ AKPRM, The transcript of the meeting of the Council of Ministers on 18 IX 1989, pp. 48–49. In this context, it is worth quoting the conclusions from the article in *Tygodnik Solidarność*: “They invest token money in the company, and become quasi-owners of multi-billion dollar assets. They are owners enough to rake in the profits, but not enough to be liable for the company’s assets. Even if they ruin an enterprise by over-exploiting it

rapid government response: “[...] if we want to use foreign capital well, if we want to significantly activate those investments and if we want to put production assets to good use, we must encourage property leases, we must encourage the sale of assets to privatise state enterprises, but we need to make sure that the State Treasury [is not treated like Cinderella] but gets an honest valuation in those transactions”.⁵⁶ At the root of this understanding was the conviction of many Solidarity camp leaders that hasty government interference with those processes would harm the economy. Paradoxically, they adopted the same perspective that technocrats advocated for market solutions in the previous communist government. They were convinced that in the process of dynamic – and to some extent uncontrollable – economic transformation, some pathology is inevitable. In their opinion, the introduction of new mechanisms for valuation of assets and revisions of contracts would introduce chaos that would negatively affect the privatisation processes.⁵⁷ The Deputy Minister of Finance, Marek Dąbrowski explained to the deputies from the OKP: “We are constantly bombarded with reports of various scandals. And now the question is whether we should get involved and turn these around [...] or leave it to law enforcement authorities and just deal with it as soon as possible by quickly rebuilding the system”. His answer was clear – one has to strive for good future solutions.⁵⁸ According to this philosophy, the government decided to only use half-measures to potentially control the phenomenon of siphoning off assets by *nomenklatura* companies.

In the spring of 1990, Jacek Michalski, a representative of the Government Plenipotentiary for Privatisation, explained: “*Nomenklatura* companies should be treated as a necessary evil rather than a target for destruction. The only criterion for assessing such companies should be their business efficiency. The market economy would promptly verify economic activities. Companies set up by incompetent people just for quick and easy enrichment would simply fail”.

He also brought attention to three particular problems related to the application of the “anti-*nomenklatura* company” act. First of all, the law is not retrospective, so it would be difficult to cancel existing contracts. Secondly, there were insufficient criteria to distinguish a *nomenklatura* company from an “ordinary” company. Thirdly, this act could discourage foreign investors who would not be interested in operating on a market with constantly changing regulations.⁵⁹

Such a philosophy had numerous opponents and they seemed to have dominated in the Solidarity environment. During OKP meetings Ryszard Bugaj was often their voice, such as for example during a meeting with Deputy Prime Minister, Leszek Balcerowicz when he said “I cannot understand why the government could not be persuaded to take

during a lease, it is not their property that gets damaged” (from I. Bartczak, “Nowsza klasa” [Newer class], *Tygodnik Solidarność* 1989, no. 16).

⁵⁶ AKPRM, The transcript of the meeting of the Council of Ministers on 18 IX 1989, k. 50.

⁵⁷ T. Jeziorański, “Lex Dyner – Lex Lis”, *Życie Gospodarcze* 1989, no. 50.

⁵⁸ AS, The transcript of the OKP meeting on 28 IX 1989, k. 192.

⁵⁹ RP-DGW, “Pieniądze albo Śmierć”, *Gazeta Wyborcza* 29 V 1990. Cited from BS, Minutes of the meeting of the Committee on Economic Policy, Budget and Finance, the Committee on the Economic System, Industry and Construction, and the Legislative Committee, 8 V 1990, p. 10.

actions targeting the *nomenklatura* companies. Of course, this can be done through the Parliament [...] [but] I do not understand this cautiousness [of the government]. I think it is very harmful”.⁶⁰ The government’s inaction was not approved by many deputies but also by members of the Solidarity leadership. Their motivations varied greatly. Some of them emphasised the ethical and ideological aspects – they believed that the common good earned by ordinary people could not be taken over by members of one class using their privileged position. Others put more emphasis on the economic aspect and yet another group was concerned about the public perception of it.

At some point, *nomenklatura* companies became the fuel of internal dispute in the Solidarity camp. This was crucial to the point that tensions started emerging between Wałęsa and Mazowiecki, which would go down in history as the “wars on the top”. As early as January 1990, the National Executive Commission (*Krajowa Komisja Wykonawcza*, KKW) led by Wałęsa, realised that Solidarity was losing public support because of the drastic reforms of the government. The most logical solution for Solidarity was to distance themselves, at least partly, from Balcerowicz’s reforms. One of the potential points that Solidarity could focus on was the *nomenklatura* issue. Lech Kaczyński explained in January 1990: “[...] the situation in the country is very tense at the moment. We are dealing with a problem of the economic and administrative *nomenklatura*. We are the only guarantor of reforms [...] we need to attack the *nomenklatura* in the workplace [...] Why are you so soft on the government? I think one should get harder on them. We must start dealing with the *nomenklatura*”.⁶¹

Of key importance however was that the privatisation of state assets would not happen at the expense of ordinary workers. The KKW postulated that they be allowed to participate in the shares.

All the disputes and problems described above affected the legislative process of the act against *nomenklatura* companies. Jerzy Dyner, the deputy of the OKP and economists Prof Hubert Izdebski and Dr Henryk Szlajfer prepared their draft in August 1989. Paradoxically, this initiative was somewhat criticised, because Dyner did not follow the internal procedures of the OKP. He himself rightly explained that it was a matter of urgency that convinced him to act promptly.⁶² 21 deputies from the PZRP and 17 from the OKP signed the bill.⁶³

One of the key solutions of the project was a provision stipulating that prior to the sale of any fixed assets, these must be valued first by experts appointed by the appropriate district court. This would mean that selected content of the consolidation act would be invalidated, the one which allowed for ownership transfer based on unreliable valuation.⁶⁴

⁶⁰ AS, the transcript from the meeting of the Presidium of OKP on 3 XI 1989, k. 56–57.

⁶¹ Archives of the National Commission in Gdańsk (hereinafter: AKK), Minutes of the meeting of the Presidium of the Solidarity Trade Union NSZZ, 16 I 1990, b.p.

⁶² AS, transcript of the OKP meeting on 5 IX 1989, k. 187.

⁶³ PAP information, “Przekształcanie form własności jest nie dość kontrolowane” [Transforming the ownership is not sufficiently controlled], 20 X 1989.

⁶⁴ T. Jeziorański, “Lex Dyner – Lex Lis”.

The project also contained regulation to introduce tender procedures that would protect against buying back the property through family connections.⁶⁵

Problems with working on the bill appeared immediately – the biggest obstacle was to correlate the regulations of this bill with other legal acts in the making. The bill, which was discussed at the turn of August and September, had its first reading on 15 November 1989 at a joint meeting of three committees (the legislative committee; the business, industry and construction committee; as well as the economic policy, budget and finance committee). The biggest problem faced by the proceeding of the bill was that it included regulations on the recovery of property sold or leased with a substantial loss for the enterprise – according to the proposed legal act, one of the signees would be able to withdraw from the contract concluded after 1 January 1989. The deputies argued that such a solution would be a violation of the *lex retro non agit* rule.⁶⁶

Committee meetings were an arena for legal disputes. Numerous committee members, experts, and representatives of ministries and institutions presented assessments often rather varying from one another. Most often this resulted from different perspectives and defending different rationales, often of equal importance. Legal analysis of these problems is not the subject of this article. However, it is important to emphasise another aspect of work organisation, a specific manner of lawmaking and the relations between individual power centres. First of all, Dyner was exposed to pressures to discontinue his work: “Since August, when the proposal was submitted to the Marshal of the Sejm, I have been subjected to various pressures to postpone it and now I have a negative feeling about it [...] I am shocked by the position of legal purists who don’t seem to be aware of the responsibility bestowed upon us. Today nobody can say how many billions of zlotys have leaked from our budget through these companies [...] This is a colossal social and financial burden and I would not like to explain to society why we keep putting it off”.⁶⁷

Secondly, the government stalling their motion, and the resulting delays were a massive problem.⁶⁸ This matter was so protracted that even the opponents of the bill were surprised. Hanna Suchocka bitterly stated: “I voted today for the swift adoption of this bill. I used to be against it because I thought the government should proceed at their pace and they should not be disturbed. Meanwhile, time is passing, and we still have not received a government study on that, and we still know nothing about it”.⁶⁹ On the other hand, former supporters of the bill stated that the time to pass the bill was over. Andrzej Zawisłak withdrew his support at the end of March 1990: “I was one of the petitioners to develop this piece of legislation. Its aim was to prevent selling the national assets at an

⁶⁵ K. Milewska, “Uwłaszczenie nomenklatury”, *Tygodnik Kulturalny* 1989, no. 38; Information of PAP, „Projekt ustawy o ochronie mienia narodowego na forum sejmowej komisji” [Draft bill on the protection of national property in the forum of the parliamentary committee], 15 XI 1989.

⁶⁶ Information of PAP, “Projekt ustawy o ochronie mienia narodowego na forum sejmowej komisji” [Draft bill on the protection of national property in the forum of the parliamentary committee], 15 XI 1989.

⁶⁷ BS, Minutes of the meeting of the Committee on the Economic System, Industry and Construction and the Legislative Committee, 15 XI 1989, p. 22.

⁶⁸ *Ibidem*, pp. 4–5.

⁶⁹ *Ibidem*, Minutes of the meeting of the Committee on the Economic System, Industry and Construction and the Legislative Committee, 16 I 1990, p. 17.

underestimated price. In other words, it was meant to stop the plundering of those assets. This act was needed from September last year to the present day. It turned out that our legislative capacity does not keep up with the pace of the economy. I am referring to the privatisation bill. After it becomes the law, the assets will defend themselves. Business entities will be interested in ensuring that their assets are properly valued [...] the act on protection of nationwide property in its present shape is now long overdue and therefore no longer needed⁷⁰.

The Sejm adopted the bill to amend and temporarily suspend some acts concerning the national economy on 24 February 1990. The bill went to the Senate, whose members raised their objections during the March meeting, and also submitted a draft bill on the “repayment of unduly obtained benefits at the expense of the Treasury or other legal persons”.⁷¹ This brought about even more chaos to the whole process – the Sejm, despite giving a negative opinion on the Senate’s decision, set up a subcommittee where deputies and senators worked together.⁷²

Finally, the Act on the “repayment of unduly obtained benefits at the expense of the Treasury or other legal persons” was adopted in June 1990, which in theory gave the opportunity to cancel transactions carried out to the detriment of enterprises.⁷³ The Act came into effect as of 24 July 1990, and it was to remain in effect for a year, but during the first five months it hardly brought any result at all. On 29 September 1990, the Prosecutor’s Office of the Ministry of Justice asked the provincial prosecutor’s offices to take action and implement this Act. They, on the other hand, delegated NIK representations, tax chambers and the provinces to carry out the task. By mid-December, only 51 cases under suspicion were reported nationwide.⁷⁴

The Act and other legal regulations introduced thereafter did not completely eliminate pathologies in this regard – they merely limited and changed their operating mechanisms. Since the regulations came into effect, some members of the *nomenklatura* got rid of private shares and double salaries – the overwhelming majority chose to work in state-owned enterprises. Some secured the fortunes by involving their family members. Transactions unfavourable to enterprises continued to occur, for example, by transferring part of the assets to companies as an in-kind contribution, through profitable sale or even through donations. As the NIK report stated, the state apparatus also tolerated “cases of arbitrary and illegal liquidation of state-owned enterprises by its directors who, as members of management boards of these companies, acquired production potential and property from liquidated enterprises at relatively low prices”.⁷⁵

⁷⁰ *Ibidem*, Minutes of the meeting of the Committee on the Economic System, Industry and Construction and the Legislative Committee, 24 III 1990, p. 4.

⁷¹ AS, Transcript of the 22nd meeting of the Senate of the Republic of Poland on 29–30 III 1990, k. 15–26.

⁷² BS, Minutes of the meeting of the Committee on the Economic System, Industry and Construction and the Legislative Committee, 21 VI 1990, p. 1.

⁷³ A. Dudek, *Reglamentowana rewolucja*, pp. 181–182.

⁷⁴ M. Grabska-Taczanowska, “Nomenklatura pod lupą”.

⁷⁵ AKPRM, 103/22, Information on the audit results of relations between state-owned enterprises and commercial law companies between 1988 and 1990, January 1991, k. 4–5.

CONCLUSIONS

Appropriation during the time of transformation ultimately drained business assets through so-called *nomenklatura* companies as a side effect of introducing market mechanisms to a centrally managed economy. This phenomenon was not specific to Poland only, it also affected other countries, for example Hungary.⁷⁶ The main beneficiary of said appropriation was, by Ehrlich’s typology, the economic *nomenklatura*. They had the expertise, experience and enough clout that made it possible to benefit from the implemented market reforms. Depending on their needs, members of this group sought help from other *nomenklatura* departments, when they were looking, for example, for a political umbrella or protection from control operations and the prosecution apparatus.

Contrary to frequently repeated opinions, there is no evidence that the process of appropriation of means by *nomenklatura* was planned in advance. Quite the opposite – it was the effect of individual or group survival strategies of *nomenklatura* members facing imminent system transformation. Some of the communist authorities, led by most members of the *Politburo*, considered appropriation as a pathology that undermined the foundations of their power. Members of the new technocratic elite thought differently. They were convinced that the transformation of the system and such phenomena coming to surface were inevitable and did not necessarily have to be a grave threat. Paradoxically, this belief turned out to be shared by many leading politicians and economists of the Solidarity camp who believed that the *nomenklatura* companies were a “lesser evil”. The matter was further complicated by many loopholes in the law, which made it very difficult or next to impossible to prove that the founders of *nomenklatura* companies kept breaking the law. The new Solidarity political elite did not rise to the challenge and was not able to fix the loopholes for a very long time. This was a result of internal divisions and a lack of coordination between the government and parliament. What is worth emphasising is that this far too flawed cooperation became a systemic defect that burdened the law-making mechanisms in 1989 and 1990.

The appropriation of means by members of the establishment through *nomenklatura* companies was not a long-term phenomenon, it de facto concerned the year of 1989 and 1990. In the following years, political realities and the law changed, and Poland began to integrate with the Western economic system.⁷⁷ Companies with foreign capital were a new element of that system. In the process, foreign investors made cash contributions and expected contributions in the form of machines, production equipment, buildings and means of transport from their Polish business partners. The problem was that the valuation process of assets was manipulated. As a result, the company may have received production machinery and equipment “for free” or previously amortised in the books or

⁷⁶ D. Stark, “Privatization in Hungary: From Plan to Market or from Plan to Clan?”, *East European Politics and Societies* 1990, no. 4, pp. 351–392.

⁷⁷ AKPRM, 2903/24, Analysis of pathological phenomena in the economy, developed at the Ministry of Justice, included the results of the work of the inter-ministerial team, 28 V 1992, k. 286.

else purchased these at bargain prices.⁷⁸ These manipulated valuations had some negative consequences. First, it created obvious disproportions in the distribution of profit to the detriment of the state enterprise. Secondly, it discouraged foreign investors from investing in modern machinery parks or western technology transfer.⁷⁹

The economic pathologies emerging after 1989 were wider than the appropriation of assets by the *nomenklatura*. This issue was the most problematic in the initial period, but it seemed to be marginal compared to other problems such economic scandals, smuggling, corruption, and over time the emergence and expansion of organised crime activities that emerged as time went by and became a growing threat to a new democracy.

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Appropriation Mechanisms: the Functioning of “Nomenklatura Companies” in the Period of Economic Transformation

This study analyses the issue of enfranchisement of the *nomenklatura* [*uwłaszczenie nomenklatury*] at a time of economic transformation in Poland (1989–1990). The term “enfranchisement/propertisation of *nomenklatura*” is used here to describe the process of Communist party members and high ranking officials gaining the right to own and manage state properties and assets (from state owned enterprises). The main tool for this appropriation of means during the transformation period was so the called *nomenklatura* company [*spółka nomenklaturowa*]. It can be defined as a company that was closely related to a state-owned enterprise, and its shareholders were the management of that enterprise as well as members of the party and state apparatus (or members of their families), connected by political party codependence, and administrative or social ties. The actual purpose of establishing and operating the *nomenklatura* company was for the company’s management to exploit it for personal benefits at the expense of state-owned enterprises. The key element of this study is to analyse two issues: the politics of the Communist authorities towards appropriation and the politics of the Mazowiecki government and other Solidarity cabinets regarding this problem. An analysis of how those groups made their decisions and how they chose strategies in dealing with the appropriation of means by *nomenklatura* shall make it evident that this phenomenon was, in principle, an unforeseen side effect of economic reforms rather than the result of planned actions.

KEYWORDS

nomenklatura, *nomenklatura* company, economic transformation, Solidarity, enfranchisement

Mechanizmy uwłaszczenia: działalność „spółek nomenklaturowych” w okresie transformacji gospodarczej

Artykuł podejmuje kwestię uwłaszczenia nomenklatury w okresie transformacji gospodarczej w Polsce (1989–1990). Pojęcie to użyte jest w znaczeniu procesu, w wyniku którego członkowie partii komunistycznej i wysocy urzędnicy państwowi uzyskiwali na własność lub w zarząd aktywa i nieruchomości państwowe (należące do państwowych przedsiębiorstw). Głównym narzędziem uwłaszczenia aktywów były w okresie transformacji tzw. spółki nomenklaturowe, czyli spółki ściśle związane z przedsiębiorstwami państwowymi, których udziałowcy należeli do kierownictwa takiego przedsiębiorstwa i zarazem oni sami lub ich krewni byli członkami partii i aparatu państwowego powiązani zależnościami partyjnymi oraz stosunkami administracyjnymi lub społecznymi. Rzeczywistym celem zakładania i prowadzenia spółek nomenklaturowych było wykorzystywanie ich przez kierownictwo dla osobistych korzyści kosztem przedsiębiorstwa państwowego. Kluczowym elementem niniejszego badania jest analiza dwóch kwestii: polityki władz komunistycznych wobec uwłaszczenia oraz polityki rządu Mazowieckiego i innych rządów solidarnościowych wobec tego samego problemu. Analiza procesów decyzyjnych tych grup oraz obieranych przez nie strategii radzenia sobie z uwłaszczeniem aktywów przez nomenklaturę pokazuje wyraźnie, że zjawisko to było zasadniczo nieprzewidywanym efektem ubocznym reform gospodarczych, a nie wynikiem planowego działania.

SŁOWA KLUCZOWE

nomenklatura, spółka nomenklaturowa, transformacja gospodarcza, Solidarność, uwłaszczenie

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