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Ownership transformation in Poland after 1990. Blows and shadows in a theoretical and practical context

Introduction

The fact that the model of economic and political order applied in the USSR was imposed upon Poland led to a rapid disappearance of private ownership in the late 40s. Due to the implementation of nationalization law, laws resulting from the communist constitution and other legal regulations concerning 'social property of means of production', people were no longer allowed to dispose shares, because according to the new ownership law they became co-owners of public property. In reality the body responsible for managing means of production and exercising ownership laws was the public administration, which did not have material liability because, it was not, in fact, the legitimate owner. All the above mentioned factors contributed to situation in, in which no-man's-property was created and it promoted excessive wastage, unwise decisions and shifting responsibility for them to citizens. Economic decision criteria concerning investments and all modernization processes were subordinated to political and social interests. It paved the way for forcing through labour and assets consuming technological progress with a long return of investment (Woźniak, 1997, p. 80–83). Until Poland ran out of resources of the centrally-planned economy such investments enabled enormous economic growth based on the increase of means of production at the price of a growing technological gap and increasing differences in life standard in comparison to countries with a well-established market economy.

The transition to a well-functioning market economy required the privatization of national assets. In the case of the post-socialist economy, it was an extremely complicated process. After all, the post-communist community did not have adequate savings, and it was necessary to implement it as soon as possible. The

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issue is discussed in this article. It describes the theoretical and historical justification for privatization, the privatization pathways and the development of the private sector. Against the background of the theoretical and practical problems of ownership transformations in Poland, the errors and conclusions for the future will also be pointed out.

ILLUSORY QUEST FOR AN EFFECTIVE INVESTOR

Pathological nature of the economic and political administration, which evolved to a caste system of party government and bureaucracy, was an obvious consequence from its early beginnings. Nevertheless, the problems with economic efficiency as well as with modernisation of enterprises and national economy resulting from property nationalisation were being neglected. They were only addressed in reference to an increased accumulative ability of a non-private centrally planned economy and allegedly better strategies of coping with underdevelopment with the use of accelerated industrialization and modernization priorities easily imposed by political decisions and a macroeconomic plan (for the benefit of production of means of production – both for export and consumption). This anti-efficient consensus, which was oriented at strengthening monopoly of political power and public owenrship was regularly disturbed by labour protests against progressing limitation of consumption and quality of life. Nevertheless, no one has questioned the monopoly of state property for decades, and the only thing that was done was searching for instruments necessary to reduce the waste of manufacturing resources, lack of innovation and its deficiencies (decentralization of economic decisions) and nationalizing the decision process in order to focus the production on consumer's needs as well as empowering an employee (the system of local governments).

The first attempts to separate the state administration interest from business sector were already made in Poland in the 70s. At that time decentralization took the form of delegating powers to take decisions concerning development, production volume and price fixing of new products from central administration to large economic organizations (Wielkie Organizacje Gospodarcze – WOG) of a monopolistic nature. These, on the other hand, have delegated the powers to take decisions on current production volume and value, employment, wage bill, renovations, electricity and transport management to enterprises. As a result of the reform the persons responsible for most decisions were managers, whereas the central planner determined additional production standards, which influenced the parameter regulating wage bill, and profit determining managers bonuses. Nonetheless, it turned out that the new power order did not create favorable conditions for restructuring, enterprise modernization and innovations. Moreover, the access to manufacturing resources was not equal for everyone and wage differentiation caused widespread protests among employees. Despite the fact that further modifications of original principles of WOG assumed the reduction of state's role in real economy, they did not lead to empowerment of enterprise staff and managers. Limiting state's decision powers concerning products and their volume, without making management of enterprises the ownership subject violated ownership law and its voluntary transferability. This type of decision decentralization did not solve problems with microeconomic efficiency and the lack of an effective investor willing to put a lot of effort into modernizing an enterprise and increasing its market value, because its assets were no-one's property, which was used only to implement one's particular interests.

Supporters of empowerment through distributing ownership rights among employees assumed that this process may be supplemented with turning employees into business owners. Holding company's shares and employees' participation in company's performance and related decisions are the most efficient forms of the ownership rights distribution. Therefore, in order to empower enterprises it was highly recommended to introduce a self-governing system of decision making.

In August 1980 the concept of socializing property under self-governance, democracy and pluralism was proposed. It was included in two laws passed by the Sejm on 25th September 1981: the Act on State-owned Enterprises and the Act on Employees' Representatives in State-owned Enterprises (Journal of Laws, No. 24, item 122 and 123 of 30th November 1981). Despite the fact that popularization of ownership through establishing 'Self-governing Republic of Poland' was not the same as privatization, enterprises were going to become autonomous and governed as well as financed independently from state and party administration, whereas employees (the general assembly) took over a vast array of ownership and managing powers based on commercial law companies. The above mentioned independence was guaranteed by the court and the fact that a CEO was appointed in a tender (except for enterprises of particular importance for national economy and public utilities). The representative of a state-owned enterprise had only a monitoring and partially supervisory role. Economic efficiency was supposed to be enhanced by self-financing of independently developed plans (which determined directions of enterprise's operation and development on the basis of economic efficiency evaluation and a full financial responsibility) and the risk of liquidation in case "there was a substantial or complete decline in social demand for this type of entrepreneurial activity" or this particular business activity has been operating at a loss (Journal of Laws, No. 31, item 170 of 30th November 1981).

The above mentioned model of ownership spreading was based on non-transferable and non-exclusive ownership rights formally assigned to enterprise's staff but being in fact in state's hands. In reality, the economic risk of inefficient decision was automatically distributed among all employees and at the same time it decreased motivation to search for most efficient options and control enterprise's management. The prevailing element of this model was the interest of enterprise's staff (maintaining jobs and increasing wages), which determined directions of technology modernization. This kind of distribution of decision powers had to bring about problems with financing investments due to the lack of efficient investor as well as possibilities to develop capital market and the fact that it reinforced the tendency to consume profit.

Empowerment of enterprise staff through finding a third way assuming that the state will transfer a significant part of ownership rights to employees was blocked by the introduction of martial law. Nevertheless, the concept of participation and self-governing survived in social aspirations and could not be ignored in the search for ways of accelerating privatization processes.

All attempts to modernize economic decision making processes have fully exploited the potential of creative ideas regarding protection from bankruptcy of the centrally planned economy. Given the lack any alternative solutions the government had to go for privatization of state-owned property. The theoretical reasoning supporting this solution was provided by the Chicago school of ownership rights.

Conditions of inheritance of ownership rights in Poland

Unsuccessful introduction of reforms and Gierek's strategy of imitative modernization grounded on external debts and import of technologies was terminated by the imposition of Martial Law in 1981 and in the context of analyses of a mechanism of centrally planned economy it shed light on anti-efficient results of the system of incomplete, non-exclusive, non-transferable ownership rights, which are attached to the played social roles. The arguments for private ownership were mainly provided by the experience gained by developed market economies. They showed that the market structure favouring modernization is characterized by a dominating participation of a private sector in production of goods and services, trading in goods, creation of jobs, national wealth and technology, product, management, marketing as well as financial innovations. On the other hand, the public sector is mainly oriented at delivery of public goods, development of human capital and economy infrastructure, as well as creating friendly atmosphere for investments of inland and foreign investors, de-concentration of business activity, development of SMEs sector, establishing institutional framework for different legal and organizational business forms and development of financial entities (banks, stock exchange, investment funds), which streamline real economy processes.

On the verge of transformation in 1989, the structure of Polish economy differed fundamentally from countries which without any problems kept pace with leaders in modernization processes. It need to be emphasized that the average degree of amortization of public tangible assets in 1990 amounted to as much as 70% (Raport CUP, 1993). In the industry the de-capitalized machines, devices and means of transport, which were in continuous use, accounted for 25% of the technological part of these assets. In the first three years of transformation the process of tangible assets de-capitalization deepened as a result of post-transition recession and a 14% decrease in investment expenditure. This scenario became real even though the post-war Poland was a country of great investments, which, according to statistics, absorbed from 20 to 30% of the national income[2]. This enormous investment effort was wasted due to 'no-one's property' and socio-political interests neglecting economic rationality criteria. Predominance of such priorities while making decisions on investments was the reason why Poland became a huge construction site of new facilities and uncompetitive technologies. As a consequence, as much as 70% of investment expenditures was allotted for construction expenses. The scale of this process was reflected in excessive expenditure on buildings and constructions as well as the share of outfitting investments in GDP, which was almost two times lower in Poland than in other developed capitalist countries. The attempts to reduce the number of construction sites in the 70s did not overcome the inertia of the structure of investment expenditures.

The outlined alterations of modernization of tangible goods resulted from the fact that the public sector held the lion's share in GDP and the production was concentrated in large state-owned enterprises (7.1% of them provided more or less 44% of industrial production, employing almost half of the employed) (Bałtowski, 2002, p. 187), whereas SMEs sector fell behind. What is more, areas of activity typical for small private enterprises in developed countries (retail trade, catering) are dominated by centralized and inefficient cooperatives in Poland (the so called state economy) (Bałtowski, Miszewski, 2006, p. 226).

From the point of view of economic criteria one ought to pay attention to other implications of alterations of economic structure resulting from the new order of non-private ownership rights in Poland. Similarly to other communist countries they took the form of the following alterations:

1. Concentration of production potential, employment and production in sectors of resource-material production, often low-end production: in mining, metallurgy and arms industry, which was caused by the inefficient resource tenders and connecting the structure of production to politics.
2. The sectoral structure of GDP creation, which did not correspond to modernization challenges of world economy. In years 1985–1989 the industry in Poland produced about 50% of GDP, there was an excessive share of farming in production and most of all in employment, whereas the services sector remained underinvested. The sector of financial-business services was extremely backward and that was of particular concern because such services play principal role in investment processes enabling modernization of tangible goods.

[2] The real share of investment in national income was much higher, because the inputs' prices administered by the state had a much lower profit margin than the prices of consumer goods.

3. Supply not suited to the structure of consumer demand and to the requirements of international competition. The superfluous production constituted 40% of production in general and at the same time there was a shortage of basic consumer goods (Lipowski, 1994).
4. Technological backwardness in the form of low productivity, high capital- and energy-intensive production, low quality of products and high environmental degradation.

The most vital process in the whole transformation of Polish economic structure was definitely the radical change of ownership structure aimed at reversing the participation of public and private sectors in economy. The right to manage the property combined with the responsibility for its loss are the most basic incentives to act rationally and increase the value of the property. Moreover, they stimulate entrepreneurs to estimate the risk of a business venture precisely, especially the one connected to investments, which determine modernization processes, the evolution of the structure of economy according to the changing demand, competition, technologies and changes in the labour market.

Theoretical and practical reasons for acceleration of privatization

One should pose the question about an effective distribution of decision powers in Poland also in the context of an effective investor who should replace the former manager of no-one's property interested mainly in increasing the decision power.

After several years of discussions on system transformation the Polish public came to the conclusion that the prerequisite for the successful transition from the centrally planned economy to efficient market economy is the structural change of ownership, which would lead to a considerable growth of private ownership participation in the market. This opinion was based on an assumption that private ownership guarantees full development and rational concentration of human activity, initiatives, ingenuity and creative energy. The Chicago School of ownership rights provided non-controversial theoretical justification for this empirically proved thesis.

According to findings of this analysis the attributes of private ownership are:
• Exclusive rights of an individual to a given source
• Voluntary transferability of such rights.

If the above listed principles become an integral part of social relations and are protected by the law, there are constitutional conditions for predominance of private ownership. The exclusiveness of ownership rights makes it possible to allocate every decision power to a specific individual(s). Owing to that, a given property owner bears financial responsibility for choosing or not choosing one of the choice alternatives regarding resource allocation and income distribution.

It means that the principle of exclusive private ownership rights successfully links the risk of allocation decisions and the owner. It also means that having exclusive right to a given resource forces the owner to its rational management. In the case of this decision process the criterion of microeconomic rationality is of particular importance. Therefore, an owner pays special attention to eliminating possibilities of anyone else taking the profit or him incurring any additional costs of his business activity.

The second condition enabling the predominance of a criterion of microeconomic efficiency is connected with the free entry into the market. Having a free entry requires voluntary transferability of ownership rights, i.e. an unlimited possibility to transfer these rights to other individuals. If the criterion of microeconomic efficiency is to be prevailing, establishing new business entities cannot be dependent on political decisions, but has to be a resultant of decisions taken autonomously by individuals. The only problematic issue here may be financial means and individual tendencies to exploit market opportunities. If the conditions mentioned above are met, the mechanism of reproduction of ownership rights has to be based on the economic balance.

In reality, economic rationality needs competitive environment as well. Liberalization of ownership rights, which is based on a free entry guaranteed by the law, is sometimes not enough to trigger microeconomic efficiency. The factors limiting free entry are monopolistic tendencies that may be observed on the market and may be theoretically justified by benefits of economies of scale.

The theory of ownership rights questions the importance of monopolization in preserving a criterion of economic rationality. In the case of private ownership there are also objective limitations of development of hierarchic linkages, i.e. production monopolization. The relations' hierarchy in an enterprise should be established in accordance with the rule of profit maximization, i.e. until the hierarchic costs and market exchanges' costs balance out. After reaching an optimum, owners of means of production will present market exchange – seeking behavior as a result of loss avoidance from vertical connections.

It needs to be emphasized that making the allocation decisions the subject to the criterion of economic efficiency means proving that the social usefulness of such decisions may demonstrate itself only in the form of market mechanisms, i.e. ex post, and moreover it does not include the needs, the satisfaction of which cannot ensure satisfactory results for enterprise owners. Therefore, the limited and only partial social usefulness of allocation decisions has to be corrected by state's interventions. What is more, the negative externalities of full rights concerning exclusiveness and voluntary transferability of ownership, i.e. the negative externalities for the third parties, require sometimes the limitation of these rights.

State intervention made in order to eliminate the above mentioned market deficiencies of allocation processes and private ownership has to be limited. The lack of internal barriers of state's economic interventionism could result in disturbing efficiency of market mechanisms due to the predominance of political interests over economic efficiency criteria. The essential conditions for economically justified limitations of state interventionism are interests of private enterprise owners, legal provisions regulating the primacy of the state over business entities and a democratic political order. Privatization makes managers' motivations independent from political interests and political instability but only when the constitutional and legal protection of possession, transferability and disposal of that rights are being guaranteed.

Privatization is also a prerequisite for the elimination of myopic decisions of economic operators (the so called horizon of managerial staff). Private ownership breaks time limits of ownership rights, because it links the decision powers concerning the subject of ownership to a given individual, and not to social roles. Thus, it is possible and appropriate to capitalize the expected results of enterprises' modernization in a current market value. Transferring the economic effects of this modernization to a private owner (costs and benefits) causes the elimination of economic organizations' inability to react to changes concerning technology, domestic demand and possibilities offered by the world trade.

What is more, privatization should also be associated with effective restructuring processes. Free market entry and voluntary transferability of ownership rights enable to trigger grass-roots mechanisms of transferring the economic surplus to areas where it could be used most efficiently. In this way, competition and private ownership trigger processes of the so called creative destruction, i.e. bankruptcy of inefficient companies, whose resources and income are then absorbed by more efficient entities. Transferring overall economic risk of using ownership rights to the owner of the subject of ownership becomes a prerequisite for stimulating entrepreneurship, initiative and innovativeness if the state is capable of guaranteeing competition and rule of law.

The above listed arguments prove, that privatization makes the modernization processes subject to the idea of economic efficiency. In order to accelerate these processes one needs deliberalization of capital, which is connected with the above mentioned liberalization of financial markets. Deliberalization of the capital flow is the precondition for the existence of capital market and a market of managerial talents. A manager subordinate to a private owner being a major shareholder in the company, is forced to maximize profit. As an owner of a special kind of human capital in the form of managerial competencies they can use them to increase economic outturn of the company. However, his opportunities for promotion on the market of managerial talents depend on the dividend (company's profit).

Privatization enables to break companies' soft budgetary and financial barriers, which were typical for socialist economy. It is the only tested and effective solution that may free the government agencies from the responsibility for companies' financial situation, which, in conditions of public ownership, cannot be controlled.

The above mentioned arguments for privatization prove that the market cannot function efficiently without private ownership and therefore cannot be a complete market. Efficiency of markets requires concentration of efforts aimed at accelerating privatization. The pace of implementation of privatization determines the progress of economy's transformation and modernization. It needs to be emphasized that the private ownership, owing to the fact that it triggers initiative and enterprise, may also support the recovery from a recession and strengthen the tendency to macroeconomic stabilization because of greater efficiency of resources utilization and stabilization of financing of business entities.

The arguments weighing in favour of privatization include first of all challenges of a growing competition that could not be tackled by non-private enterprises even if they made attempts to reform administration and macroeconomic management of production and technological advancement. In reality, one could observe mounting problems of non-private enterprises with technological modernization, quality of production and its adjustment to consumers' needs. Therefore, historical premises were of fundamental significance in making decisions concerning privatization. Theoretical argumentation was only helpful in overcoming a resistance of ideological nature because it proved that searching for methods of management of modernization and directing it at socio-economic cohesion within partial, non-exclusive and non-transferable ownership rights, is just an illusion resulting from emotional barriers.

The experiences of non-private centrally planned economy showed that the established patterns of passive and negative adjustments of business entities are its inherent properties. In practice, they had the form of tendencies to: avoid changes of a strategy of operations, increase prices and reduce production in order to protect a company from bankruptcy. Managerial duties are concentrated on demands of the paternalistic protection from foreign competitors and on finding methods of triggering soft financing and financing of other resources. Due to the fact that regulatory operations of a state were the source of easy benefits, there was downward pressure concerning state's active tax, monetary, industrial, agricultural and trade policies, which were aimed at deriving benefits having no economic efficiency justification. The described adjustment processes were supported by inherited monopolistic structures present in the economy, which took the form of WOGs (enterprises bought under joint management forming large economic organizations) and powerful trade unions.

Previous experiences and theoretical argumentation gave rise to heightened expectations of rapid institutional changes that would pave the way for privatization and effective protection of ownership rights guaranteeing the freedom of choice and economic responsibility for exercising such rights, and at the same time would trigger competition. The attempts to improve ownership rights proved that the only way to create competitive environment for state-owned enterprises is to increase the number of private companies present on the market so that they exceed the number of state-owned enterprises. It can influence the adjustments model and change it in the direction of offensive strategies and pro-efficient modernization. Nevertheless, this kind of modernization does not guarantee socio-economic cohesion and may therefore become the source of growing social inequalities and the exclusion of smaller or bigger social groups because it may hinder or even prevent such groups from participation in benefits offered by an increase in productivity of inputs.

It is worth mentioning that privatization conditions progress in liberalization of remuneration, which has a positive impact on the level of employment and remuneration compensating the labour market. Proportions of distribution of the manufactured product between employees and owners of the capital are also determined by other factors, which are influenced by interest groups prevailing on the labour market (trade unions, employers, state bureaucracy). It gave rise to the question about employees' participation in decisions concerning working conditions and distribution of the manufactured product in order to effectively manifest employees' interests in a deregulated and privatized economy.

Employees' participation and self-governing in modernization of ownership

Privatization is usually associated with the fact that the staff loses influence on economic decisions of managers. Nonetheless, this popular opinion is oversimplified. In reality, the level of nationalizing of the decision making process in a company is dependent on a management style and the use of assets. The indicator of employees' empowerment is the sphere of influence on economic decisions and the resulting ability of managers to implement employees' interests.

As one could see on the example of centrally planned economies, nationalization leads to the elimination of numerous decisions resulting from ownership rights. Regardless of the type of ownership, it eliminates the right of inheritance, market trade of means of production and benefiting from it, as well as the right to abandon the use and then avoid the resulting losses.

The incompleteness of decision powers typical for non-private types of ownership reduces managers' willingness to secure interests of the owners and has a negative impact on macroeconomic efficiency of an enterprise. On the other hand, the non-exclusive character of ownership rights results in separating the rights from a person and attaching them to functions assigned to particular organizational units. In practice, it has far-reaching consequences for bureaucratization of management. Structures of state bureaucracy do not provide sufficient motives for the maximization of employees' benefits. Their personal interests require maximizing authority. They improve their social status, power and political influence. It leads to the expansion of bureaucracy and the separation of its operations from its primary objectives. Therefore, state property does not belong to anyone, whereas the rights concerning production and income distribution are dependent on the level of decentralization of decision-making determined by a state.

Private ownership does not rule out employees' participation in management. Naturally, the rights to direct management have to be more limited than in case of self-government ownership. However in joint-stock companies, which prevail in the modern capitalistic structure, interests of shareholders may be effectively secured owing to re-assigning the ownership rights to an individual, which was previously eliminated by the nationalization. Managers of a joint-stock company have to care for securing dividends which are satisfying for shareholders because it is possible that they get rid of shares which do not pay dividend. The general meeting of shareholders has also the right to dismiss managers who take wrong economic decisions. If a company is taken over by other owners, managers have to take into account the risk that they may be dismissed, because the market of managerial talents functioning as a part of bureaucratic processes triggers competition. In reality, owing to the competition the deficiencies of bureaucracy are limited.

The need for privatization appeared in Poland already in the mid 80s as a result of the debate on economic consequences of various types of ownership. Nevertheless, in the period of initiating the governmental stabilization programme and systemic transformation in September and October 1989 there were still no ready solutions for the implementation of the process. The designers of systemic changes in Poland came to the conclusion that the privatization has to be carried out as soon as possible. At the same time, they rejected every form of free distribution of public property and called for equivalent privatization, which was based on theoretical evidence proved in practice and showing that the predominance of private sector is a prerequisite for enhancing competition, market efficiency, microeconomic efficiency and adjustment to challenges of the world market.

Privatization in post-socialist countries was an exceptional process. Its main objective was to establish a new economy with a predominant role of the private sector. A massive scale of the undertaking required finding new lines of action, because limiting oneself to models developed in developed capitalist countries in the 80s would prolong the process for dozens of years. That was the reason why new ideas of privatization appeared: through promotion of private business, denationalization, re-privatization and management privatization.

Nevertheless, a demand for acceleration of privatization gave rise to controversy. Opponents of this thesis claimed, that privatization, like every economic undertaking, has to be implemented on the basis of an analysis of social cost and benefits. It is necessary insofar as it results in efficiency, which, in turn, is dependent on changes over time and place in operating conditions of business entities. Since the adjustment abilities of people decrease together with a degree of variability of operating conditions, the privatization process should not be accelerated by governmental decisions. Moreover, it was emphasized that because of the unique character of the institutional, socio-political and psycho-social environment in Poland, and also of economic backwardness, technological gap, common shortage of capital and a massive scale of privatization undertakings, the proven models of privatization cannot be implemented effectively.

Paths of denationalization

Objective limitations of promotion of private enterprises brought about the necessity for denationalization, i.e. privatization of the public sector. Very limited capabilities of non-private companies to adjust to requirements of the world market were its main reasons. Denationalization may be accomplished through:

- Direct privatization,
- Market privatization,
- Free of charge transfer of ownership to individuals,
- Re-privatization.

Direct privatization is selling public tangible assets to individuals. It referred mainly to small and medium enterprises and was administered by central and local governmental authorities. As a result, private persons became owners of flats, building plots, design sites, commercial buildings and other small enterprises. Transactions of "small" privatization ought to be conducted through public auctioning in order to avoid inaccurate valuation of assets.

Direct privatization of large enterprises requires finding purchasers with great financial resources who are willing to take the economic risk connected with taking over the assets. Therefore, the most important thing in selling a large enterprise is selling titles of ownership to shareholders. Nevertheless, the fully chargeable sale of large companies, i.e. the so called equivalent privatization encountered obstacles resulting from the lack of national capital. The British history from the 80s has shown that a ten-year-period of privatization led to selling of only the half of national assets accounting for about 10% of GNP. In Poland, these processes concerned more than 7 thousand enterprises generating more or less 50% of GNP, whereas savings of the society were assessed at 2 to 5% of the value of national assets. Moreover, it was anticipated that people's real income, which was low and decreased due to the recession and a growing unemployment rate, will be spent mainly on current consumer spendings. Therefore, the privatization process implemented with the use of methods from developed capitalist countries could not guarantee the fast reconstruction of capitalist market economy. In fact, commercial sale preceded with restructuring of enterprises and the accurate valuation of offered enterprises would last for decades.

Equivalent capital privatization also came across some impediments of technical, legal and socio-political nature. It is impossible to carry out an objective valuation of enterprises when a country does not have a well developed capital market. Due to an abundant supply along with the disproportionately low demand and difficulties with predicting future profits in an economy destabilized by the transformation shock, the evaluations may be easily questioned and labeled as inaccurate.

Other problems connected to market privatization were the ambiguities concerning the legal status of real estates, to which previous owners could lay claim. On the other hand, the post-war legislation, acquired egalitarian rules and the strong position of trade unions and workers' self-government posed a danger of social claims.

Market privatization was also hindered by disputes over competencies, low operational efficiency of public institutions as well as the lack of sustainable tax system and common objectives of economic policies implemented by the frequently changing governments.

The above listed obstacles of equivalent capital privatization required the use of simplified evaluation procedures, such as:

- Employee share ownership,
- Civil share ownership,
- Privatization of management.

They were treated as acceptable yet supplementary paths of privatization. A full-scale employee share ownership plan, i.e. distributing all public companies' shares among their employees (Krawczyk, 1988), was questioned for various reasons.

1. Its typical characteristic is an excessive distribution of shares and limiting their trade. Moreover, it does not lead to the creation of an active investor, and therefore, it may not serve as the target stage of privatization.
2. It is – contrary to the original intention – unfair. It excludes the unemployed from the distribution of properties, therefore it may not be commonly accepted.
3. It creates a potential risk of limiting the development of capital market, because it is connected with the freeze of share trading for at least several years.

Lewandowski and Szomburg (1988, 1990) presented the theoretically more mature concept of the civil share ownership plan. It assumed that all citizens should have shares in enterprises as well as public holding companies, and investment and pension funds created especially for such purposes. The main advantage of this form of denationalization is the fact that it allows to eliminate public ownership quickly. From the point of view of current legislation, this concept of privatization is fairer than the employee share ownership. It legally provides citizens with full ownership rights with no exceptions. Therefore, it becomes possible to obtain common social approval of private ownership and capitalism, and, at the same time, overcome obstacles connected with developing capital market. Moreover, it provides a solution to the moral problem of the lack of justification for selling to citizens what they legally own.

Nevertheless, the civil share ownership is not flawless. The suggested method of applying the principle of 'primal justice' is controversial. Nationalization led to the distribution of social losses also depending on the value of lost properties. That is the reason why an equal distribution of shares may not be commonly accepted as being fair. Thus, similarly to the employee share ownership, there is no active investor. Therefore, it proves the need for the second stage of privatization – emerging of controlling shareholders. Taking the recession, inflation and general decrease in real *per capita* income of the majority of citizens, especially the unemployed, into consideration, it seems to be inevitable to transfer shares from the impoverished part of population. This transfer is carried out at reduced prices due to the imbalance on the capital market and asymmetric access to information about benefits resulting from ownership of specific shares.

The tendency to change shares into consumption expenditures could result in galloping inflation. Therefore, share trade would have to be limited by a state, at least for some time, or alternatively, the process of distribution of shares would have to unfold gradually. An additional element triggering inflation tendencies would be a high cost of shares distribution.

The civil share ownership prolongs the process of creation of active, pro-efficiency behavior of enterprises, and, what is more, does not guarantee future profound quality changes of this behavior, since no one knows whether there will be demand for shares of all companies, which enables, in every case, to find active investors.

Eliminating the danger of inflationary pressure caused by free distribution of shares is possible through non-equivalent privatization. It intends to sell shares of privatized enterprises at a price adjusted to society's purchasing power or on account of the future pay rise. The non-equivalent privatization may be also combined with employee or civil share ownership, although this concept is less egalitarian and politically attractive. That is the reason why this solution was not received with a great deal of interest on the part of leading political powers in Poland, who were more interested in the direct non-equivalent privatization.

Privatization of management in finding an effective investor

Guaranteeing massive participation of citizens in shares of large public companies through market privatization was not possible due to a low GDP *per capita* (see chart A5 of the Appendix) and minor national savings, connected mainly with mainly families earning their living in low-paid jobs. It gave rise to problems regarding effective provision of supply of privatized enterprises. Theoretically, various solutions to the problem were available. Either public authority responsible for privatization could plan a careful selection of enterprises that would undergo compulsory privatization or the management and staff of an enterprise would spontaneously initiate and organize the privatization process.

A top-down privatization, like *case by case* one, could not proceed fast because of the capacity of government experts and therefore the process of restructuring production and means of production excessively depreciated and insufficiently adjusted to open market demand would be prolonged. The unclear status of large companies standing in line for privatization could result in decreasing efficiency of the already highly inefficient self-governmental management bodies. The source of management inefficiencies in local public enterprises is bureaucratization of decisions taken by their managers. The key problem is the dependency of the decisions on competencies of a supervisory board and trade unions. Because of the fact that the representatives of staff control strategic decisions made by the management, the primary selection criterion is then maximization of employees income. Staff interests perceived in this way are in contradiction to the long-term strategy of company's development.

In order to reduce the management inefficiencies in local public enterprises the government suggested to implement the privatization of management, i.e. rules regulating of their operation according to provisions of the Commercial Code and providing their managers with full decision powers together with state's non-bureaucratic control. This form of institutionalization of the distribution of economic decision powers in an enterprise was called commercialization[3].

Concepts of non-private enterprises' commercialization basically meant transforming public enterprises into state-owned enterprises. Commercialization understood in this way is a form of management privatization. Enterprise's assets are privatized only in the second stage in the course of gradual making state-owned shares available for national and foreign private investors. Another option would be combining commercialization with distribution of shares. The activity of the commercialized enterprises would be supervised by the indirect investors appointed especially for this purpose, who would concentrate state, private, national and foreign capital (investments funds, holdings, banks, social insurance companies). Main tasks of these trustees would be finding optimal investments of the entrusted capital. The activity of indirect investors would be supervised by supervisory boards.

Nevertheless, commercialization described as such raised some objections. People asked if such institutions would favour citizens who were granted ownership rights since they have no control over institutions' operation. It is more probable that they will become means of conveying particular political interests of state administration. Moreover, this type of commercialization may result in monopolization of economy on an even bigger scale than it was done by former sector ministries. One of the main obstacles is here also the lack of candidates for the management of such institutions. Further doubts were raised by the question whether the changes of a legal form of supervision would guarantee active structural adjustments and modernization suitable for challenges of the open markets.

Institutional changes of ownership

At the beginning of systemic transformation the structure of ownership in the Polish economy differed substantially from the one in other post-socialist countries. Poland, unlike other post-socialist countries, entered market economy with a fairly

[3] First ideas of commercialization were suggested by Kostrzewa as well as Sachs and Berg, see (Błaszczyk, 1991, p. 104).

well developed private sector. Private farming in Poland was typical for real socialism. The non-agricultural private sector employed in the early 80s of the 20th century 7% of the working population, nevertheless it generated only 2% of GDP. In the next ten years employment in this sector doubled and its share in GDP increased to 7.4%. Commerce in Poland was characterized by a developed concession system, cooperatives gathering private individuals and a common phenomenon of cooperative ownership, whereas 50% of all services shown in statistics was connected to the private sector.

Small private companies, private family agricultural businesses and handicraft, and Polish-foreign companies have been already supported since 1988 by the regulation issued by the Council of Ministers on nomenclature companies. It paved the way for establishing private companies with the use of private enterprises' assets through lease or transferring enterprises' assets to individuals having some connections with management of enterprises. It triggered the process of granting ownership rights by party and state activists at different administration levels for themselves (changing power to ownership). This mechanism, which is typical for privatization, did not enable to transfer ownership rights, however it led to an unequal access to information, loans, state guarantee as well as well as raw materials and materials which in case of shortages, were accessible only for specific entities. Growing wealthy in such an easy way was the basis of state capitalism and intertwining of politicians' and entrepreneurs' interests, what, after some time, contributed to popularization of undertakings balancing between lawfulness and corruption.

Until autumn 1990 all ownership transformations of state-owned enterprises could be carried out according to the State Enterprise Act from 1981 through investing enterprises' net assets in companies.

Unequal legal treatment of new private enterprises and the fact that entering the market was administered by the state did not help to create efficient markets. Nevertheless, this spontaneous development of the new private sector had a massive impact on further ownership transformations, fast and spontaneous development of numerous private enterprises and economic results of entering market economy by Poland.

Nonetheless, it needs to be emphasized, that in the case of Poland, like in other socialist countries, full ownership rights were assigned to the state. The ownership rights were, however, ambiguous both for private ownership and non-private one: state and cooperative, which, as mentioned above, played an important role in services sector.

Significant limitations of ownership rights also referred to the existing in Poland non-socialized sectors including agricultural, handcraft and small scale production one. These limitations included the obligation to obtain the authorization to run a small business, licensing the access of private entrepreneurs to the market and various economic resources, discretionary rationing of these resources, putting up various administrative barriers limiting the right to choose what, how much and how to produce (for example imposing official prices).

Significant changes of ownership into a capitalist model were introduced by the Economic Activity Act from 1989, which eliminated the barrier of entering the market by entrepreneurs and introduced equal opportunities for private and public sectors. Further changes leading to the continued expansion of the private sector were based on the assumptions and directions of the programme of systemic transformation in Poland announced on 12th October 1989. The above mentioned changes included among others a declaration to create the ultimate ownership structure similar to the one functioning in the developed capitalist countries. Despite having made this declaration it was not until almost six months later that the government started discussing the formulation of the above mentioned privatization acceleration programme, whereas establishing of privatization's legal framework and capital market, which is an integral part of private ownership, lasted for several years. Moreover, the attempts to make the statutory regulation of reprivatization ended in failure. The subsequent changes aimed at the expansion of a private sector were also possible thanks to:

- New Civil Code adopted already at the beginning of 1990,
- Act on Privatization of State-Owned Enterprises of 13th July 1990,
- Law on the Public Trading of Securities of 22th March 1991,
- Act on Management of Agricultural Property Stock of the Treasury of19th October 1991,
- Pact on a public enterprise of February 1993,
- Investment Fund Act of 30th April 1993.

The legal basis of privatization did not provide sufficient protection against pathologies occurring in the process of denationalization. The institutional infrastructure in the area of criminal law was not guaranteed, and that created opportunities to exploit loopholes and therefore enabled the development of the black market as well as taking privatization decisions arbitrarily without social control and on the basis of personal relations. It was impossible to be held criminally liable. Most people who benefited at the expense of the state budget and private companies could not be held criminally liable for their actions. The loopholes enabling the avoidance of criminal liability for pathologies as a result of privatization were among the most significant factors contributing to the fact that business and political interests intertwined in order to take an undue advantage and they also contributed to the gradual erosion of democracy leading to corruption of governments as well as further difficulties with modernization of a state's public sector.

Because of the lack of information about the impact of globalization on liberalization as well as the impact of the information and communication revolution on the development of a new type of competition based on finding synergic effects of innovation and the resulting changes in ownership rights, the Privatization Act did not allow to establish holding companies.

There were no uniform standards of corporate governance in enterprises, which have not been privatized yet or with state ownership. It was not until December

2002 that the amended Commercialization and Privatization Act introduced an obligation to appoint via competition the management board in large state-owned companies or the ones with state ownership. Before the European Union acquisition in 2004 Poland had managed to create the economy's ownership structure similar to the one functioning in the previous member countries, despite loopholes concerning the transformation of ownership. Nevertheless, the privatization process had several stages. Its character as well as advantages and disadvantages may serve as a topic for the discussion on how to succeed and avoid mistakes in areas where transformation of ownership has not been completed or demands further corrections.

DEVELOPMENT OF THE PRIVATE SECTOR IN YEARS 1990–2013

Development of the private sector in Poland occurred through:

- Promotion of private companies,
- Establishment of new private companies and their development or liquidation of and alternatively taking over bankrupt companies,
- Leasing of small and medium enterprises, in most cases to their previous management and staff,
- Top-down privatization of existing state-owned enterprises as a result of a state-organized sale of large companies, in most cases to foreign investors and only in some cases to national investors or employee-owned companies,
- Common privatization by means of National Investment Fund programme,
- Privatization of an utterly incidental character.

The institutional requirement of promotion of private companies is guaranteeing equal legal rights for entering the market by national and foreign entities. It is also indispensable to do away with licensing of business activity. This limited progress of private ownership could not be sufficient, though it is necessary. The pace of the privatization process stimulated by liberalization of ownership rights depends on the amount of the accumulated private capital, investors' accessibility to it and their willingness to undertake production, trade or services activities.

Private capital in enterprises from post-socialist countries, which inherited an ownership structure, could come from citizens' accumulated income, loans or foreign capital investments. Due to the low workforce productivity and the resulting real wages which were several times lower than in developed capitalist countries, the own funds raised by citizens could not play a significant role in establishing private companies. Another important barrier was also the lack of capital market and society's experience in undertaking business activities in the form of joint-stock companies. Overcoming these obstacles was additionally hindered by a high level of public external and internal debt as well as by high inflation and the resulting lack of financial loans and an enormously increased credit risk.

The willingness to invest in private industrial companies depends on the optimistic prognosis about the economic situation and consistency of governmental budget, tax, trade and industrial policy regulations, along with the interest of potential investors. Other obstacles in the development of private companies were connected to shock deregulation and the impact of financial restrictions on the stability programme. Sudden changes of economic regulations resulted in loosing the basis of accurate forecasting. The systemic changes were accompanied by political uncertainty, which did not favour foreign capital inflow, especially until the agreement on foreign debt restructuring which was signed in 1994 between Poland and commercial banks. This problem was supposed to be solved by government's actions aimed at enhancing attractiveness of domestic investments, tax preferences, free capital transfer to foreign countries, a clear vision of industrial policy, strict regulations of business activity and economic policy as well as progress in adjusting the institutional order to EU standards.

Development of the private sector caused by establishing new enterprises was of crucial importance in promotion of entrepreneurship and private ownership. Poland inherited a distorted economic structure of enterprises, in which large enterprises were predominant and the small and medium enterprises' sector remained underdeveloped. That was the reason why transformation based on negotiation without simultaneous proliferation of new enterprises would cause negative consequences for economic efficiency, counteracting unemployment and economic convergence aimed at establishing the economic structure appropriate for a developed market economy. Poland managed to resolve the above mentioned issue during the first years of transformation by introducing the aforementioned legal regulations.

Because of numerous gaps in statistics concerning SMEs sector and changing classification criteria of economic operators there is no reliable information necessary to evaluate the role of establishing new private companies in the modernization process. The only possible thing is to present the changes in share of the private sector in the given economic indicators (Table 1).

Table 1. Private sector percentage share in chosen economic indicators in years 1990–2010

Indicator	1990	1993	1997	2003	2008	2010	2016
Share in the overall number of employed persons (31 XII)	48,9	58,9	68,2	70,1	74,2	74,5	78,0
Share in GDP	30,9	47,9	58,7	65,0	67,7	68,0	71,0
Share in the industrial marketed production	18,3	34,5	64,2	78,0	84,1	85,6	90,9
Share in the retail sale	63,7	89,1	94,4	98,1	98,8	99,2	99,6
Share in investment	41,3	42,9	53,4	68,3	65,5	56,5	69,6
Share in the value of import	14,4	59,8	82,5	93,0	84,7	83,5	–
Share in the value of export	4,9	44,0	74,3	89,5	83,5	81,0	–

Source: (Rocznik Statystyczny, 1990–2010. Warszawa: GUS).

According to some estimates almost 400 000 new enterprises were established in 1989, whereas in years 1990–1992 the country noted a yearly registration of 250 000 – 300 000 civil partnerships (Chmiel, 1999, p. 15). In the next years there was a significant slowdown in the growth of the number of new enterprises. Overall, from the moment of the accession to the EU in 2004 3 million new enterprises have been created in Poland. Nevertheless, one should not forget that a great number of registered private enterprises did not start to operate or the overall number includes micro-enterprises as well as enterprises employing less than 5 employees.

The most original and interesting phenomenon which occurred during the first years of transformation in Poland was the so called small privatization. In years 1990–1991 it triggered a sudden process of taking over stores and other municipal real estates from transport and building sectors by natural persons in the form of lease contracts. Generally, such contracts were signed with previous employees. Open tenders or competitive bidding were organized only for several percent of privatized enterprises.

In years 1992–1994 Poland noted a significant slowdown in the creation of new private enterprises. Nevertheless, the acceleration of economic growth contributed to the reversal of this situation in years 1996–1999. The most common form of exercising the employee share ownership in Poland was the lease of state-owned enterprise's assets. This path of privatization turned out to be a characteristic element of Polish denationalization in the early years of systemic transformation. By the middle of 1994 as much as 75% of all cases of direct privatization were accomplished by employee share ownership. The reasons for that were as follows:
- Staff of a given enterprise had the preemption right,
- State granted low-interest loans to employee-owned companies,
- Valuation of enterprises taken over by employee-owned companies was mostly lower than when they were sold to external investors,

A company aspiring to take over a state-owned enterprise through applying employee share ownership was supposed to have only 20% of the value of a privatized company and at least 50% of staff had to take part in it.

In the second half of the 90s some symptoms of the crisis of employee share ownership could be seen. Profitability of employee-owned companies turned out to be lower than of public or foreign investor's companies. Due to a fierce competition resulting from regional financial turbulences in the world economy, the financial situation of employee-owned companies burdened with leasing installments has worsened drastically. They lost opportunities to modernize and develop, and their competitive position. It initiated the need for finding a strategic investor. Therefore, the year 2000 was marked by the process of secondary privatization and employee shares were bought back by high-level managers of a given enterprise. As a result of this process, the attempt to create 'people's capitalism' by distribution of ownership in the form of leasing did not meet the expectations and turned out to be only a temporary and prolonged path to private ownership, which was able to compete in conditions of global capitalism.

Another solution regarding the distribution of ownership was the National Investment Fund programme, which was based on the concept of civil share ownership. It was implemented according to the idea of Szomburg and Leandowski (the later Minister of Ownership Transformations) adjusted to political and social expectations of the society. Because of an almost five-year period of waiting for legal regulations and the fact that the programme was initiated according to the Act on National Investment Funds and their Privatization adopted on 30th April 1993, this programme referred only to 512 enterprises of the total value not exceeding 1/3 of the value of PKO BP SA's shares traded on the stock market in 2004. The National Investment Fund qualified for portfolio companies only those which were in worse financial situation and that have not been privatized yet.

In order to lunch the programme, the National Investment Fund appointed 15 investment funds that were going to be managed by companies selected under the supervision of representatives of the State Treasury. Their statutory objective was to increase the value of National Investment Fund's assets and find an external investor who would be able to effectively restructure a portfolio company he has bought. On the other hand, the free shares given to citizens (one in each National Investment Fund) could be traded also on the stock market.

According to experts, the economic objectives of privatization carried out thanks to the National Investment Fund were not accomplished effectively. Even though the portfolio companies did not show a decrease of economic efficiency, they did not offer added value to shareholders. Moreover, no considerable improvement in restructuring portfolio companies was recorded.

The ownership structure in portfolio companies was not consistent with the key objectives of the National Investment Fund, because 25% of shares were kept by the State Treasury, 15% belonged to employees, 27% in equal fractional units were in hands of all the remaining National Investment Funds, whereas the fund selected for restructuring the profile company received only 33% and was therefore a minority shareholder. This fund very often had no right to decide about the restructuring path, if the external investor managed to buy employees' shares, some minority shareholding from the State Treasury or invested on the stock market.

The programme of a widespread privatization had only little success in popularization of ownership and development of capital market. A large number of citizens sold their shares in National Investment Funds.

Polish experiences with a free distribution of ownership among citizens with the use of investment funds cannot serve as a role model. One should avoid such privatization methods because they do not cause a rapid improvement of economic efficiency of the privatized enterprises and, moreover, they hold up the restructuring process.

Fundamental errors and conclusions

Just from the beginning the privatization of the state-owned enterprises was treated as a highly controversial issue by the society and media. The process of selling large state-owned enterprises to foreign investors aroused the greatest controversies. It was commonly, but very often wrongly, believed that the most efficient Polish enterprises of strategic importance for the country were bought practically for nothing by foreign investors. Too much pressure was put on a hasty sale of large enterprises which resulted very often from the needs to limit an excessive budget deficit and pay high installments which restructured external public debt. Because of the pressure of current needs, it was impossible to avoid numerous mistakes, which were the reason why in 2002 the share in assets and profits of private banks with foreign capital amounted to 97%, whereas in employment almost 95,5%. On the other hand, the state owns only around 25% of assets, 24% of the revenues and 36,9% of employees in commercial banks (Lista 500…, 2003). Unwise privatization decisions were taken as far as the steel, cement, sugar and insurance sectors are concerned. Consequently, almost whole branches of industry were in hands of foreign investors, while in fact they could be restructured with the use of own funds, considering China and India's economic expansion and the improvement of the global economic situation.

What is more, the domestic private entrepreneurs were accused of having greater chances to buy a state-owned enterprise than the post-communist nomenclature. The above mentioned loopholes in criminal law and a non-efficient corporate governance created opportunities for misuse. Nevertheless, it should be emphasized that errors in assets' valuation, derogations from the rules and even financial frauds were of little significance for the economic effects of privatization, increase in economic efficiency and fulfillment of investment obligations and towards staff of a privatized enterprise.

Bałtowski and Miszewski (2006, p. 243) estimate that, considering the risk of investing in Poland at the beginning of the 90s of the 20th century, the potential profits taken by foreign investors assuming a 12 or 13-year rate of return period are reasonable. At the same time, they question Poznański's thesis popularized by those averse to privatization, that foreign investors took over the assets of the privatized enterprises for only 10% of their actual value. Their opinion is that the value of assets sold to foreign investors estimated by Poznański at 232 billion dollars would be rational if after 10 years the rate of return was 60%. This estimate is different from reality, because the return on investment could not generally exceed over a dozen percent, even if the real profit was higher than estimated before.

An important role in the process of creating capitalist economy was also played by re-privatization. Its main concept was based on returning the nationalized and illegally expropriated assets to their rightful owners. Re-privatization in Poland requires abolishing the Nationalization Law of 3 January 1946 or alternatively considering rightful owners' claims for a compensation for expropriation.

There are serious moral, legal and economic obstacles to abolish the Nationalization Law. From the moral point of view, it would require abolishing the Land Reform Law. Re-privatization of assets allocated by the Land Reform decree, when they changed the owners as a result of sale, would be illegal. What is more, numerous nationalized enterprises or illegally overtaken assets were damaged and depreciated. Other ones were modernized or extended. Considering the above mentioned obstacles an only way to compensate damages to rightful owners of the nationalized assets was to pay indemnities. Due to the lack of budgetary funds available for this purpose, such indemnities would have to be paid in the form of shares in the privatized assets.

Unfortunately, the consensus concerning who was entitled to receive the indemnity was not reached. Despite the fact that there are more than a dozen re-privatization draft legislations, there are still no legal regulations referring to re-privatization claims. In reality, the Constitution of 1997 serves as a basis for re-privatization, providing that the re-privatization claims do not violate rights gained by the third parties and are limited to nationalization not resulting from the Nationalization Law of 3 January 1946 undertaken with a serious infringement of Presidential Decree of 16 December 1918 by establishing compulsory state supervision.

Contrary to some concerns the lack of legal regulations concerning re-privatization in Poland, which was an exceptional phenomenon among post-socialist countries, did not slow down the re-privatization in itself, although in rare cases it prevented its implementation.

Statistics concerning privatization in Poland show (Table 1), that the country may establish convergence of ownership rights with the ones in developed capitalist countries and a similar economic structure. At the verge of accession to the EU the foreign capital participated in 60% of income and employment in the largest 1095 enterprises in Poland and it provided a slightly higher productivity than the domestic owners. 70% of the same group of enterprises maintained productivity higher by ¼ in comparison to privatized enterprises (Bałtowski, Miszewski, 2006, p. 248–254). In 2010 the share of private sector in most economic branches in Poland was just by several percent lower than in the developed Western European countries and the gross value of fixed assets amounted to 60,5%. In 2010 private sector's share in GDP reached 68,9%, in the gross added value in industry 86,5%, whereas in general employment it did not exceed 74,5%. Reducing the state ownership to 10% of assets' value requires privatization of 350–450 enterprises. After a temporary stoppage of privatization due to the global financial crisis, it once again accelerated in years 2012–2012. This process was triggered by Poland's growing investment attractiveness, the pressure of the State Budget and a consequently liberal economic policy of the government.

The creation of new large private enterprises and the privatization with participation of foreign capital stimulated modernization. At the same time, the leasing of state-owned enterprises accelerated the process of privatization, whereas the popularization of employee and civil share ownership prolonged the process of establishing ownership with an efficient strategic investor.

In the case of the existing state ownership, one of the most crucial and complicated issues is the implementation of an efficient system of corporate governance, which guarantees an efficient use of investment capital, application of business ethics, liability of management boards to shareholders and business partners and a long-term strategy of staying on open markets.

Among the most fundamental mistakes of privatization the lack of a long-term vision of this process which would include a list of enterprises and sectors strategic in achieving a dominant position on the market should be mentioned. The negative consequences of this mistake manifested themselves especially after the outburst of a financial crisis in September 2008 and the Russia-Ukraine conflict. Another serious mistake of privatization was insufficient attention paid to the quality of law protecting and promoting private ownership and regulating the corporate governance of the state towards entities of the public sector.

Noteworthy is also the delay in introducing the holding law in comparison with a business practice and to the flaw of this law, which makes it similar to multi-employer enterprises. This law enables foreign holding companies to locate their production facilities, however it makes it difficult to establish headquarters, financial and controlling centers. Intensification of the inflow of holding companies to Poland requires introducing changes in the tax law and accessing the monetary union. On the other hand, it would create new possibilities to privatize large enterprises more easily, open new laboratories and even move R&D departments, which in most cases are situated near their headquarters. What is more, one could count on increasing the funds for the research on the development of the knowledge based economy. Another important point is the fact that the cooperation between R&D departments of holding companies and Polish universities would contribute to the acceleration of the progress of Polish academic and engineering solutions. The truth is, that the unfortunate sale of some shares of PZU SA to Eureko did not stop the dynamic process of creation of holding companies, but the ones which were established were medium sized, strongly diversified, vertically integrated and they concentrated their activity on the domestic market. Therefore, they could not play any significant role in modernization of the Polish economy.

Social conflicts, social resistance against privatization as well as a high unemployment rate were the inevitable side effects of the ownership transformation. Though it was impossible to avoid them, one could at least reduce their influence by choosing the most appropriate method of privatization and providing the quality law that would guarantee equal rights to enter the market and prevent additional benefits of different interest groups in the process of privatization for everyone.

The best method to modernize the economy in accordance with the socio-economic cohesion is to introduce such legal regulations concerning ownership that do not limit full ownership rights in the context of their exclusiveness, voluntary transferability and completeness, but that force intra- and intergenerational liability for the use of these rights. In other words, limiting full ownership rights based on the social rightness criteria (reduction of unemployment rate, excessive differentiation of income, production of public goods, limiting external effects and unfair social inequalities) cannot take place to the detriment of increasing inputs productivity and economic growth, because they are responsible for improving the quality of life and serving citizens' vested interests. The above mentioned issues are connected to the relations between the power of the non-power entities and ownership, i.e. distribution of executive powers, objectives, methods and possibilities of their use in the organized working environment, civil society and public authorities (local, state and international).

In a turbulent world of the information society and globalized competition based on innovation and network structures, executive powers of the non-market entities cannot limit business world's possibility to react flexibly to the changing challenges and developmental risks. Therefore, the rational institutionalization of the state and the market sector is necessary. The analyses of ownership rights show that the distribution of decision rights among the participants of socio-economic processes is a special type of determinant of mechanisms, institutions, instruments and procedures, which are involved in the implementation of the micro- and macroeconomic strategy of modernization and development. The former ones are dependent on the socio-economic policy of a state. There is no doubt, that facing globalization of liberalization and the inherited specific system of challenges and developmental risks in Poland, they may achieve positive results only if the institutional changes and economic policy create appropriate environment for the private sector to implement modernization processes, which would stimulate fast, taking one generation to achieve, elimination of a technological gap and reduction of developmental differences and the improvement of the quality of life.

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Summary

This paper deals with transformation of ownership relations in Poland after 1990. Privatization is described here as a complicated economic, political and social process and the basis of efficient markets. The author presents the theoretical justification for privatization. The issues of effective investor, exclusivity, voluntary transferability of property rights and conditions of the capital market functioning related to property relations are discussed here. Along with the analysis of the policy and the course of privatization in Poland, the author presents the effects, economic and social defects of these processes and recommends subordinating the elimination of the technological gap to the challenges of privatization.

Keywords: Polish economy, economic policy, privatisation, transformation.

Transformacja stosunków własnościowych w Polsce po 1990 roku.
Blaski i cienie w kontekście teoretycznym i praktycznym

Streszczenie

Artykuł podejmuje zagadnienie transformacji stosunków własnościowych w Polsce po 1990 roku. Prywatyzacja jest tu opisywana jako skomplikowany proces ekonomiczny, polityczny i społeczny oraz podstawa sprawnych rynków. Autor przedstawia teoretyczne uzasadnienie prywatyzacji. Eksponowane są tu kwestie efektywnego inwestora, wyłączności, dobrowolnej transferowalności praw własności oraz uwarunkowania funkcjonowania rynku kapitałowego związane ze stosunkami własnościowymi. Na tle analizy polityki i przebiegu prywatyzacji w Polsce autor przedstawia efekty, defekty ekonomiczne i społeczne tych procesów oraz zaleca podporządkowanie jej wyzwaniu eliminacji luki technologicznej.

Słowa kluczowe; gospodarka Polski, polityka gospodarcza, prywatyzacja, transformacja.

JEL: P00, H00, O10, O20.