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TADEUSZ MAZOWIECKI'S GOVERNMENT'S POSITION ON THE SO-CALLED APPROPRIATION OF STATE PROPERTY BY THE NOMENKLATURA AND THE SO-CALLED ALCOHOL AFFAIR

Abstract

The article discusses Tadeusz Mazowiecki's government's reactions to two pathological phenomena that stirred up intense social emotions. The phenomena were a consequence of the actions taken by the last communist government of the Polish People's Republic led by Mieczysław Rakowski. First of all, the analysis focuses on actions directed at people from the apparatus of the Polish People's Republic, who acquired part of the assets of state enterprises and institutions using the legal regulations. The remainder of the article discusses attempts at counteracting the mass import of alcohol from abroad, which was causing considerable losses to the state budget.

Keywords: Tadeusz Mazowiecki's government, the alcohol affair, *nomenklatura*

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Appropriation of State Property by the *Nomenklatura*

One of the main arguments raised by critics of privatisation in its initial phase was the accusation that it would merely intensify the so-called appropriation of state property by the *nomenklatura*, that is the takeover of state property by members of the government apparatus in the final period of the Polish People's Republic. This was facilitated by changes to the regulations governing the operation of state-owned enterprises, introduced in 1987–1988. The process became a mass one during the premiership of Mieczysław F. Rakowski, particularly after the Sejm adopted, in February 1989, the Act on Certain Conditions for the Consolidation of the National Economy ("Dziennik Ustaw", Polish Journal of Laws, hereinafter Dz.U., 1989, no. 10, item 57). The Act made it possible for state property to be taken over by private individuals through leasing, renting, or contributing it as an asset to a mixed-capital company. Agreements with such companies were usually signed by directors of state-owned enterprises, who were themselves shareholders or members of their governing bodies. Sometimes there were even attempts to take over the entire company. This was the case of the director of the furniture factory in Kozienice (*Kozienicka Fabryka Mebli*), who in April 1989 leased the plant's entire production capacity to the company *Furnel* of which he was also a director, for lease payments equal to the depreciation of fixed assets, increased by only 10%. Usually, however, they were satisfied with granting low-interest loans to the so-called 'parasite companies' or did not demand from them the share of profits owed to the state-owned enterprises.

Double wages were also commonly collected for work performed both for the enterprise and for the company in which the former was a shareholder. The profitability of these companies was enormous.



Gdańsk Shipyard in 1985. Photo: National Digital Archives, Warsaw, Poland, collection Archiwum fotograficzne Lecha Zielaskowskiego [Lech Zielaskowski's photo archive], ref. no. 3/53/0/3/113

For example, the company *Remgaz* whose shareholder was Czesław Tołwiński, director of the Gdańsk Lenin Shipyard, began operations in 1988 with share capital of PLZ 4 million (here and elsewhere, all amounts are given in old zlotys, PLZ. In 1995, as part of the redenomination, the old zlotys were converted into new ones, PLN, at a rate of 10,000 to 1.) After just one year of operation, during which the number of employees remained unchanged and the company's principal customer continued to be the Gdańsk Shipyard, *Remgaz's* capital had increased more than a hundredfold, reaching nearly half a billion zlotys.

Sometimes operations related to the establishment of such companies reached the government level. For example, Mieczysław Wilczek, the Minister of Industry in Rakowski's government, in the final weeks of his term decided, on behalf of the State Treasury, to invest nearly PLZ 900 million in shares of several companies. However, as noted in the Supreme Audit Office (*Najwyższa Izba Kontroli*, NIK) report on this matter, "the above-mentioned shares were not recorded in the accounting documentation of the Ministry." The assets of Radio Factory Doria (*Zakłady Radiowe "Doria"*) in Dzierżonów were of even greater value, estimated at over PLZ 13 billion, which Wilczek transferred to the joint-stock company Doria SA. In return, the State Treasury received 65 percent of the shares, while the remaining shares – acquired for PLZ 1.84 billion – went to private individuals:



Tadeusz Mazowiecki during talks with government representatives in the Ministry of Internal Affairs venue in Magdalenka near Warsaw, 27 January 1989 (Lech Wałęsa in the background). Photo: Institute of National Remembrance Archives, ref. no. AIPN, 3333/66

“The lack of necessary accounting records and source documents at the Ministry of Industry – the report continued – made it impossible to verify either the legality of the creation of Diora SA’s share capital or the calculation of the dividend due to the Ministry of Industry for the last four months of 1989, in the amount of PLZ 1.978 million, which had not been transferred to the Ministry’s account by the end of September 1990.”

Similar deficiencies in documentation were identified in many other state institutions, leading the NIK inspectors to the following conclusion, which aptly reflected the situation:

“The absence of proper entries in accounting records and the occasional maintenance of incomplete legal documentation by various organisational units resulted in State Treasury assets »disappearing« from official reporting” (Archives of the President of the Republic of Poland [hereinafter: APRP], 46/4, vol. I, Information from the Supreme Audit Office [NIK] on the results of the audit of connections between state-owned enterprises and commercial law companies in the years 1988–1990, Warsaw, January 1991, pp. 40–41).

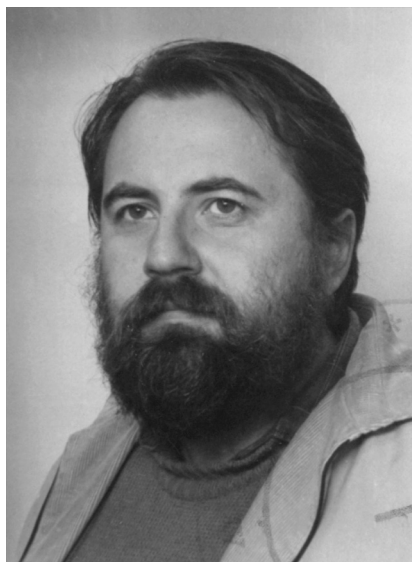
Reactions to the Appropriation of State Property by the *Nomenklatura*

The so-called appropriation of state property by the *nomenklatura* was quickly noticed by opposition circles and became one of the recurring themes in the campaign of Solidarity candidates before the June 1989 elections. As early as July 1989, a group of MPs from the Civic Parliamentary Club (*Obywatelski Klub Parlamentarny*, OKP, formed by MPs elected with Solidarity support – editor’s remark) prepared a draft act on the “protection of national property,” which, however, failed to gain the support of the new government formed shortly thereafter. Nevertheless, from the very beginning Tadeusz Mazowiecki’s cabinet (formed by OKP with support of other parliamentary factions) was expected to take some action on this matter. The issue was raised at the government meeting of

25 September 1989 by the Minister of Justice, Aleksander Bentkowski, who pointed to the practice of:

“Companies established at production plants. This is a scandal of sorts. If there is a company at the Ożarów cement plant that only issues invoices and charges 60 percent of the price for it, please explain to me what the social reasons are for such companies and such margins to exist. [...] Such companies exist in many plants.”

Bentkowski therefore proposed introducing an official margin of 5% for this type of intermediary companies. This proposal, however, was challenged by the Minister of Industry, Tadeusz Syryjczyk, who argued that margins could not be imposed and that the matter should be left to market competition: “We cannot prohibit, interfere, or grant licences.” Jacek Kuroń also intervened, remarking that “we cannot pass a law that would prohibit intermediary companies, because then intermediation would go to hell.” He further pointed out to Bentkowski that police methods could not be applied in the sphere of the economy (Archives of the Chancellery of the Prime Minister [hereinafter: AKPRM], Record of the proceedings of the meeting of the Council of Ministers, 25 September 1989, pp. 92–94).



The course of this discussion illustrates that combating the practices described above was, in fact, incompatible with the general direction of government policy, which aimed at the removal of further restrictions on the freedom to conduct business activity and at supporting the process which, following Adam Smith, may be described as the primitive accumulation of capital. However, the scale of the phenomenon and the repeated protests, initiated above all by activists of Solidarity and citizens' committees, eventually prompted the government to take certain measures. This followed a report by the General Prosecutor's Office at the beginning of 1990, which listed 1,593 so-called *nomenklatura* companies. The majority of these were associated with individuals employed in the economic apparatus (around one thousand directors, managers, and chief accountants, together with 580 presidents of cooperatives), while far fewer were linked to officials of the state administration (9 *voivodes*,

Tadeusz Syryjczyk's passport photo (1980–1990). Photo: Institute of National Remembrance Branch in Cracow Archives, ref. no. AIPN Kr, 37/40406

57 mayors and city leaders) or the party apparatus (80 officials at various levels). Geographically, the Gdańsk voivodeship led with 240 *nomenklatura* companies, followed by the Katowice voivodeship (152) and the Warsaw voivodeship (140) (Bałtowski and Kozarzewski 2014, p. 67; Kozłowski 2018, p. 106). The only voivodeship in which the Prosecutor's Office failed to identify such a company was Krosno. However, this did not mean that none existed there. In reality, the number of such companies was higher, since the estimates did not include those in which shares were held by family members of the Polish United Workers' Party (PZPR) *nomenklatura*. At the end of 1989, there were nearly 3,500 companies associated with state-owned enterprises, but owing to the aforementioned lack of documentation, a precise estimate of the scale of the phenomenon remains impossible.

At that time, NIK carried out analyses of the effects of the Act of February 1989 and other regulations governing the activities of the management boards of state-owned enterprises. These confirmed the practice of undervaluing state assets – such as production machinery, buildings, or means of transport – when contributed in kind to companies operating on the premises of state-owned enterprises, usually without incurring any costs. In some cases, even their telephone bills were paid by the host enterprise being exploited. Press publications on this issue prompted a group of OKP MPs to prepare a draft law aimed at putting an end to this practice which had provoked public outrage. Speaking on the matter in the Sejm in December 1989, Minister Syryjczyk observed that the proposal “does not solve certain problems, and in other cases it would make it more difficult for the government to intervene.” Syryjczyk acknowledged that the phenomenon itself was harmful, but at the same time sought to persuade MPs that:

“The fight against lawlessness cannot be pursued by destabilising the law or by creating provisions that would make it unduly easy to terminate contracts. These contracts should indeed be terminated [...], but the legislator or the government should not introduce blanket measures aimed at invalidating all contracts concluded by state-owned enterprises on an arbitrary basis” (Stenographic Record of the 16th Session of the Sejm, 17 December 1989, pp. 72–74).

Rejecting the assumptions of the parliamentary draft – which, among other things, proposed granting workers' self-governments the right to control contracts concluded by management boards with

private companies – Syryjczyk also announced that the government would introduce its own legal regulations on the matter. The first step was the Act of 9 March 1990, adopted at the initiative of the Council of Ministers, which amended the Act on State Enterprises. While specifying the principles for their liquidation, it also introduced, in Article 39, a provision prohibiting members of management boards from holding shares or stocks “in economic entities established by that enterprise, or from being in an employment relationship with them, or from providing services to them on the basis of another legal title.” At the same time, however, a loophole remained in the same article: “this prohibition does not apply to membership in supervisory boards” (Dz.U. 1990, no. 17, item 99). Meanwhile, the Act of 6 April 1990 introduced a ban on engaging in competitive business by employees holding managerial positions in economic entities (Dz.U. 1990, no. 26, item 149). Finally, in June 1990, after months of disputes during which the draft law adopted by the Sejm had been vetoed by the Senate, regulations were enacted that were aimed not only at preventing further exploitation of positions for appropriation of state property, but also at attempting to recover state property that had already been lost. This was the objective of the Act of 21 June 1990 on the restitution of profits unjustly obtained at the expense of the State Treasury or other state legal entities, which concerned the invalidation of administrative acts and decisions made after the entry into force, on 23 October 1987, of the initial provisions permitting the establishment of companies with mixed capital (Dz.U. 1990, no. 44, item 255; 1987, no. 33, item 181). It is noteworthy, however, that the initial drafts of this act were prepared in parliament – with different versions supported by the OKP parliamentarians MP Jerzy Dwyer and Senator Piotr Andrzejewski – rather than by the government. The government opposed the act, a stance clearly articulated during parliamentary debate by Stefan Kawalec, Director General of the Ministry of Finance (MF).

“There seems to be no doubt – he told the members of parliament – that the negative economic effects of this act will be no less than the benefits expected from budget revenues obtained through the revision of contracts concluded so far.”

It was the introduction of this last provision that provoked the greatest controversy. Its critics, primarily from the Parliamentary Club of the Democratic Left (PKLD, former PZPR MPs), frequently invoked the Roman legal principle *lex retro non agit*, which they argued the act

contravened. They were unconvinced by the argument that decisions in this matter would be made by the courts, and that claims for the restitution of “unjustly obtained benefits from State Treasury assets” could only be lodged within one year of the act entering into force. Such claims could be brought by “the legal person that suffered the loss, its founding body, works council, or local government body.” Kawalec warned MPs that the law would impede “the development of the capital market because investors would wait until the period after which they could no longer withdraw from contracts expires.” He also warned that the proposed regulations would have a “negative impact on the inflow of foreign capital and on economic activity” (Stenographic Record of the 33rd Session of the Sejm, 21 June 1990, p. 33).

The intensity of emotions surrounding the adoption of this act is well illustrated by the deputies’ decision to vote by roll-call. This procedure may explain why only seven MPs (from PKLD, including Barbara Blida and Ireneusz Sekuła) ultimately voted against it, thirty-three abstained, and the draft was supported by as many as 329 MPs. This outcome ought to have given pause to members of the government responsible for economic policy, yet it seems that most of them shared Kawalec’s concerns. Nevertheless, when speaking publicly and arguing that combating informal privatisation amid the impending wave of ownership transformations was “like herding cats,” he referred to only one of the two principal reasons for the government’s limited engagement in this area. For obvious reasons, he could not address the second publicly, though traces of it can be discerned in memoirs.

Professor Jerzy Holzer, a committed supporter of the Mazowiecki government, recalled that at the beginning of 1991 he was approached by an acquaintance residing in a house undergoing privatisation. The acquaintance occupied a lodging apartment and believed he held a pre-emption right; however, it emerged that a “sale transaction to a former Security Service officer, who at that time was employed by NIK,” had already taken place. Holzer subsequently sought to intervene with the former Minister of Labour and Social Policy, then still an MP, Jacek Kuroń, who “nodded with understanding” and candidly articulated the second underlying reason for the situation: “Well, these are the costs of a bloodless takeover of power, of the fact that we have to buy ourselves out.” Undeterred, Holzer turned to another acquaintance, Professor Wiesław Chrzanowski, who was serving as Minister of Justice in Jan Krzysztof Bielecki’s government. Chrzanowski also “nodded with understanding, but explained that

he had no authority or means to intervene in the matter.” Holzer’s third and final interlocutor was Anatol Lawina, a former opposition activist and at that time director of the System Analysis Team at NIK, who responded: “We have scandals here worth hundreds of billions; we cannot deal with such trivial matters” (Holzer 2013, pp. 265–266).

The episode recounted by Holzer illustrates a far broader issue, still requiring thorough investigation, concerning the appropriation of company apartments. This practice occurred, among other places, within the Ministry of Internal Affairs, where some of the clandestine apartments formerly used by the dissolved Security Service were taken over by the very officers who had previously supervised them. For instance, on 21 May 1990, a list of sixteen clandestine apartments under the management of the Department of Studies and Analysis of the Ministry of Internal Affairs in Warsaw was placed on the desk of Colonel Jerzy Karpacz, the head of the formally defunct Security Service. The premises located in the city centre were primarily earmarked for “allocation as permanent residences to specific former Security Service officers” (Dudek 2014, p. 426).



Tadeusz Mazowiecki (left) and Jacek Ambroziak (right) during talks with government representatives in the Ministry of Internal Affairs venue in Magdalenka near Warsaw, 7 March 1989. Photo: Institute of National Remembrance Archives, ref. no. AIPN, 3333/68

Similar practices were reported in other ministries, and instances even occurred under the direct oversight of the Prime Minister within the Office of the Council of Ministers. As Professor Jerzy Regulski, Undersecretary of State in the Office of the Council of Ministers, recalled, a scandal broke out in December 1989 when it emerged that one of the directors reporting to the Minister – Head of the Office of the Council of Ministers in Tadeusz Mazowiecki's government, Jacek Ambroziak,

“on the basis of the power of attorney he held, sold a number of apartments in Aleja Róż for next to nothing, but in accordance with the applicable law, to the current users, who were high-ranking party officials. The director was dismissed, but the apartments were lost” (Regulski 2014, p. 446).

In January 1991, the President of NIK, Tadeusz Hupałowski – a Major General who had held the position since 1983 – sent a letter to the President of the Republic of Poland, Lech Wałęsa, in which he assessed the effectiveness of the legal measures adopted during the term of Mazowiecki's government to address the so-called appropriation of state property by the nomenklatura. He noted that:

“although these measures had reduced the scale of exploitation of managerial positions for personal gain, the practice had not been entirely eliminated. There remain opportunities to lawfully exploit these practices, including through the transfer of shares and managerial positions in companies to the spouses of management members of state-owned enterprises.”

In the subsequent part of the letter, Hupałowski criticised ministers and voivodes, as the founding bodies, for failing to exercise their competences to

“counteract practices depleting the assets of the State Treasury and supervised enterprises. However, there have been instances where these bodies themselves created conditions conducive to such practices, even after the Act of 21 June 1990 was promulgated [...] They tolerated cases of arbitrary and illegal liquidation of state-owned enterprises by directors who were also members of the management boards of companies taking over the production capacity and assets of the liquidated enterprises at relatively low prices” (APRP, 46/4, vol. I, Letter from the President of the Supreme Audit Office to the President of the Republic of Poland, L[ech] Wałęsa, 21 January 1991, pp. 3–4).



Wałęsa, who had repeatedly declared during the election campaign that adventurers would be held accountable, initiated an amendment to the Act of 21 June 1990. Similar work was undertaken in parallel within Bielecki's government, which ultimately limited its involvement to submitting amendments to the presidential draft. The amendment – this time without heated debate and with the support of the Bielecki's government expressed by the Minister of Justice, Wiesław Chrzanowski – was passed by the Sejm in July 1991. The most significant changes included the extension of the period during which claims could be filed until the end of 1992, and the addition of trade unions and the prosecutor's office to the list of entities authorised to do so. In December 1992, the Sejm of the first term extended the validity of the Act for a further year. In the subsequent amendment, adopted at the end of 1993 by the Sejm of the second term, dominated by the Democratic Left Alliance (SLD, PZPR-succession party) and the Polish People's Party (PSL), the idea of specifying a final date by which one could demand the return of unjustly obtained benefits from state property was abandoned entirely.

The concerns expressed in July 1990 by Stefan Kawalec and some members of parliament – that the June 1990 Act, by creating a loophole for invalidating contracts, would hinder the development of the capital market or the inflow of foreign investment – proved to be unfounded. In practice, the effectiveness of the Act was limited, owing to numerous factors, ranging from the aforementioned deficiencies in documentation, which in some cases prevented proceedings from being

Jacek Kuroń (left),
Tadeusz Mazowiecki
(right) during talks
with government
representatives
in the Ministry of
Internal Affairs venue
in Magdalenka near
Warsaw, 7 March
1989. Photo:
Institute of National
Remembrance
Archives, ref. no.
AIPN, 3333/68

brought to court, to judicial rulings that upheld questionable decisions regarding appropriation of state property. Regardless of the formal and procedural reasons why resolving the process of the so-called appropriation of state property by the *nomenklatura* proved impossible in practice, two other factors were of fundamental importance: the belief among most decision-makers that accelerating the accumulation of private capital outweighed the ethically questionable aspects of this process, and the conviction, expressed by Kuroń, that ensuring its peaceful course required paying a form of tribute to the most dynamic figures in the communist apparatus of power. Only the latter group proved capable of participating in the process of converting power into ownership. Moreover, the subsequent fates of many of these individuals demonstrated that they often faced considerable difficulties in managing their newfound assets effectively. The cases of Ireneusz Sekuła and Dariusz Przywieczerski are particularly illustrative in this regard. “Certainly, no one in those first governments – neither Tadeusz Mazowiecki, nor Jan Krzysztof Bielecki, nor Jan Olszewski, nor Hanna Suchocka – assumed that former state property should end up in the hands of the *nomenklatura*,” years later argued Jerzy Osiatyński, who had served as the head of the Central Planning Office (CUP) in Mazowiecki’s government and as Minister of Finance in Suchocka’s cabinet (Hall, Onyszkiewicz and Osiatyński, 2009, p. 133).

There is no reason to doubt the sincerity of this statement, but equally no basis for assuming that the ministers responsible for the economy at the time regarded the fight against this phenomenon as a significant problem. It was rather tacitly accepted as one of the inevitable costs of economic transformation. Many voices pointed this out even then, including members of parliament who supported Mazowiecki’s government, such as the OKP senator Jan Józef Lipski:

“This is a very widespread practice that is usually not prosecuted even when it violates the Penal Code, and the relevant government commissions established to investigate these practices and put an end to them – show great indolence” (quoted in Garbal, 2017, p. 415).

Alcohol Affair

The scale of regulatory changes affecting economic life from 1988 onwards was so extensive that loopholes quickly emerged, allowing extraordinary profits to be obtained at the expense of the state budget.

This was most clearly illustrated by the so-called alcohol affair, which began under Rakowski's cabinet but continued throughout the early phase of Mazowiecki's rule. This case does not constitute a classic example of the appropriation of state property by the nomenklatura, as its beneficiaries also included individuals outside the apparatus of the Polish People's Republic (PRL) government. Nevertheless, its occurrence was made possible by the decisions of officials within that apparatus. In particular, responsibility lay with Dominik Jastrzębski, Minister of Economic Cooperation with Foreign Countries in Rakowski's government. In December 1988, disregarding the provisions of the Act on Upbringing in Sobriety, which upheld the state monopoly on the distribution and sale of alcohol, Jastrzębski abolished licensing requirements for the import of spirits and spirit-based products. These were replaced by so-called "import permits," which all importers were obliged to obtain from the Ministry of Foreign Economic Cooperation (MWGzZ). At the same time, however, the regulations introduced the concept of "non-commercial trade," which permitted the import of alcohol "for one's own needs" without the requirement to obtain the aforementioned permits. Crucially, no upper limit was specified as to what could be considered an individual's "own needs." In June 1989, at the end of the term of Rakowski's government, when the outcome of the parliamentary elections cast doubt on the durability of Polish United Workers' Party's rule, the Ministry of Finance decided to exempt private alcohol importers from the obligation to pay 70 per cent of the sales tax. The Ministry of Foreign Economic Cooperation went even further, introducing a radical reduction of customs duties to the level of one thousand zlotys per litre of grain spirit.



Liquors seized on the board of ferry "Pomerania" (on the route Gdańsk–Helsinki) as presumed contraband, 13 July 1989. Photo: Institute of National Remembrance Delegation in Bydgoszcz Archives, ref. no. AIPN By, 092/173

Over the following months, during which retail alcohol prices were raised on four separate occasions, the duty remained unchanged. This disparity made the import of spirits increasingly profitable. At the beginning of October 1989 – the first decision of Mazowiecki's government in this matter – the customs duty was increased twentyfold (to PLZ 20,000 per litre). This, however, did not stem the flood of spirits entering Poland, which significantly reduced both sales of alcohol from state producers and the associated budget revenues. The Main Customs Office (GUC), headed by General Jerzy Ćwiek, failed to inform the Ministry of Foreign Economic Cooperation (MWGzZ) about the true scale of this influx. Yet records show, for instance, that an enterprising resident of Poznań imported forty-nine consignments at that time, amounting to nearly two million litres of alcohol. In Świnoujście alone, two local citizens imported almost 160,000 litres of spirits and, clearly catering to more refined tastes, over 70,000 litres of wine. All this, of course, was ostensibly to satisfy their "own needs." Speaking in the Sejm in July 1990, the President of NIK, General Hupałowski, accused customs officers of having

"uncritically released large quantities of spirits and alcohol [...]. Particularly reprehensible was the very frequent neglect of the obligation [...] to inform tax chambers about goods transported in the so-called non-commercial trade, the quantity of which clearly indicated their commercial purpose" (Stenographic Record of the 37th Session of the Sejm, 26 July 1990, p. 91).

At the beginning of November 1989 – following yet another significant price increase – Leszek Balcerowicz approached the Head of the Ministry of Foreign Economic Cooperation, Marcin Świącicki, demanding that the customs duty be raised to a prohibitive level of PLZ 65,000 per litre. This measure was introduced at the end of the month and effectively halted alcohol imports by individuals. However, organisers swiftly exploited another loophole in the regulations, this time concerning the import of goods through so-called customs warehouses. It took Świącicki's ministry another month to close this loophole, during which alcohol continued to flow into the country. On 1 January 1990, as an important element of the Balcerowicz Plan [the cluster of intertwined acts concerning economic reform named after Leszek Balcerowicz, deputy prime minister and minister of finance in the Mazowiecki Government – editor's remark], a new customs law came into force, abolishing the distinction between commercial and non-commercial imports. Yet, as it turned out, yet another loophole

soon emerged, enabling the continued influx of alcohol into Poland. On this occasion, the President of GUC, General of the Citizens' Militia Jerzy Ćwiek (who had held this position since 1985), sought to accommodate the needs of the growing number of foreigners visiting Poland. He submitted a request to the Minister of Finance to allow them to import alcohol – ostensibly “for their own needs” – without paying the prohibitive customs duties and taxes, which reached as high as 900%. Although Ćwiek was dismissed at the request of Minister Świąćicki at the end of January 1990 (his post was taken over by Tomasz Bartoszewicz), the Ministry of Finance was content to amend this exemption by adding a provision that was practically unenforceable. It required foreigners to pay 70% of the tax in the event of reselling alcohol. As a result, the entire procedure continued to function without major obstacles. It was only at the beginning of March that the Ministry of Foreign Economic Cooperation prepared a draft regulation prohibiting the import of spirits and spirit products into Poland, which the Prime Minister signed on 19 March, with effect from 1 April 1990 (Dz.U. 1990, no. 19, item 114). However, the regulation contained a peculiar flaw: for reasons difficult to understand, the import ban applied not only to alcohols not then widely produced in Poland (such as gin, whisky, or brandy), but also to the domestic juniper liqueur.

“This opportunity” – noted the NIK report – “was exploited by private importers, who began [in advance before the regulation came into force – editor's remark] mass imports of juniper vodkas and other spirits with the aroma of juniper liqueur” (Archives of the Supreme Audit Office [hereinafter: ANIK], 227, Information on the results of alcohol import inspections in 1989 and the first half of 1990, p. 7).

The precise scale of imports of spirits and spirit products could not be determined, but in the first quarter of 1990 sales at state-owned distilleries were more than 30 per cent lower than in the same period of the previous year, which gives a rough indication of the scale of the phenomenon. In June, the issue of a complete ban on alcohol imports – the enormous scale of which was widely reported in the press – became the subject of government deliberations. “At this hour, we should consider this issue with the help of a drink,” remarked the Prime Minister, before giving the floor to Minister Świąćicki after midnight on 26 June, who presented to the Council of Ministers a draft regulation on the “temporary restriction of the import of certain alcoholic beverages.” The head of the Ministry of Foreign Economic

Cooperation acknowledged that the March regulation had proved ineffective, as such products were still being imported into Poland:

“alcohols imitating gin, imitating juniper liqueur, [and] imitating some other brandies. In total, the amount of this alcohol is four times greater than last year, which means losses for the State Treasury because it is impossible to sell the appropriate amount of domestic alcohol.”

Świąćicki also assessed that:

“The liberalisation that was introduced also covered alcohol, and I admit that perhaps it was too far-reaching a liberalisation. And now we need to introduce either a quota [...] or concessions.”

However, the specific solutions proposed by Świąćicki, consisting of the reintroduction of quotas – and especially their introduction only from August – did not satisfy the government members. As Deputy Prime Minister Gabriel Janowski noted:

“We have already introduced a ban on vodkas, and it turned out that between the adoption of the Council of Ministers’ resolution and the introduction of the order, the largest imports into the country took place. Fortunes were made in a matter of weeks. Therefore, I believe that it should be implemented immediately.”

Minister Aleksander Bentkowski was of a similar opinion and stated:

“I have been asked several times how it is that the government is supposedly introducing import restrictions, yet alcohol is still being imported in large quantities, and for people, this is no excuse for failing to anticipate the cunning of our compatriots.”

He was supported by Deputy Prime Minister Czesław Janicki, who was “wholeheartedly in favour of introducing the ban” and at the same time stated that “customs law is so leaky in our country that it is hardly worth discussing at all.”

A fundamental dispute then arose between Świąćicki and the Minister of the Internal Market, Aleksander Mackiewicz, representing the Democratic Party (SD), who accused him of “allowing the free sale of alcohol in violation of the law.” Mackiewicz was referring to the Act on Upbringing in Sobriety, which established limits on alcohol import

and restricted the right to engage in such activities, and which – as it turned out – was simply not observed. This was confirmed by the findings of the authors of the previously cited Supreme Audit Office report, which stated that

“the trade in imported alcohol in 1989 and the first half of 1990 was mostly illegal, in violation of the applicable regulations” (ANIK, 227, Information on the results of alcohol import inspections in 1989 and the first half of 1990, p. 9).

Mackiewicz was not entirely blameless in this matter, as between November 1989 and May 1990 he received no fewer than five letters from the monopolist in the field of alcohol trade, the State Spirits Industry Enterprise Polmos (*Państwowe Przedsiębiorstwo Przemysłu Spirytusowego “Polmos”*), informing him of difficulties in selling domestically produced alcohol and the resulting consequences for the state budget. Polmos also sent similar letters to the Ministry of Foreign Economic Cooperation and the Ministry of Finance, calling for measures to counteract the uncontrolled import of alcohol.

During the June government meeting, an interesting exchange of views took place, in which, alongside Święcicki and Mackiewicz, the Minister of Industry, Tadeusz Syryjczyk, also took part.

“M. Święcicki: And that’s exactly the point: there are no licences, anyone can import [alcohol], and that is precisely what the problem is.

A. Mackiewicz: Minister, this is also illegal. You have no right to permit such an opportunity [free trade in alcohol], and this will be an object of inquiries. [...] Please familiarise yourself with the law. In this case, the free sale of alcohol was simply allowed in violation of the law.

T. Syryjczyk: Whoever introduces it into retail trade must have a permit from the appropriate trade department.

A. Mackiewicz: For each transaction, they must have a permit.

T. Syryjczyk: So they can import it, but they cannot put it into circulation.

A. Mackiewicz: They cannot import it without a permit. And it was the Minister of Foreign Economic Cooperation who should have obtained import permit from the Ministry of Internal Market. [...] Disorganisation has indeed been introduced. By the way, Mr. Prime Minister, a few months ago I submitted to you a report on regulating the alcohol trade, because an alcohol jungle has indeed emerged there.”

(AKPRM, Record of the proceedings of the meeting of the Council of Ministers of 25 June 1990, pp. 156–167).

“We’re not having any luck with drinks today. First milk, now alcohol” – Mazowiecki commented somewhat reflectively on the dispute between members of his government, as at the same meeting the dairy crisis – which had, among other things, led to the blockade of the expressway in Mława – had been discussed for several hours earlier. Ultimately, Świącicki – despite many members of the government emphasising the urgency of the matter – argued that the introduction of quotas would take several weeks and submitted a motion to postpone the issue of the Council of Ministers’ regulation to its next meeting. “I will examine the matter thoroughly – he said – from the perspective of these legal contracts concluded, [and see] what will happen during this month or six weeks.”

As a result, it was not until 11 July 1990 that a regulation of the Council of Ministers was issued introducing a total ban on the import of alcohol until the end of that month, and from 1 August – after a break of over a year and a half – quotas granted by the Ministry of Foreign Economic Cooperation for the import of alcohol were reintroduced. This time the blockade proved effective, but in fact it amounted to an admission by the state authorities that they were unable to solve the problem in any other, less restrictive way.

The decision to introduce quotas was preceded by another discussion at the government forum. During the meeting, Minister Świącicki disputed the findings of NIK, questioning the scale of the state budget losses, which the President of NIK had estimated – speaking a few days earlier in the Sejm – at PLZ 690 billion in 1989 and as much as PLZ 930 billion in the first quarter of 1990. General Hupałowski, however, stated that “the actual size of these amounts cannot be determined,” and subsequent NIK reports, which took into account revenues from sales tax and stamp duties, reduced these figures. Nevertheless, their announcement in July caused outrage in the Sejm. During the July session, the President of NIK was even asked whether any of the ministers had been involved in the alcohol trade. General Hupałowski’s response was negative, but cautious:

“The Supreme Audit Office’s audit materials collected to date do not indicate that any member of the government was directly involved in the trade in imported alcohol” (Stenographic Record of the 37th session of the Sejm, 28 July 1990, p. 399).

The MPs, dissatisfied with the explanations provided by, among others, the delegated Deputy Minister of Health and Social Welfare, believed that the government was trivialising the matter and

responded by appointing an extraordinary commission, chaired by Włodzimierz Cimoszewicz [the post-Communist MP – editor’s remark], to investigate the irregularities related to the import of alcohol. “It would be a good thing if this commission could be asked not to undertake constant propaganda campaigns on this matter before the final findings are made, but only after the final findings are made” – said Prime Minister Mazowiecki, who, it seems, only then began to realise the scale of not only the budgetary but also the reputational losses the government had suffered as a result of the alcohol affair. In reality, this case was much more a burden on the incompetent or corrupt state apparatus than on the businessmen who took advantage of its weaknesses. Minister Bentkowski put it bluntly, saying that he saw no justification for disclosing the names of shareholders of companies importing alcohol, as requested by the MPs, because:

“One must separate the fact of committing an offence by failing to pay tax [...] from the fact that these transactions were carried out under the inconsistent law that existed at that time. We cannot accuse these people of anything, since they paid taxes as they should have, and because of this they made money. Well, they made money; you can blame this or that official, in this or that ministry, for reacting too late when they saw that the vodka was flowing into Poland” (AKPRM, Record of the proceedings of the Council of Ministers meeting, 30 July 1990, pp. 4–6).

It is worth noting that NIK prepared a list of over four hundred private companies involved in the trade in imported alcohol in 1989–1990. The scale of the phenomenon is further illustrated by the more than 1,600 cases handled by the prosecutor’s office in mid-1991, related to the import, trade, or smuggling of alcohol.

Regardless of the loopholes in the regulations, the scale of the alcohol affair was significantly influenced – as Minister Świąćicki admitted at the government meeting – by the state in which:

“Customs officers are poorly paid and their numbers are insufficient, and if every suspicious customs officer were dismissed, [these] numbers would be even smaller. [...] We have spoken with the Minister of Finance more than once – and it will probably come to this that they will need, just like tax officials [...] to be well paid, to have reliable people who will enforce [...]. But for now, the situation is such that various inspections and investigations can be ordered, and something will be discovered”

(AKPRM, Record of the proceedings of the Council of Ministers meeting, 25 June 1990, p. 166).

The investigation was undertaken by the parliamentary commission headed by Włodzimierz Cimoszewicz, which completed its work only in mid-1991, when Mazowiecki's government was already history. The commission analysed documents provided by NIK, the prosecutor's office, and various ministries, and also interviewed individuals who had worked in the Rakowski and Mazowiecki governments.

"During the writing of the report – Cimoszewicz recalled – a serious conflict arose. Some MPs believed the matter was straightforward – that the Mazowiecki government was responsible, that everyone should be brought before the State Tribunal, and that no distinctions should be made. For others, the issue was more complex" (Cimoszewicz, Smółko 1993, p. 239).

In the report on the commission's activities presented to the Sejm on 5 July 1991, it was stated: "Despite widespread suspicions in the country regarding the involvement of public figures in this affair, the commission does not possess any evidence to confirm such suspicions."

The commission did, however, find grounds to bring charges against various members of the government for improper performance of their duties. The report contained the greatest number of accusations against the head of the General Customs Office, General Jerzy Ćwiek, who, among other matters, permitted the destruction of records containing original customs notifications in December 1989, thereby preventing a more precise estimation of import volumes. However, the commission also recommended that two former heads of the Ministry of Internal Affairs, Czesław Kiszczak and Krzysztof Kozłowski, be brought before the State Tribunal, on the grounds that the services under their control "did not take any broader action in response to the widespread illegal alcohol trade, including activities conducted on the streets." Deputy Prime Minister Balcerowicz was also included in this group in the report, as it was recognised that, in his capacity as chairman of the Economic Committee of the Council of Ministers (KERM), he had failed to ensure "effective cooperation" between the economic ministries, which "undertook a number of mutually uncoordinated actions to counter the increase in alcohol imports." The commission further acknowledged that it was unable to precisely estimate the losses to the state budget resulting from the affair, noting that

“it is still not known exactly how much this import amounted to in the second half of 1989 and the first half of 1990. It is generally assumed that the total was about 30 million litres of pure alcohol, which is three times higher than the average for several previous years” (Stenographic Record of the 66th session of the Sejm on 5 July 1990, pp. 203, 204, 207, 210).

However, the estimates provided by the Ministry of Finance, which indicated budget losses ranging from PLZ 30 to 170 billion, were regarded as underestimated, while the figure of PLZ 1.7 trillion cited in the Supreme Audit Office documents was considered likely to be exaggerated.

The report of the Cimoszewicz commission was met with criticism from MPs, primarily those from the OKP and the Democratic Union Parliamentary Club (*Klub Parlamentarny Unia Demokratyczna*). They accused him of numerous omissions and inconsistencies, including the failure to address the responsibility of Balcerowicz’s predecessor as head of KERM, Ireneusz Sekuła, and the inability to identify culpable individuals within the Ministry of Foreign Economic Cooperation. Cimoszewicz himself later acknowledged that he was more inclined to assign blame to Mazowiecki’s government than to Rakowski’s, stating:

“I can understand the lack of an energetic response in the autumn of 1989, but the fact that regulations were introduced in 1990 that, in themselves, constituted an incentive for alcohol fraud cannot be easily explained” (Cimoszewicz, Smółko 1993, p. 246).

Ultimately, the report of the Cimoszewicz commission – justifiably accused of attempting to equalise responsibility for the affair between the Rakowski and Mazowiecki governments – was rejected by the Sejm in a vote. However, this did not mark the end of the matter. Disputes over bringing those responsible before the State Tribunal continued for several more years. Despite repeated attempts, the First Term Sejm failed to advance the agenda. After the 1993 elections, when the Sejm was dominated by SLD and PSL MPs, a more favourable political climate emerged, and the allegations were eventually referred to the Sejm’s Constitutional Accountability Commission. Finally, in April 1996, the following individuals were brought before the State Tribunal, accused of “omissions, inaction, and failure to fulfil their duties”: the former President of GUC, General Jerzy Cwiek; two ministers from Rakowski’s government – the Minister of Foreign Economic Cooperation, Dominik Jastrzębski, and the Minister of Finance,

Liquors seized
on the board of the
ferry "Pomerania"
(on the route Gdańsk–
Helsinki) as presumed
contraband,
13 July 1989.

Photo: Institute
of National
Remembrance

Delegation
in Bydgoszcz Archives,
ref. no. AIPN By,
092/173

Andrzej Wróblewski; General Czesław Kiszczak, head of the Ministry of Internal Affairs in Rakowski's and Mazowiecki's governments; and the Minister of the Internal Market from Mazowiecki's government, Aleksander Mackiewicz. The inclusion of the latter, rather than Minister Święcicki, highlights that the composition of the jury in the first trial held in post-war Poland before the State Tribunal was shaped by political bargaining. After a trial lasting more than a year, on 18 June 1997 the State Tribunal delivered its judgement. The President of the Main Customs Office, General Jerzy Cwiek, and the Minister of Foreign Economic Cooperation, Dominik Jastrzębski, were sentenced to five years' deprivation of the right to stand for election for "failure to perform their official duties" and prohibited from holding any managerial positions in the state during that period. The remaining accused – all ministers from Mazowiecki's government – were acquitted. The State Tribunal thus echoed the point Jacek Kuroń had vividly made from the parliamentary rostrum in July 1991:

"A house was set on fire – clearly, someone committed the act, and it is even known who did it. Then the fire brigade arrives and extinguishes it rather clumsily, yet we put on trial those who were slow to put out the fire,



as if they should have done so more efficiently” (Stenographic Record of the 66th session of the Sejm on 5 July 1990, p. 232).

I devoted considerable attention to the alcohol affair not only because it was the only case that led to two ministers from Mazowiecki’s government being brought before the State Tribunal, but also because its course vividly illustrates several fundamental weaknesses in the state apparatus under this cabinet, which significantly facilitated the process commonly referred to as the appropriation of state property by the nomenklatura. Firstly, there were problems in creating coherent legal provisions that would prevent economic transactions from exposing the state budget to losses. Secondly, individual ministries and offices demonstrated an inability to cooperate efficiently to counteract abuses. Thirdly, the low effectiveness of various state services, compounded by demoralisation and corruption, further exacerbated the problem. Of course, all these processes had their origins in the era of the Polish People’s Republic, and their effective resolution within just a year and a half of the term of Mazowiecki’s government, or even across the full four years of Solidarity-led governance, was simply impossible. At the same time, however, given the information presented above, it is difficult to conclude that everything possible was done to address the issue. It is for this reason that Kuroń’s metaphor of “incompetent extinguishing” remains particularly apt.

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