

Opening Business Freedom in Eastern Bloc Countries As Exemplified by Poland*

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Abstract

This article describes the circumstances surrounding the enactment of the first act in the Eastern Bloc – the Polish act introducing freedom of business activity. Although the opening of freedom of business activity undoubtedly constituted a breakthrough in the economies of socialist countries, the available scholarly literature devotes surprisingly little attention to it, focusing instead on the events that followed – the fall of communism in Central and Eastern Europe. The few publications describing the opening of freedom of business activity also tend to overlook the political and economic context surrounding the enactment of these regulations. The article draws on literature from the turn of the 1980s and 1990s, as well as contemporary literature describing the then-current elements of the political and economic system of socialist Poland. Furthermore, it briefly characterizes the restrictions on business activity at the time, citing selected legal regulations in this area. The economic situation of the country in the late 1980s, including desperate attempts at economic reform, is then presented. The article then describes the most important changes introduced by the act introducing freedom of business activity. The final section describes the impact the adoption of these changes had on the economic transformation process in Poland. Furthermore, it is demonstrated that the process of decomposition of the Eastern Bloc began even before the so-called Autumn of Nations, and consequently, that the first changes were implemented by communist governments.

Keywords: Freedom of enterprise, economy, Eastern Bloc, socialism, free market, Poland

JEL Classification: A12, B24, K20, K30, M10, M20

Introduction

The subject of this study is to present the process that accompanied the so-called "Fall of Communism¹," i.e., the dissolution of the Eastern Bloc countries² – those located behind the Iron Curtain³ – using the example of the opening of freedom of economic activity. In the available literature, this topic is either completely ignored or receives insufficient attention. This is a serious mistake, as it creates the false impression that all changes in the political and economic systems in Central and Eastern Europe began after the fall of communist rule in these countries.

The example chosen – Poland⁴ – is not accidental. It is dictated primarily by the fact that it was the first country to enact legislation re-allowing freedom of economic activity. Furthermore, the country experienced a deepening economic crisis throughout the 1980s, stemming from uncontrolled debt. At the same time, the country's economy was based on a centrally planned model, typical of Eastern Bloc countries. Under these circumstances, the opening

of freedom to conduct business activity was not only a fundamental innovation but also indirectly evidence of the process of decomposition and disintegration of the Eastern Bloc states that was taking place in the late 1980s. Importantly, however, the adoption of these changes was entirely based on principles established by the authorities of socialist Poland. It is therefore an interesting example of fundamental changes initiated even before the collapse of the Eastern Bloc. A detailed analysis of these changes illustrates how a significant portion of the political and economic changes were enacted before the formal dissolution of the Eastern Bloc.

Initial state

When describing the changes brought about by the opening of the freedom to conduct business activity, it is necessary to briefly characterize the economic system – the legal environment – before the changes in question came into force.

As previously noted, the Polish economy, following in the footsteps of other Eastern Bloc countries, was based on a command-and-control system. This economic system was based on Karl Marx's⁵ theory of historical materialism. It assumed state ownership of the factors of production (land and capital), radical (and in some countries, complete, as in the USSR) restrictions on private economic activity, the existence of so-called economic administration⁶ (unions⁷ and sectoral ministries⁸), central planning based on multi-year economic plans, a state monopoly on financial services and foreign trade, and a system of administrative price setting⁹. An additional factor characterizing this economic system was the system of government, in which power effectively rested in the hands of the First Secretary of the Polish United Workers' Party¹⁰, even though he did not officially hold any state office. This system was also characterized by high inefficiency, increased material consumption of production means, and unprofitability¹¹. However, it should be emphasized that the Polish system also featured one additional element not found in other Eastern Bloc countries. This refers to the high percentage of private ownership in rural areas, where the process of so-called collectivization of agriculture¹² was never completed. As a result, private farms existed in Poland throughout the Eastern Bloc.

The Polish economy was also significantly impacted by the enormous debt burden resulting from the policies pursued by First Secretary of the Polish United Workers' Party (PZPR) Edward Gierek between 1970 and 1976. These policies involved modernizing the Polish economy through the purchase of patents and licenses for the production of goods whose quality would enable their subsequent export to Western European countries¹³. Unfortunately, the funds used to purchase these patents and licenses came from loans granted by Western European countries and their commercial banks. Furthermore, the funds obtained in this way were often not allocated to investments that could have enabled subsequent exports. Instead, these funds were quickly allocated to meeting the current consumer needs of society, and the country fell into a debt spiral¹⁴. As a result, the country declared insolvency in 1981¹⁵.

In the above-mentioned systemic realities, freedom to conduct business activity did not exist. This resulted not only from statutory state monopolies¹⁶, but above all from fundamental restrictions on the possibility of conducting such activity.

Although the restrictions mentioned above always stemmed from the legal regulations of the time, they ultimately had a diverse nature. However, they can be divided into three basic groups.

The first group of restrictions related to the direct state takeover of private enterprises. In Poland's case, this occurred as part of the so-called Battle of Trade. As part of this law, the Act of January 3, 1946, on the State Takeover of Basic Branches of the National Economy was passed¹⁷. Based on this law, not only was the property of German citizens who found themselves within Poland's new borders after the war, regardless of whether they emigrated to Germany, nationalized, but also the property of Polish citizens who owned enterprises listed in Article 3, Letters A and C of the aforementioned Act. Furthermore, the property of entrepreneurs not listed in the previously cited provision, provided the enterprise had the capacity to employ more than 50 workers (Article 3, Letter B), with the exception of construction and installation companies¹⁸. Most importantly, however, the aforementioned regulations were in force not only immediately after the end of World War II but throughout the entire period of the Eastern Bloc. As a result, in Poland – until the freedom of conducting business activity was freed – it was subject to the aforementioned restrictions.

The second group of restrictions on conducting business activity was related to the then-current tax system. As part of the aforementioned battle for trade, the so-called tax surcharge (*dobycie*) and the equalization tax were introduced into the Polish tax system. The former was a quasi-tax officially imposed by the tax administration when accounting irregularities were identified. In practice, it was imposed entirely on a discretionary basis.

Moreover, its amount was also discretionary. Experience has shown that this tax was clearly used as a tool to destroy private entrepreneurs. This tax was often levied in a manner and with the aim of eliminating entrepreneurs, and consequently, making the state the sole entity conducting business activity. The second tax – the equalization tax – was targeted primarily at individuals practicing the so-called liberal professions (lawyers, artists, doctors, etc.). It involved additional taxation of the so-called surplus income, which remained after the taxpayer's income had been previously subjected to income tax. This surplus was defined by law, and it was on this surplus that the tax in question was calculated. What is particularly important, however, is that this tax was extremely high, its rates ranging from 15% to even 90% of the income surplus¹⁹.

The third group of restrictions is strictly administrative in nature. It prevented the conduct of certain types of business activity without obtaining a specific type of administrative permit – a license or permits. Obtaining these, in turn, was contingent on meeting a series of bureaucratic requirements imposed by numerous state authorities. This, therefore, required not only a significant investment of time but also knowledge of a range of legal provisions regulating a given type of business. Furthermore, the permit or license itself was often only temporary, requiring reapplying to continue the existing business after its expiration²⁰. Furthermore, the criteria for obtaining them were not transparent – the administrative body examined, for example, the advisability of undertaking a given activity, which ultimately amounted to administrative voluntarism. A specific form of administrative barrier was the restriction on conducting business activity by Polish citizens permanently residing abroad, contained in the Act of July 6, 1982, on the Principles of Conducting Small-Scale Business Activity by Foreign Legal and Individual Entities in the Territory of the Polish People's Republic²¹.

Opening the freedom of conducting business activity

In light of this, the decision to fully open the market—introducing freedom to conduct business—represented a true breakthrough in existing economic concepts. The explanation for such a radical change lies in the failure of attempts to reform the socialist economy in Poland in the 1980s²². Therefore, it was not a genuine desire to abolish existing barriers, but rather the need to take extremely radical steps to avert the specter of the country's bankruptcy that led to the abandonment of the existing restrictions²³.

The legal act that opened a new chapter in economic relations in socialist Poland was the Act of December 23, 1988, on Economic Activity²⁴. This act entered into force on January 1, 1989. It was known as the Wilczek Act, named after the then Minister of Industry, Mieczysław Wilczek. Despite its revolutionary nature, the act contained only 25 substantive provisions, i.e., provisions defining new principles for conducting business activity²⁵.

The Act introduced the principle of equality for all forms of ownership in undertaking business activity. It was based – as also stated in the justification for its draft – on the principle "what is not prohibited is permitted". This was expressed by creating entirely new rules for starting a business. Primarily, the requirement to obtain a permit or license was waived, in favor of a single legal act: reporting its commencement in the register of persons conducting business activity. The registration itself was subject only to verification of the completeness of the data contained therein. This eliminated the risk of potential abuse by the bureaucratic apparatus, through the right to appeal a refusal to enter the aforementioned register to an administrative court.

It should be emphasized, however, that the discussed act retained – to a very limited extent – the requirement to obtain a license to conduct business activities of the following types: (1) extraction of minerals subject to mining law and the exploration of deposits of these minerals, (2) processing and trading in precious metals and precious stones, (3) manufacturing and trading in explosives, weapons and ammunition, (4) manufacturing of pharmaceuticals, narcotics and psychotropic substances, sanitary products and poisonous substances, (5) production, purification and dehydration of spirits and the separation of spirits from other products, as well as the production of vodka, (6) manufacturing of tobacco products, (7) maritime and air transport and the provision of other air services, (8) running pharmacies, (9) foreign trade in goods and services, specified by regulation of the Minister of Foreign Economic Cooperation, (10) trading in cultural goods created before 9 May 1945, (11) services: protection persons and property, detective work, and passport matters. Importantly, however, the Act allowed for the possibility of excluding – by way of a regulation of the Council of Ministers – the requirement to obtain a license to conduct any of the above-mentioned economic activities²⁶. It is equally important to emphasize that the requirement to obtain a license to conduct the aforementioned activities constituted an exception to the rules introduced by the discussed legal act.

The abolition of regulations that gave preferential treatment to state-owned enterprises²⁷ and the widespread adoption of business activity paved the way for the opening of market competition rules²⁸. Furthermore, an interpretative directive was introduced, according to which any doubts regarding the freedom to conduct a

business, in the absence of express provisions to the contrary, were to be resolved in accordance with the aforementioned principle, thus prohibiting any broad interpretation of exceptions or limitations.

Finally, it is worth adding that the justification for the act indicated that it was part of the final plan for reforming the socialist economy – the second stage of the economic reform. In fact, it constituted a negation of the aforementioned reform. It assumed maintaining the leading role of the state sector in the economy, while allowing private enterprises – but only to a limited extent. In other words, the second stage of the economic reform never envisaged the introduction of freedom in conducting business activity, especially in sectors completely monopolized by the state. Therefore, the act in question also constituted particular evidence of the failure of the reforms envisaged in the program of the second stage of the economic reform.

Conclusion

The Act of December 23, 1988, on Economic Activity was undoubtedly a fundamental legal act that completely reshaped the economic system of socialist Poland at the time. This act not only effectively opened up the possibility of conducting private business activity but also eliminated almost all previous administrative and legal barriers that had hindered or prevented it.

The changes introduced by the act in question also had an ideological nature. Basing the act on the principle of "what is not prohibited is permitted" represented a final shift away from the command-and-control model of the economy. It also allowed for a rapid transition to a free-market economy. The act itself was one of the most liberal acts regulating business activity in force in Europe at the time. According to many economists, it represents an unparalleled model of legislation granting the greatest economic freedom to entrepreneurs.

The fact that the freedom to conduct business activity was granted under communist rule is not only evidence of the failure of previous attempts at economic reform in Poland. Above all, however, it demonstrates that the process of profound changes in the political and economic systems of the Eastern Bloc countries occurred even before its final collapse. This was also fundamental to the transition from a command-and-control economy to a free-market economy. This change also demonstrates the desperate nature of the communists' actions in the late 1980s, aimed at preserving the existing socialist system to the greatest extent possible while simultaneously implementing profound economic transformations. History has shown this to be impossible. Instead of halting it, the opening of freedom of business activity contributed to the accelerated disintegration of the Eastern Bloc, ultimately leading to the collapse of communist rule in Central and Eastern Europe.

In the case of Poland, the opening of freedom of business activity also had a fundamental impact on the country's subsequent economic development. Thanks to this, a group of private entrepreneurs emerged in a very short period of time. Their activity led to the Polish economy gradually emerging from the crisis of the mid-1970s. Moreover, the very existence of the private sector allowed for a complete economic transformation at a lower cost—the state's withdrawal from its leading role in the economy. This, in turn, had a real impact on the country's subsequent economic development.

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¹ This was a process of political and systemic transformation in the USSR's satellite states and within the USSR itself, dating from 1989 to 1990. Its direct effect was the seduction of real independence by Central European states, and consequently, the disintegration of the Eastern Bloc and the unification of the German states. An indirect effect of this process was the final dissolution of the USSR, which took place in December 1991.

² These are the countries that found themselves within the Soviet orbit after the end of World War II and were, among others, members of the Warsaw Pact – a military alliance founded in 1955 that served as a quasi-counterweight to NATO – and the Council for Mutual Economic Cooperation – an international organization founded in 1949 to support trade between member states. These include the Polish People's Republic (Poland), the Union of Soviet Socialist Republics (USSR), the People's Republic of Bulgaria (Bulgaria), the Socialist Republic of Romania (Romania), the Czechoslovak People's Republic (Czechoslovakia), the Hungarian People's Republic (Hungary), and the German Democratic Republic (East Germany).

³ This term was used in March 1946, during a speech in Fulton (USA), by British Prime Minister Winston Churchill, characterizing the political situation in Central Europe: *From Stettin in the Baltic to Trieste in the Adriatic an iron curtain has descended across the Continent. Behind that line lie all the capitals of the ancient states of Central and Eastern Europe. Warsaw, Berlin, Prague, Vienna, Budapest, Belgrade, Bucharest and Sofia; all these famous cities and the populations around them lie in what I must call the Soviet sphere, and all are subject, in one form or another, not only to Soviet influence but to a very high and in some cases increasing measure of control from Moscow.*

⁴ Until December 31, 1989, i.e. until the entry into force of the fundamental constitutional revision – the Act of December 29, 1989 on amending the Constitution of the Polish People's Republic (Journal of Laws No. 75 item 444), the official name of the state was the Polish People's Republic (pol: *Polska Rzeczypospolita Ludowa*).

⁵ This is a gross oversimplification, as it should be noted that, in Marx's view, a communist system could only be built in a highly developed society as an expression of its conscious decision. In practice, in all the countries that formed the Eastern Bloc, this system was forcibly imposed by Stalin, using, among other things, Soviet troops stationed in those countries.

⁶ This issue is comprehensively described by, among others, Z. Rybicki (1963), Z. Rybicki (1968), Z. Rybicki (1978), Z. Rybicki (1964), A. Chelmoński (1980). Furthermore, J. Gola (2021) and A. Machnikowska (2012).

⁷ These were administrative bodies managing state-owned enterprises producing specific types of goods, such as furniture. These associations were primarily national in nature, although there were also examples of regional associations. All state-owned enterprises were subordinated to a specific association, and the associations themselves were subordinated to a specific ministry administering a given sector of the economy.

⁸ Examples include the Ministry of Mining and Energy, the Ministry of Construction and the Building Materials Industry, the Ministry of Food Industry and Procurement, the Ministry of Light Industry, the Ministry of Heavy Industry, the Ministry of Chemical Industry, the Ministry of Forestry and the Wood Industry, the Ministry of Machinery Industry, and others.

⁹ Sine auctore (2025).

¹⁰ And in the case of other Eastern Bloc countries: Socialist Unity Party of Germany (East Germany), Bulgarian Communist Party (Bulgaria), Communist Party of Czechoslovakia (Czechoslovakia), Romanian Communist Party (Romania), Hungarian Socialist Workers' Party (Hungary), Communist Party of the Soviet Union (USSR).

¹¹ Despite the theoretical legal basis for declaring bankruptcy, it was effectively impossible in the economic system in question, as the state, as the owner of the enterprise, prevented its failure by financing its operations. This resulted in an increased state burden on the economy while simultaneously reducing production efficiency.

¹² This was a process of forcibly merging private farms into large conglomerates, owned either by the state or by agricultural cooperatives (subject to strict state supervision), with no possibility of reversing the process. The incompleteness of this process in Poland stemmed from the changes of the Polish October of 1956 (Gomułka's thaw), when the new First Secretary, Władysław Gomułka, not only ended the process but also allowed the self-liquidation of previously established cooperatives (most of which took advantage of this opportunity).

¹³ The assumptions of this process and the reasons for its failure were described from his own perspective by Edward Gierek himself, in an interview conducted by Janusz Rolicki and published as a book: J. Rolicki (1990).

¹⁴ Already in 1973, the debt exceeded annual export revenues in foreign currencies. At its peak in 1976, the ratio of foreign debt to export revenues reached 46%.

¹⁵ Given these circumstances, the communist authorities in power in Poland made three unsuccessful attempts to restore the economy. The first was the so-called economic maneuver, announced in December 1976. It involved the immediate suspension of ongoing economic investments and the redirection of funds allocated for their implementation to the completion of the most important ones. Furthermore, it aimed to curb consumption growth by restricting imports and increasing exports. This program did not produce the expected results, primarily due to systemic flaws in the Polish economy. The failure of the economic maneuver resulted in a collapse of the country's currency liquidity. The second attempt to repair the economy was the so-called first stage of economic reform, implemented between 1982 and 1987. It involved limiting the principle of centralized economic control by increasing the autonomy of state-owned enterprises. Furthermore, it introduced economic mechanisms – budget balancing, gradual price liberalization of certain products, etc. – within their current operations. Due to significant resistance from directors of state-owned enterprises and the indecision of the central government regarding more radical implementation steps, this reform stalled, practically failing to achieve any of its objectives. A particular example of this was the – only apparent – abolition of unions. In their place, theoretically voluntary associations were introduced, which quickly almost completely recreated the union-based system. The only real change achieved as part of this reform was an increase in the percentage of private enterprises (continuing to operate under strict regulation and state discrimination). It should be emphasized, however, that this increase was entirely unintended by the authors of the first stage of economic reform, but indirectly demonstrated the weakness of the command-and-control system. The final attempt to repair the economy was the so-called second stage of economic reform, undertaken in response to the failures of earlier plans. Despite its name, this plan pursued the same goals as the first stage of economic reform. The fundamental difference was the method of achieving these goals. While the first stage of economic reform assumed gradual changes, allowing state-owned enterprises to adapt to the newly created economic conditions, the second stage of economic reform emphasized the fullest possible implementation of the reforms, even if this came at the expense of their economic health. As part of this reform, several major changes were made to the existing economic system. One of these was the abolition of the so-called sectoral ministries, the chief economic administration bodies that managed – through administrative methods – specific industries. This also increased the independence of enterprises, which from then on were to compete with each other in the market. It could be argued that this plan assumed a shift away from the command-and-control system and the introduction of a state capitalist system with a minority share of the private sector (continually subject to regulation). Despite ambitious assumptions—given the then-current realities based on a flawed economic model—the second stage of economic reform also failed. The country's economic situation at the time was so dire that achieving the aforementioned goals became impossible. Assumptions without full opening of freedom of conducting business activity, the system was impossible to reform. Despite this, in the document entitled "Assessment of the Course and Results of the Implementation of the Economic Reform in 1978" – Paper No. 348, of the Sejm of the Polish People's Republic, 9th Term, an optimistic assessment of its progress dominates. The process of economic reforms in the Polish People's Republic is extensively described – taking into account contemporary statistics on production in agriculture and industry – by J. Kaliński, Z. Landau (1983), Z. Niedbała (1983).

¹⁶ An example of this was the State Spirits Industry Enterprise "Polmos", which had a monopoly on the production of vodka and other spirits, or a monopoly on foreign trade.

¹⁷ Journal of Laws No. 3, item 17, as amended.

¹⁸ This exclusion was only temporary and directly related to the destruction caused by World War II.

¹⁹ See Art. 9 of the Act of 13 December 1957 on the Equalisation Tax (consolidated text: Journal of Laws of 1971, No. 14, item 140, as amended) and Art. 10 of the Act of 19 December 1975 on the Equalisation Tax (Journal of Laws No. 45, item 227, as amended) and Art. 9 of the Act of 28 July 1983 on the Equalisation Tax (Journal of Laws No. 43, item 188, as amended). This tax was later merged with income tax.

²⁰ Examples of this were the provisions of the Act of 3 January 1946 on the Establishment of New Enterprises and the Support of Private Initiative in Industry and Trade (Journal of Laws No. 3, item 18, as amended), the Act of 8 June 1972 on the Performance and Organization of Crafts (consolidated text: Journal of Laws of 1983 No. 7, item 40), and the Act of 18 July 1974 on the Performance of Trade and Certain Other Types of Activities by Non-Socialized Economic Entities (consolidated text: Journal of Laws of 1983 No. 43, item 193, as amended). All of them regulated the possibility of conducting the specified economic activities.

²¹ Consolidated text Journal of Laws of 1989, No. 27, item 148, as amended.

²² See footnote no. 15. The following people spoke about economic reforms: W. Łączkowski (1989), E. Łukawer (1989), K. Ratajczak (1989), K. Kruczałak (1989), R. Barczyk, Z. Kowalczyk (1990), J. Krężlewski (1990), W. Grzegorzczak (1990).

²³ This is evidenced by changes at the draft stage of the Act (form no. 340, Sejm 9th term of the Polish People's Republic), which was supplemented twice with self-amendments that additionally eliminated the already few restrictions on the free conduct of business activity (form no. 340A and 340B, Sejm 9th term of the Polish People's Republic).

²⁴ Consolidated text: Journal of Laws No. 41, item 324, as amended.

²⁵ In total, the Act contained 54 articles, but apart from 25 substantive provisions, the remaining 29 (grouped in the last two chapters) were transitional provisions – adapting the new regulations to the existing legal environment.

²⁶ This authority was exercised already in December 1989, i.e. 12 months after the entry into force of the discussed act. Pursuant to the Regulation of the Council of Ministers of December 22, 1989, on the exemption of certain types of business activities from the obligation to obtain a license (Journal of Laws No. 72, item 423, as amended), the following business activities were exempt from the obligation to obtain a license: processing of precious metals into dental products, production and trade in paints containing precious metals, production and trade in solders from precious metals, as well as processing of silver into jewelry and trade in silver jewelry, with the exception of jewelry manufactured before May 9, 1945 (item 2); production of pharmaceuticals, narcotic and psychotropic substances, sanitary products and toxic substances (item 4); and maritime transport (item 7).

²⁷ Z. Dąbrowski (1990) writes more extensively about this phenomenon.

²⁸ Unfortunately, the indirect effect of this was the emergence of pathological phenomena, which were eliminated only by the adoption of the Act of 16 April 1993 on Combating Unfair Competition (Journal of Laws No. 47, item 211, as amended).

