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## **Political Corruption in Poland**

**Sources of Corruption in Post-Communist Poland**

**By Aleksander Surdej**

**Clientelism in the Silesian Coal Mining Industry**

**By Kaja Gadowska**

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Aleksander Surdej

## Sources of Corruption in Post-Communist Poland

### 1. Introduction

After almost a decade-long focus on the problems of gaining and maintaining public support for harsh economic reforms, the focus of political economists analyzing post-communist transformations has shifted to quality of governance and corruption as its most significant indicator.<sup>1</sup> Increasingly bad governance has been identified as the main obstacle to economic development and to the legitimacy of democratic government, whereas corruption has been indicated as its worst consequence. As a result, institutional reformers have been advised to address the issue of bad governance and corruption.

In this paper I will try to contribute to the ongoing debate about corruption in post-communist Poland by analyzing it through the prism of state institutional weakness as identified in the management of the privatization process and against the backdrop of the disruptive force of windfall gains generated by the chaotic political and economic changes which have been taking place in Poland since the beginning of 1990s.

### 2. Indicators of Corruption in Poland

What is the extent of corruption in Poland nowadays?<sup>2</sup> Which areas are plagued by corruption and what incentives for corruption exist in the organization of the public administration and the delivery of public services? Below I will present data which may help in sketching answers to these questions.

#### 2.1) Perception of Corruption

Poles seem to be aware of the scale and gravity of corruption in Poland. The existing data show that Poles think that corruption is pervading the Polish state and the Polish political system.<sup>3</sup>

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<sup>1</sup> From a vast international literature it suffices to cite here: Susan Rose-Ackerman(1997)*Corruption and Development*, paper for the World Bank Conference on Development Economics and “*Corruption and Integrity Improvement Initiatives in Developing Countries*”, UNDP, New York, 1998. The Polish language literature includes: Andrzej Kojder, Andrzej Sadowski(ed.)(2002) *Klimaty korupcji* (Climate for corruption), Semper Warszawa; Maria Jarosz(2001)*Manowce polskiej prywatyzacji* (Drawbacks of Polish privatization), PWN Warszawa or Antoni Z. Kamiński, Bartłomiej Kamiński(2004)*Korupcja rządów* (Corruption of governments), Trio Warszawa.

<sup>2</sup> It is interesting to notice that corruption has become a research topic and a public issue only in the late 1990s, although there are good reasons to think that corruption expanded in the last years of the communist rule and later was additionally facilitated by the transitional chaos (some researchers prefer speaking about the systemic vacuum to point at the break between no longer existing old rules and not-yet established new rules) of the early 1990s. Thus the systematic data we have refer to the most recent period starting around 1997–98.

<sup>3</sup> The awareness of corruption has increased in Poland since the start of „the Rywin affair” in 2003. „The Rywin affair” refers to „an offer” presented by Lew Rywin – a famous film producer, to Agora Publishing Group to help modify a draft law on electronic media with help of his political allies for a bribe of approx. 20m USD. The offer was registered on tape by the editor in chief of the largest Polish newspaper Gazeta Wyborcza – owned by Agora, and the registration served as the main evidence against Rywin. From an investigation of a special parliamentary investigation resulted that Rywin acted in alliance with some people close to the office of prime minister. In 2004 the court however sentenced only Rywin for 2 years of jail, not finding sufficient proof against his apparent fellows in corruption.

Table 1: Opinions about what can be arranged for money in Poland

What do you think is possible to arrange in Poland for money (with bribes)?	Easily	Difficult	Not possible
Favorable decisions in local administration (in Gmina)	71%	13%	3%
Favorable decision in high governmental office	64%	17%	4%
Favorable press	60%	15%	4%
Favorable sentencing in court	58%	20%	4%
Favorable provision in parliamentary laws	48%	20%	5%

Source: Potoczny obraz korupcji (*Popular image of corruption*), OBOP, January 2003

As the table above indicates, Poles are convinced that money „opens” almost all doors in Poland and that corruption is omnipresent. Politicians, administrators and other public functionaries (like judges) are perceived as corrupt, as well as journalists (who are not public functionaries).<sup>4</sup>

Table 2: Is corruption a social problem in Poland? (Percentage of respondents answering „yes“)

	July 1991	February 2003
It is a very big social problem	23%	68%
It is a rather big social problem	38%	23%
It is a rather small social problem	15%	2%
It is a very small social problem	21%	0%
Difficult to say	2%	6%

Source: Polacy o korupcji, lobbingu i kupowaniu ustaw (Poles on corruption, lobbying and buying laws), CBOS, February 2003.

Poles increasingly think that corruption is an acute social problem. Although between 1991 and 2003 the percentage of people who think that corruption is a big social problem increased from 71% to 81%, the share of those who think that it is *a very big* social problem increased from 23% to 68%.

The scale of corruption is better seen when societal perception is compared across nations. The Corruption Perception Index compiled by Transparency International shows the salience of this issue in international comparison. The data from 2000 and 2004 show that all post-communist countries are situated relatively low in this ranking, indicating that the conditions of post-communist transformations create fertile ground for corruption.

<sup>4</sup> The presence of people who are not public functionaries on this list of the corrupt seems to indicate that people associate corruption with actions subordinated to the power of money in general. Portraying journalists as corrupt people seem to indicate their mistrust of press as a conveyor of impartial information.

Table 3: Corruption in Poland and other post-communist countries according to Transparency International – The 2000 Corruption Perceptions Index

<b>Rank</b>	<b>Country</b>	<b>CPI Score</b>	<b>Surveys Used</b>	<b>High-Low Range</b>
1	Finland	10.0	8	9.0 – 10.4
2	Denmark	9.8	9	8.6 – 10.6
10	United Kingdom	8.7	9	7.3 – 9.7
14	USA	7.8	10	6.2 – 9.2
17	Germany	7.6	8	6.2 – 8.4
27	Estonia	5.7	4	4.4 – 8.1
28	Slovenia	5.5	6	4.1 – 7.3
32	Hungary	5.2	10	3.9 – 8.1
42	Czech Republic	4.3	10	3.3 – 6.2
43	Belarus	4.1	3	3.4 – 4.9
	El Salvador	4.1	4	2.1 – 6.2
	Lithuania	4.1	4	3.8 – 4.4
	Malawi	4.1	4	3.8 – 4.8
	Poland	4.1	11	2.8 – 5.6
52	Argentina	3.5	8	3.0 – 4.5
	Bulgaria	3.5	6	3.3 – 4.3
	Ghana	3.5	4	2.5 – 4.7
	Senegal	3.5	3	2.8 – 4.3
	Slovak Republic	3.5	7	2.2 – 6.2
57	Latvia	3.4	3	2.1 – 4.4
68	Romania	2.9	4	2.1 – 4.3
87	Ukraine	1.5	7	0.5 – 2.5
89	Yugoslavia	1.3	3	0.6 – 2.4
90	Nigeria	1.2	4	0.6 – 2.1

## The 2004 Corruption Perceptions Index

<b>Rank</b>	<b>Country</b>	<b>CPI Score</b>	<b>Surveys Used</b>	<b>High-Low Range</b>
1	Finland	9.7	9	9.5 – 9.8
2	New Zealand	9.6	9	9.4 – 9.6
15	Germany	8.2	11	8.0 – 8.5
31	Estonia	6.0	12	5.6 – 6.7
31	Slovenia	6.0	12	5.6 – 6.6
42	Hungary	4.8	12	4.6 – 5.0
44	Lithuania	4.6	9	4.0 – 5.4
51	Czech Republic	4.2	11	3.7 – 4.9
54	Bulgaria	4.1	10	3.7 – 4.6
57	Latvia	4.0	8	3.8 – 4.3
57	Slovakia	4.0	11	3.6 – 4.5
64	Mexico	3.6	11	3.3 – 3.8
67	Poland	3.5	13	3.1 – 3.9
71	China	3.4	16	3.0 – 3.8
74	Belarus	3.3	5	1.9 – 4.8
87	Romania	2.9	12	2.5 – 3.4
90	Russia	2.8	1.5	2.5 – 3.1
122	Ukraine	2.2	10	2.0 – 2.4
144	Nigeria	1.6	9	1.4 – 1.8
145	Bangladesh	1.5	8	1.1 – 1.9

Source: Transparency International ([www.transparency.org](http://www.transparency.org))

Notes: The CPI Score relates to perceptions of the degree of corruption as seen by business people, risk analysts and the general public and ranges between 10 (highly clean) and 0 (highly corrupt). High-Low Range provides the highest and lowest values of the sources.

It should be noted that the reliability of the Corruption Perception Index as a gauge of actual corruption is sometimes cast into doubt due to its vulnerability to the “media effect”, i.e. the



probability that the perceived frequency of corruption increases in periods when the media discover and highlight cases of corruption.

An even worse scenario can be imagined: the perception of ubiquity of corruption might actually increase the number of the cases of corruption in a population composed of moral (who never bribe), corrupt (who always try to bribe) and opportunistic (who might equally well bribe as not bribe) people. When opportunistic people believe that the proportion of corrupt people increases, they start to think that not bribing reduces their chances of obtaining public contracts or public jobs. Furthermore, they become even more tempted to resort to bribery since the likelihood of being caught decreases with the increase of corrupt persons (assuming the amount of resources spent on the investigation of corruption remains constant).

Even if these two phenomena (the „media effect“ and subsequent perception of ubiquity) can be shown to actually increase the extent of bribery, corruption must nevertheless be addressed publicly and exposed in the press. Both effects should be taken seriously in devising the instruments to fight corruption.

Although widespread, corruption is a phenomenon condemned by Polish public opinion. When asked whether they approve of or tolerate corruption, Poles say that corruption is a negative social phenomenon and as such should be fought against.

But verbal condemnation and awareness of negative consequences of corruption are poor indicators of the actual extent of a negative social phenomenon's diffusion. It is thus useful to analyze the data about the corrupt practices most often encountered in Poland.

## 2.2) Corrupt Practices

The perception of omnipresent corruption should be compared with available data showing the actual incidence of corrupt behaviour. These data, although not always collected in a methodologically standard manner, show the real extent of this phenomenon.

A 2002 European Bank for Reconstruction and Development (World Bank/EBRD) survey of more than 3,000 firms operating in Central and Eastern Europe found that only 67 percent of firms in Poland never think of unofficial payments/gifts to obtain a government contract and 72.6 percent never think of unofficial payments/gifts to deal with taxes and tax collection. The same study revealed that on average, bribes amounted to up to 5 percent of the annual income of the surveyed companies.<sup>5</sup>

A 2000 report by the Institute of Justice (Instytut Sprawiedliwosci) found that from 1992 to 1998 the number of bribery offenses rose by 54 percent and the offenses consisting of the use of public office for private gain rose by 64 percent. The same report revealed that from 1992 to 1998 police corruption rose threefold.<sup>6</sup>

The 2002 Batory Foundation estimated that 50 percent of Poles have participated in some type of corrupt activity.<sup>7</sup>

The same institution found in 2003 that 67 percent of entrepreneurs believed that there is a „corruption tax“ in the system.

In October 2004 the Pentor survey of Polish entrepreneurs showed that 19 percent of them had been in situations in which a public official suggested that he expected to receive some kind of benefit in exchange for help in arranging a public contract or winning a public procurement.<sup>8</sup>

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<sup>5</sup> The Business Environment and Enterprise Performance Survey (BEEPS), World Bank/EBRD <http://info.worldbank.org/governance/beeps2002>.

<sup>6</sup> Policemen are among most corrupt professions. In 2001 Polish courts condemned 98 police functionaries and in 2002 88 policemen were found guilty of corruption – see: Wydział łapania za rękę, in *Polityka*, 36/2000.

<sup>7</sup> After „A State of Corruption“ in *Poland Monthly*, from September 2003, p. 12.

Interestingly, bribes seem to be frequent in private business dealings. The same Pentor survey showed that 31 percent of entrepreneurs were asked for under-the-table provisions in business-to-business dealings.

Despite the fact that corruption is legally punishable as a violation of articles 239, 240 and 241 of the Polish Penal Code (Kodeks Karny)<sup>9</sup>, relatively few cases of corruption have been processed by the judicial system or ended with definite sentences (see the table below).

Table 4: The Outcomes of Prosecuting Corruption

Year	Documented Corruption Crimes	Court Corruption Trials	Sentences in Corruption Cases
1992	912	826	317
1997	1171	1093	533

Source: From Polityka, nr 14/2000.

The data seem to indicate that corrupt practices are endemic in Poland, widespread and rooted in people's behaviour.

These conclusions, however, need some qualification. Firstly, the most diffused form of corruption in Poland seems to be so-called "low corruption", i.e. corruption in dealing with public functionaries as administrators and providers of public services. When Poles speak about their experiences of corruption they most often refer to paying bribes for the delivery of medical services to which they are entitled or for passing the driving test to obtain a licence.<sup>10</sup> It should be noted that in Poland the state budget finances and the public administration manages a relatively broad range of public services. Thus, cases of corruption were found, for instance, in the admission of students to public universities (where students have the right to study for free), but not in private universities (where students pay for educational services).

As pointed out by Susan Rose-Ackerman, such corrupt practices are relatively easy to eliminate because citizens are asked for bribes as additional payments for services they should receive for free; further cases could be eliminated by a relatively simple reorganization in the way public services are delivered, or by reducing the scope and range of public services.<sup>11</sup> Much more difficult to eradicate is „high corruption“ – corruption within the government or corruption resulting from the collusion between public officials and businesses (citizens) to create or share gains at the public's expense.

### 2.3) Structural Corruption

It has been already stressed that corruption is a behavioural phenomenon. The classical use of this term describes corruption as „behaviour which deviates from formal duties related to a pub-

<sup>8</sup> Survey by Pentor as reported in Puls Biznesu, from 30 November 2004.

<sup>9</sup> The Polish Penal Code names the corruption of officials as "passive corruption" and defines it as: a) taking material benefits by a person occupying public post; b) conditioning by public functionary the fulfillment of his administrative duty on the reception of a bribe; c) promising of material benefit dependent on the action of a public functionary; d) referring to one's influence on public functionaries to resolve some problems or receive favorable decision in expectation of material benefits.

<sup>10</sup> According to the data from the Supreme Control Chamber (NIK-Najwyższa Izba Kontroli) 12 percent of candidates said that the members of the commission for driving license suggested that the outcome of the examination depends on giving a bribe and 4 percent of candidate admitted giving a bribe - s. 5-6. Zagrożenia korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli przeprowadzonych w 2002 roku (Corruption Threats in the Light of NIK Research).

<sup>11</sup> A comprehensive discussion of the way to reduce corruption can be found in Susan Rose-Ackerman(1999)*Corruption and government*, Yale UP.

lic post (be it elected or non-elected) because of private (personal, family or clique) material or non-material benefits".<sup>12</sup> This definition confines the notion of corruption to behaviour observed or inferred as existing from some available indicators.

While such an approach to corruption is laudable, it seems nevertheless worthwhile to consider the institutional structures themselves as prototypes which actually induce or enable corruption.

A comprehensive analysis of this problem would call for a discussion of the meaning of good governance. In this paper it seems useful to narrow the issue and to distinguish institutional designs for state activities which:

- impose direct costs on citizens and enterprises;
- confer direct benefits to citizens and enterprises;
- regulate behaviour of citizens by submitting it to procedural requirements.

The first problem is that of organizing a specialized state administration which collects taxes and customs duties or enforces the standards of health or environmental protection. Public procurement is another example of this type of problem.

The second problem is the prevention of corruption in administrative units which distribute benefits to citizens like subsidies, allowances, health or educational services.

The third problem is to streamline procedures in areas in which the state issues licenses or approves certain products or activities due to their importance for society. Granting marketing approval for medicinal products is an example of such an action.<sup>13</sup>

The 2003 Report for the Council of Ministers lists the areas threatened by corruption in Poland and all of them fall within one of the three types. According to this government document the threat of corruption is strongest in:

- the fiscal and customs administration (first type);
- agricultural subsidies (second type);
- the pharmaceutical market (third type);
- justice and police (third type);
- privatization (second type).<sup>14</sup>

While the Report for the Council of Ministers has identified the areas prone to corruption, the Supreme Control Chamber (NIK-Najwyższa Izba Kontroli) has identified corruption areas by pointing to ill-designed institutions. Thus, according to the NIK analysis, corruption in Poland is more likely when:

- a single public functionary has excessive power;
- there are no precise rules for making decisions;
- there is insufficient documentation and accounting of the decisions made and money spent;
- internal administrative controls are weak;
- citizens have uneven access to information; and
- there are no mechanisms of personal responsibility.<sup>15</sup>

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<sup>12</sup> Joseph S. Nye(1967)Corruption and Political Development: A Cost-Benefit Analysis, in *American Political Science Review*, vol. 61, p. 417–427.

<sup>13</sup> One of pharmaceuticals companies bought a charge against an assistant to the head of the Health Minister Mariusz Lapiński for asking for a multimillion bribe in exchange for placing a drug on a list of drugs refunded by the National Health Fund. The fact was reported in an article "Drugs for millions" (Leki za milion) in *Rzeczpospolita* from 12 May 2003.

<sup>14</sup> Second Report on the Implementation of "The programme to fight corruption" (Program zwalczania korupcji – strategia antykorupcyjna), available in the materials from 54<sup>th</sup> meeting of the Polish Parliament from 28 July 2003.

The identification of the instances of structural corruption should be the first step for policy reform. If, however, the government does not show much resolve in transforming the outcomes of policy analysis into institutional changes, the country could enter a vicious circle in which structural corruption feeds behavioural corruption, which in turn solidifies structural corruption.

### 3. Factors Fuelling Corruption in Poland

As noted earlier, researchers tend to agree and the data confirm that corruption is widespread and intensive in all post-communist countries. Yet to date there is no agreement as to the causes of such high levels of corruption.

In the case of Poland, the discussion of the cause of corruption typically starts by pointing to historical and cultural factors characterizing Polish society, such as the lack of autonomy or statehood for over 120 years (from the end of the 18<sup>th</sup> century until 1918), followed by subordination to occupational authorities (1939–1945) and over 40 years of communist regimes during which the state had little social legitimacy. In this type of explanation the underlying causal mechanism can be summarized as follows: If the state is perceived as hostile to society, people approve corruption as a way of cheating and undermining the functioning of such a state. Furthermore, if the patterns of corruption are firmly established they persist even if other conditions change; corrupt practices remain widespread even if the state has been „reclaimed” by society in becoming independent and democratic.<sup>16</sup>

There is some truth to this explanation regarding the roots of corruption; some of the negative behavioural patterns can be traced back at least to the period of decay of communist rule in the 1980s, during which the communist state tolerated increasing corruption in economic life and in the distribution of public services because it was unable to control or punish these practices.

Yet it can be shown that corruption is better explained by certain features of the current organization of the state and public services than by remote or recent past events. Take as an example the fact that in the 1980s the most widespread manifestation of corruption in Poland was paying bribes to purchase goods which were rationed by the state, from shoes to passenger cars. This area of corruption was practically eradicated with a single stroke by restoring market mechanisms and allowing the principles of supply and demand to set prices.

This telling example shows that the search for the causes of corruption and for appropriate instruments to eliminate it should include a one-by-one examination of the typical forms of corruption and address the question of what facilitates the abuse of public office in each case.

The task of designing appropriate institutional structures which discourage corruption may start with questions about the corruptive impact of some very basic features of the political system. To this end, Antoni Z. Kamiński and Bartłomiej Kamiński argue that the problem of political accountability is at the core of the corruption problem. They discuss those features of the political system which might enhance political accountability and conclude that political accountability is highest and corruption is lowest if the political system is of the presidential rather than the parliamentary type, and that the electoral rules should be of the majoritary rather than the proportional kind.<sup>17</sup>

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<sup>15</sup> Zagrożenia korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli przeprowadzonych w 2002 roku (Corruption Threats in the Light of NIK Research), p. 4–5.

<sup>16</sup> For a comprehensive discussion see: William L. Miller, Ase B. Grodeland, Tatyana Y. Koshechkina (2001) *A Culture of Corruption? Coping with Government in Post-Communist Europe*, CEU Press, Budapest.

<sup>17</sup> Antoni Z. Kamiński, Bartłomiej Kamiński (2004) *Korupcja rządów* (Corruption of governments), Trio Warszawa, p. 226–234.

Other researchers (such as Daniel Kaufman and Alexander Kaliberda<sup>18</sup>) have argued that corruption is related to the choice of basic transformation strategy, i.e. whether transition policies are rapid, radical and complete (RRC) or slow, shy and partial (SSP). They believe that only the RRC transition strategy can prevent a country from falling into a systemic rent-seeking trap, which fuels corruption.

Although it seems convincing that price controls, subsidies and other forms of state intervention create opportunities and incentives for corruption, the peculiarity of post-communist transitions includes an inseparable political component, whereby the return to a market economy and democracy is necessarily by political design. Thus, the process by which the state (the government) has managed economic transformations is a key to understanding the roots of corruption. In this process the state has to scale down its own size and the scope of its economic activities, which creates exceptional gains (as well as some losses) and, accordingly, strong incentives for corruption.

Below I will try to show that opportunities for corruption and corrupt practices in Poland have been facilitated by the political choices regarding privatization of state-owned companies and by the political climate of approval (or at least tolerance of) for enrichment at the cost of the state.

### 3.1 Pace of Privatization

The initial dilemma reformers faced in all post-communist countries could be summarized as follows: how to privatize state-owned enterprises in the absence of sufficient capital.

The way out of this dilemma could consist of a combination of the three privatization methods:

- selling enterprises to foreign investors;
- running a mass privatization program by giving away the shares to citizens;
- selling to domestic buyers.

Each of these methods has its advantages and disadvantages, which are already discussed in the voluminous literature on the privatization process in post-communist Europe. In this paper I am interested in the corruption potential of all three methods as revealed by the experience of privatization in Poland.

Privatization by selling to foreign buyers has created an opportunity for high corruption, that is, corruption at the level of government officials. Schematically the mechanisms of such corruption can be presented in this way: An announcement of an incoming large scale privatization used to trigger a peculiar market for privatization intermediaries who circulated among potential buyers offering their services under the cover of consulting, advising or lobbying. Those intermediaries did not necessarily have direct contact to prime decision makers, but rather to people around relevant decision makers (usually their assistants).<sup>19</sup> Such intermediaries worked both sides of the privatization contract by negotiating secret offers without direct contact between the concerned parties. Information about such corrupt deals has occasionally surfaced during intense political conflicts within a governing party, but has appeared to be a by-product of political rivalry rather than the pursuit of public integrity.

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<sup>18</sup> D. Kaufman, A. Kaliberda(1996)Integrating the Unofficial Economy into the Dynamics of Post-Socialist Economies: A Framework of Analysis and Evidence, in B. Kaminski(ed)*Economic Transition in Russia and the New States of Euroasia*, ME Sharpe, Amonk, NY. The same position is taken by the World Bank in its Report in Anti-Corruption in Transition, see: World Bank(2000)Anti-corruption in transition: A Contribution to the Policy Debate, The World Bank, Washington, p. 32.

<sup>19</sup> Some Polish parliamentary members have up to 20 paid and voluntary assistants who represent them while dealing with voters and other stakeholders. Some commentators believe that some parliamentary assistants serve mostly to organize unofficial payments – see: The job of parliamentary assistant (Pozycja na asystenta) in Polityka, nr 51/2004.

It is difficult to assess the extent of such high corruption, but it seems that this has been a well-established pattern in large-scale privatizations with foreign participation in Poland. Recent criminal investigations and political scandals related to privatization with foreign participation include: the lobbying firm of Marek D.<sup>20</sup>, who offered his services in the privatization process of Częstochowa steelworks to two foreign bidders; these services consisted of, among other things, bribing a member of parliament (from 2001 until 2004) close to the Prime Minister by giving him a luxurious car worth 500.000 PLN (more than 100.000 EURO). 2001 saw the arrest of an assistant to the then-deputy minister of defense for the request of bribes that he apparently used (on his boss's behalf) to woo the bidders in the privatization process. The dismissal of Deputy Prime Minister Janusz Tomaszewski<sup>21</sup> under accusations of creating a bribe extracting group within the government made news in 1998.<sup>22</sup> Today the frequency of such practices remains unknown. But it can be assumed that the practices of high corruption were even more open and went entirely unpunished in the early 1990s as decision makers defended their actions by blaming the pioneering, and thus error-prone, character of the transformation process.

It is somehow paradoxical that the Polish mass privatization scheme which was designed to exceed social expectations by giving away the shares of 512 medium sized enterprises has ended amidst corruption scandals.

The Polish mass privatization program was approved by the parliament in 1995. 25.9 m persons (that is 95.9 percent of those entitled) bought the right to participate in the program by paying 20 PLN for a participation certificate. The certificate could later be exchanged for shares in 15 national investment funds which in turn owned the shares of a mix of 512 companies. By 1999 approximately 25.2 m certificates were exchanged for shares (98.7 percent of the certificates issued). Most people sold them immediately and the shares were bought by financial intermediaries leading to the concentration of ownership.

It has been estimated that while the average Pole participating in the mass privatization earned hardly 70 PLN, the state treasury received revenues amounting to 917m PLN, paying a staggering approximate 860m PLN to investment funds as a management fee during the same time period. Contrary to the expectations of the program designers, who believed that national investment funds would restructure controlled enterprises, increase their value, sell them to other investors and generate profits for shareholders and the state treasury, national investment funds have excelled in „dirty dealings” typically consisting of selling assets to friends or other politically connected persons and purposefully incurring losses by moving profits to related companies. Counting just the best-known cases of fraud (and implicit corruption) in national investment funds, it can be said that at least 5 percent of companies were implicated in suspicious deals.<sup>23</sup> Thus the errors in the construction of the mass privatization program made it easy prey for speculators and dirty dealers.

Similarly, small-scale privatization, often managed locally, has gained a bad reputation among Poles, as apparently the bulk of such transactions has consisted of pre-arranged transactions, including collusion of bidders, undervaluation of assets and other special deals. It seems that such transactions were commonplace in the early 1990s, when they were given the innocuous name of „small privatization” organized by local authorities. In this way the local government

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<sup>20</sup> Marek Dochnal used to work with politicians for at least a decade. As the first lucrative public contract with his participation dates from 1991 – see: *The Secret Mission of Dochnal (Tajna misja Dochnala)* in *Rzeczpospolita* from 18 October 2004.

<sup>21</sup> Janusz Tomaszewski was a deputy prime minister from the end of 1997 till September 1999 – see: *The Game of Delays (Gra na zwłokę)* in *Rzeczpospolita* from 2 September 1999.

<sup>22</sup> An anecdote says that even people at the EBRD when speaking to potential foreign participants in the Polish privatization process used to advise to invite a Polish intermediary who can build trust with Polish decision makers and such an advice might have looked like an encouragement to corrupt.

<sup>23</sup> *NFI w cieniu afer (NFIs in the shadow of affairs)* in *Rzeczpospolita*, from 25–26 June 2004.

privatized commercial space, buildings and small enterprises. Investigations by the Supreme Control Chamber showed that small privatization was plagued by abuses of law and other irregularities.

Any criticism of the way the privatization process in Poland was managed is countered with untenable claims. Polish reformers defend the implementation with two typical arguments: firstly, that without privatization the Polish economy would look like the Byelorussian one (comparing it to the worst case scenario); secondly, that privatization is necessary to cut politicians off from the influence of enterprises, thereby paving the way for improvements in efficiency (denigrating politics).<sup>24</sup>

Not surprisingly, only a few dare to raise objections to the privatization as implemented. Kazimierz Z. Poznański, an analyst of Polish post-communist economic transformations, has been an outspoken critic of the overly rapid pace of ownership transformations by pointing out that it has created a climate favorable for corruption in the past.<sup>25</sup>

The reasoning developed by Poznański can be summarized as follows: Although the reform of ownership structure and privatization in particular were proclaimed as indispensable for increasing the efficiency of the Polish economy, in practice privatization has become an end in itself. Subsequent governments, ministers of privatization and regional governors controlling state-owned companies have presented such indicators as the revenue earned from privatization, the number of privatized companies or the reduction in the share of state-owned companies as the most important measure of their performance in office. Such an attitude may have led to the selling out of enterprises in the pursuit of such goals regardless of any other consideration.

### 3.2 Playing with Procedures of Public Procurement

Public procurement has been another important arena in the fight against corruption. This is due, firstly, to the economic importance of the public procurement system; in 2004 the market of public procurement amounted to more than 70 bl PLN (at that time about 16 bl EURO),<sup>26</sup> and secondly because the eventual irregularities in this system set a bad example for the deeply concerned public.

Despite efforts to create formally efficient anti-corruption checks in the Polish public procurement system,<sup>27</sup> Polish entrepreneurs believe that public procurement is plagued by corruption because of politicians' and public officials' insistence on bending the rules to benefit their private interests.

Available data show that the rules of public procurement are often violated or manipulated in order to generate benefits for selected bidders. Typical manipulations include:

- setting the requirement in the public procurement of, for instance, computer equipment in such a way as to exclude certain vendors;
- abusing the principles of trade secrets in order to restrict the circulation of information about the outcomes of the procurement;

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<sup>24</sup> These arguments are typically presented by Leszek Balcerowicz – one of authors of the Polish economic reforms in 1990 – see for instance an interview with Balcerowicz – Los Balcerowicza (The fate of Balcerowicz), in *Rzeczpospolita* from 5 November 2004.

<sup>25</sup> Poznański Kazimierz Z., *The Morals of Transition: Decline of Public Interest and Runaway Reforms in Eastern Europe*, [in:] Antoni Sorin and Vladimir Tismaneanu (ed.) *Between Past and Future. The Revolutions of 1989 and their Aftermath*, Budapest: Central European University Press, 2000.

<sup>26</sup> Billions are at stake, in *Tygodnik Powszechny*, from 15 August 2004.

<sup>27</sup> The Procurement Law in Poland has been modified several times in order to eliminate identified drawbacks. The latest modification from March 2004 has added among others a rule that large public procurements are resolved in the presence of a representative of the Central Procurement Office (CPO – *Urząd Zamówień Publicznych*) and that the CPO has the right to the ex ante control, that is the control of the procurement rules and not only its outcomes.

- violating the rules of transparent behaviour in all stages of public procurement proceedings;
- allowing for leakages from the procurement commission which enable a preferred company to offer lower prices than those offered by competitors;
- setting impossible deadlines for work performance which cannot realistically be met. A company privy to the false requirement presents its offer and goes unpunished for significant delays in delivery.<sup>28</sup>

It is interesting to note that the irregularities in public procurement seem to occur more often at the local and not at the national level. Although local public procurements are typically low-value procurements, they dominate the public procurement system due to their sheer number. Large-scale national public procurements attract publicity and media coverage, which reduces the collusion incentive among the bidders and increases the likelihood that the loser would protest if it perceived any irregularity in the procurement process.

Small-scale local public procurements tend to happen more frequently, which might lead the participants in the procurement process to collude by dividing themselves into „today’s losers and tomorrow’s winners“ or to tolerate irregularities in the belief that they might be exploited in the next round of public procurement.

Furthermore, post-communist local polities are more vulnerable to domination by closed political-business networks. Entrepreneurs willing to participate in the local public procurement market think that the likelihood of winning the next contract by entering such networks are higher than the likelihood of winning the contract by challenging the outcome of a corrupt procurement. Thus, outside bidders are either co-opted by the network or they are doomed to be marginalized in the local procurement process.

The Municipality of Warsaw served as an example of dirty political-business networks throughout the 1990s. Large public investments, such as new bridges over the Vistula river, were formally organized according to the public procurement law, but in reality the competition for construction contracts was manipulated to give work and revenues to a small group of businessmen. These facts, although gossiped about earlier, came to the surface only after the 2002 municipal elections brought new political leaders, committed to cleaning up the government of Warsaw, to power.<sup>29</sup>

The Municipality of Starachowice is another case in point. In Starachowice the local political elite was tightly linked by family or business ties with the local business elite and local government spending was subordinated to business interests. In addition, local politicians were protected by some members of the government like Zbigniew Sobótka (once deputy minister of internal affairs), who warned them about pending police actions. Only large-scale political scandals and national media coverage, followed by the actions of public prosecutors, helped to disrupt the functioning of this corrupt local system.<sup>30</sup>

Are such well-known cases of local corruption the exception or the rule? It is difficult to say with certainty, but it seems that the corruption of local governments has become endemic.<sup>31</sup>

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<sup>28</sup> These abuses have been identified by experts in the practice of public procurement in Poland and reported in *Rzeczpospolita* from 13 July 2004.

<sup>29</sup> The control of the Supreme Chamber of Control has revealed the scale of corruption and illegalities in the construction of the Świętokrzyski Bridge in Warsaw – see: *Cheated bridge over Vistula River (Lewy most nad Wisłą)* in *Rzeczpospolita* from 12 January 2005.

<sup>30</sup> See: *Where is the Godfather of Jagiello (Gdzie jest ojciec chrzestny Jagiełły)* in *Rzeczpospolita* from 11 July 2003.

<sup>31</sup> Polish media report about new types of corruption in local public services. One type are funeral services paid from social security funds in which entrepreneurs pay local authority for the right to run a funeral firm and next pay medical staff for an early information about the cases of death. Second type are geodetic services necessary to meet the local zoning requirement. In this case the maps are prepared by municipality geometers who at the same run private geometrical firms.



The Polish government as well as public interest organizations like the Polish chapter of Transparency International try to counter the threat of corruption in the local public procurement system by encouraging entrepreneurs to report perceived irregularities and by proposing further changes in the public procurement law, which would allow so-called „social observers” to participate in the proceedings of public procurement commissions.<sup>32</sup>

Critics of the Polish public procurement system say that part of the registered irregularities can be interpreted as a logical reaction to the drawbacks of this system. They criticize it for its apparent stringency (the public procurement process starts when the purchase value in a given public institution cumulatively exceeds 4,000 Euro) and for its inflexibility. They report examples of situations in which a purchase in face-to-face contract negotiations might result in a lower price than a price fixed through public proceeding. They also point out (like Jan Dworak – the president of Polish public television) that they have to open public procurement proceedings when they negotiate a specific contract with a pre-selected agent who can assure the best performance (as in when public television hires a renowned artist for the production of a movie).<sup>33</sup>

Such criticism reflects a widespread misunderstanding in Poland of the function of public procurement rules. As is already well-known, the role of public procurement rules consists both in assuring on-average efficient pricing of public contracts and in maintaining trust in public institutions which spend public money.

### 3.3 The Secret Service and the Polish Economic Transformation

While discussing factors which fuel high level corruption in Poland, it is necessary to discuss the role of the secret service in Poland’s transformation.

It is now more and more evident that the negotiated transition from communism, once acknowledged as the optimal solution to the problem of exiting communism, has generated many negative effects. One such effect has been the privileged position of the nomenklatura and secret service, which has allowed them to take advantage of post-communist economic transformations.

Secret information and secret networks have been instrumental in helping many agents to transform the „capital of secret information” into economic benefits. Analyzing the mechanisms which facilitated the smooth conversion of communists into business leaders, Maria Los and Andrzej Zybertowicz pointed to “dirty togetherness” as group bonds which served to capture economic benefits from the system’s transformation.<sup>34</sup>

The influence of the secret service started in the 1980s. Despite widespread belief in the reformed and softened nature of communist rule in Poland in this period, Poland was still a post-totalitarian party/police state (the birth of Solidarity social movement in 1980 meant the weakening of the legitimacy of the system, to which communists responded by expanding police vigilance). Historical sources revealed nowadays have shown that security services coordinated preparations for the negotiated transition (the „round table” talks with the moderate opposition started in early 1989, which opened the way for the system’s peaceful transformation) and that the commercialization of nomenklatura and security services had been an anticipatory strategy started in the mid-1980s to prepare an economic soft landing for them. Furthermore, it seems justified to say that round table talks created a climate of moral complicity between parts of the

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<sup>32</sup> This proposal has been put forward by Transparency International Poland in its programme „Pact for Honesty” – [www.transparency.pl](http://www.transparency.pl).

<sup>33</sup> See: More Limitations to Open Public Procurement (Więcej przetargów ograniczonych) in Rzeczpospolita from 22 June 2004.

<sup>34</sup> Maria Los, Andrzej Zybertowicz(2000)*Privatizing the Police-State. The case of Poland*, New York: St.Martin’s Press.

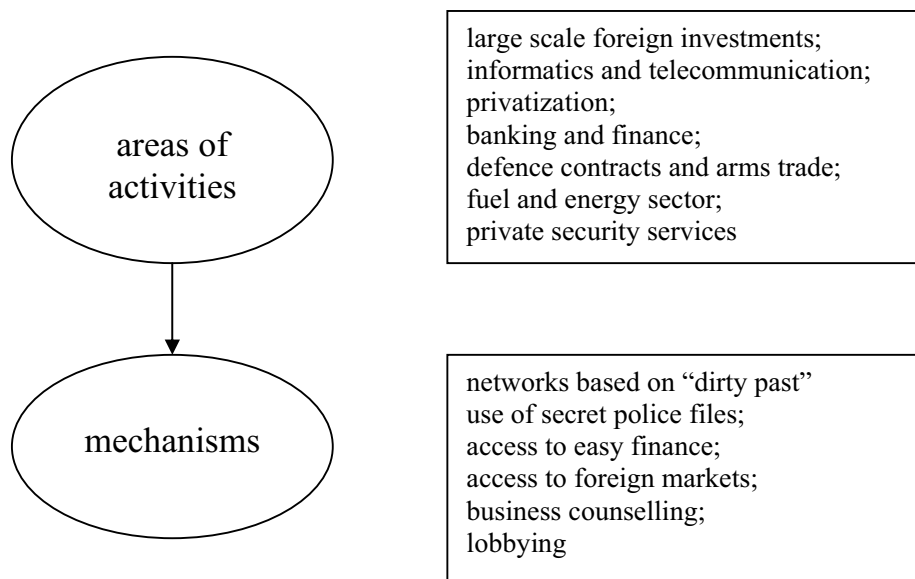
anti-communist opposition and communist elites, and that this collusion was abetted by an earlier penetration of the Solidarity movement by security agents.

It seems paradoxical that the ex-communist nomenklatura was supported in its economic self-serving by economic liberals. Zdzisław Krasnodębski has argued that Polish liberals engaged in public discourse which focused society's attention exclusively on economic hardships and economic gains.<sup>35</sup> Such an amoral vision of the economy helped those in public offices use their powers not to implement any long-term vision of a common good, but to distribute fortunes to their friends and to themselves.

How have ex-communists and security agents extended their influence in the aftermath of the post-totalitarian party/police state? Los and Zybertowicz emphasize the importance of the selective destruction of secret files which later helped to blackmail and manipulate people in public positions to the benefit of ex-communists/secret agents. In addition, secret service agents have been leading the development of private security agencies, which at present outnumber the forces of the state police, and which very often serve as a facade for dirty business dealings.

By now it has been well documented that ex-secret agents have been involved in large financial scandals such as FOZZ (the theft of public funds devoted to repay parts of Poland's foreign debts) or in the creation of several banks (like BIG Bank) in the early 1990s.<sup>36</sup> The hypothesis about the existence of dirty ties is strengthened by the fact that no major financial scandal (and implicit corruption) has been successfully investigated by public prosecutors in Poland who are subordinate to the Ministry of Justice.

Diagram 1: Areas of activities and mechanisms of influence of former secret police agents on the transformation of the Polish economy



Source: Elaborated internal materials of the Polish Ministry of Defense and the Polish Ministry of Internal Affairs from 1999–2001 – after Maria Jarosz(2004)Power, Privileges, Corruption, PWN Warsaw, p. 45.

It would probably be inappropriate to exaggerate the influence of secret agents behind the choice of grand economic and political strategy (exemplified by the dilemma of whether to liberalize the economy or join the World Trade Organization). But it is becoming more and more

<sup>35</sup> Zdzisław Krasnodębski(2004)*Demokracja peryferium* (Democracy at the Periphery), Warszawa.

<sup>36</sup> See: The History of Privatisation of PZU (Historia prywatyzacji PZU) in Rzeczpospolita from 3 January 2005.

evident that „dirty” influences have been instrumental in arranging deals which benefit individual members of the ex-nomenklatura (thus, already in the late 1980s the decision to liberalize foreign exchange transactions had been „surprisingly” anticipated by an apparent secret police collaborator – later turned politician and senator, who opened several foreign exchange counters during the same day in which this decision was made public).

It might be true that the influence of secret agents on Polish economic transformations helped to exploit short-term opportunities for economic growth by rapidly reorganizing the economy, but at the same time, this influence might have damaged the country’s long-term economic growth potential by institutionalizing corruption.

### 3.4 Political Elites’ Attitudes towards the State

It was pointed out earlier that the metamorphosis of the state’s role is the key problem of post-communist transformations. Nonetheless, politicians should have maintained a high ethical standard of public service when scaling down and restructuring state activities. This, however, was not the case in Poland. The distrust of the state, the approval of illegality and the low enforcement capacity of the public administration have been reinforced by the behaviour of contemporary governing elites. The following examples will illustrate this thesis.

It has not been rare in Poland to see government members being involved in private activities directed against the state. Thus, Witold Modzelewski, a deputy minister of finance and a chief architect of tax laws, has been known for counselling private businesses on how to exploit the ambiguities of the law to avoid paying taxes. Henryk Goryszewski, once a deputy prime minister, lost his position as head of the parliamentary budget commission when it came out that his law firm advised firms on how to evade taxation.<sup>37</sup>

Furthermore many Polish high-level government officials took jobs in companies with whom they used to consort while holding governmental posts shortly after being dismissed or stepping down.

In general it has been observed that Polish political parties approach politics as the easiest and fastest way to personal wealth. In a famous saying Jarosław Kaczyński (a member of the parliament from 1997–2001 in the post-Solidarity coalition) revealed that his fellow MPs are guided by the rule: „Now is our turn” (Teraz, k... my) referring to the right to exploit their political positions for material benefit.

Contemporary political economy states that one should look at politics without romanticism, suggesting that any analysis should start with the assumption that politicians are guided by their private interests. In a mature democratic system the tendency to exploit public positions for private gain is tempered by the desire to be re-elected, by laws about admissible and inadmissible behaviour and by ethical codes. These three restraints do not function well in Poland.

First, paradoxically we observe that many parliamentary members are not interested in reelection. Thus, they fervently act to extract as many private gains as possible during the only term they are in the parliament.

Second, the laws which clearly distinguish between legal and illegal behaviour are often introduced only after the discovery of loopholes. Thus, those who exploit these gaps go unpunished and their „alegal” private gains remain theirs.

Third, the notion of „conflict of interest” is gaining public understanding only after 15 years of transformation. Thus, this very important principle in distinguishing ethical behaviour from

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<sup>37</sup> „Polska norma” in *Polityka*, 30/2000 and Recommended with doubt (Rekomendowani mimo wątpliwości) in *Rzeczpospolita* from 21 September 2001.

unethical behaviour is starting to guide the public's evaluation of the politicians' behaviour. But the gains from unethical behaviour stay with their reapers.

## 4. Conclusions

In this paper I have tried to show that the policies to transform state assets, state policies and state functions have been at the core of the corruption problem in contemporary Poland. The scale of this problem has been intensified by exceptionally high, one-shot gains which can be extracted by people in public positions. Intense political battles to create and distribute such gains have led to chaotic, short-term oriented policies which in turn have generated new opportunities for corrupt behaviour.

It remains to be seen whether endemic corruption is a temporary phenomenon or a stable equilibrium in Poland. It remains to be seen how and when it will change with domestic political developments and EU membership.

## Clientelism in the Silesian coal mining industry<sup>1</sup>

### 1. Introduction. The Idea of Clientelism

Clientelism manifests itself in different levels in all types of societies. It occurs when individuals or groups of unequal status converge while occupying differing positions in the social hierarchy (a “perpendicular dyad”). When official formalized methods of realizing specified interests or paths of access to desired resources are recognized as inadequate, then informal paths are activated. The individual occupying the higher position in a social hierarchy, i.e. the patron, is capable of offering assistance and protection to people or groups situated lower in the social hierarchy, i.e. clients. The patron extends a protective umbrella over them in exchange for specified services. The basis of clientelistic linkages is constituted by feelings of personal loyalty and obligation, which are associated with an exchange of resources of unequal character.<sup>2</sup>

The increase of frequency of clientelism is fostered by specific conditions, such as feelings of uncertainty, which are associated with transformation. People seeking a method to reduce uncertainty refer to different types of informal arrangements. A specific social acquiescence to extra-formal activities has its roots in familiar practices from the communist period such as „arranging for oneself“ various deals, which range from inducing a sales-person to put aside a kilogram of meat purchased by ration cards (during the communist era) to influencing the allotment of a cooperative apartment before the normal waiting sequence.<sup>3</sup>

Certain areas of social life appear to be particularly susceptible to the formation of linkages of a clientelistic character. The political and politicized economic spheres are the most subject to clientelism, especially the state, which through its representatives has the power to intervene directly. The intensification of the phenomenon is favored by the fact that, during periods of transformation, politics of necessity dictate the economy precisely because decisions pertaining to the economy take place in the political forum. After systemic change in 1989, a new driving force inclined patrons to extend protection over specific groups of client interests, in accordance with the mass clientelism theory by Eisenstadt and Lemarchand: soliciting support in parliamentary elections.<sup>4</sup> Unfortunately, during periods of transformation, this type of motivation could have extremely negative consequences. The inclination to appease voters can lead to the promotion of special interests and, consequently, to the delay of uncomfortable reforms.

Patrons can also aspire to maintain control over resources and to retain the status quo by conserving the type of structure which makes it possible for them to advance their personal interests, strengthen their power, ensure privileges and to subordinate dependency from those in

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<sup>1</sup> This article is based on my book ZJAWISKO KLIENTELIZMU POLITYCZNO-EKONOMICZNEGO. SYSTEMOWA ANALIZA POWIĄZAŃ SIĘCIOWYCH NA PRZYKŁADZIE PRZEKSZTAŁCENI SEKTORA GÓRNICZEGO W POLSCE, Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków 2002.

<sup>2</sup> Zuckerman A. “Clientelist Politics in Italy” and Gellner E. “Patrons and Clients” in: Gellner E., Waterbury J. (eds) PATRONS AND CLIENTS IN MEDITERRANEAN SOCIETIES, Duckworth 1977; Eisenstadt S. N., Lemarchand R. POLITICAL CLIENTELISM, PATRONAGE AND DEVELOPMENT, Sage Publications, Beverly Hills, London 1981, pp. 6–31.

<sup>3</sup> Tarkowski J. „Poland: Patrons and Clients in a Planned Economy“ in: Eisenstadt S. N., Lemarchand R. (eds) POLITICAL CLIENTELISM, PATRONAGE AND DEVELOPMENT, Sage Publications, Beverly Hills, London 1981; Tarkowski J. PATRONI I KLIENCI, Socjologia Świata Polityki Tom 2., ISP PAN, Warszawa 1994.

<sup>4</sup> Eisenstadt S. N., Lemarchand R. „The Study of Patron-Client Relations and Recent Developments in Sociological Theory” in: Eisenstadt S. N., Lemarchand R. POLITICAL CLIENTELISM, PATRONAGE AND DEVELOPMENT, Sage Publications, Beverly Hills, London 1981.

inferior positions.<sup>5</sup> In the interim, economic logic is ignored and there is no discussion about working for the public good. This type of phenomenon, widely dispersed on the Polish political and economic scene, is termed cronyism, which refers to the network of linkages among allies, or cronies, who occupy prominent positions and mutually assist each other depending on the power possessed within a given moment.<sup>6</sup> A serious problem is constituted in the fact that „in the political culture of the republic norms have developed which undermine the new state.”<sup>7</sup>

During this period of transition, patron-client relations in Poland are one of the most important elements in arriving at political and economic solutions. Similarly, they exert a real influence on the tempo and direction of socio-economic changes. The organizationally concentrated coal mining industry is a branch which is, to a high degree, impervious to market reforms. This sector, which employs a considerable number of workers and consumes significant resources from the state budget, exerts a real impact on the entirety of systemic changes in Poland. However, it is necessary to note that while clientelism is not limited to the coal-mining industry, what is happening in the sector illustrates significantly wider and disturbing trends penetrating the Polish world of politics and economy.

## 2. The Coal Mining Situation

The restructuring of the coal mining industry constituted and continues to comprise one of the most fundamental socio-economic problems in the country. In the years 1990–2001, from the beginning moments of the process of transformation, the coal mining industry received financial assistance from budgetary resources surpassing 15,025 billion PLN (from a nominal perspective 34,042 billion PLN in 2001 prices, at that time about 8,3 billion EURO). The combined costs of restructuring the sector in 1990–2001 amounted to 19,5 billion PLN (40 billion in 2001 prices, about 9,7 billion EURO).<sup>8</sup> The planned cost of restructuring mining in the years 2003–2006 is estimated at 6,169 billion PLN (at that time about 1,4 billion EURO), of which 4,981 billion PLN (at that time about 1,1 billion EURO) will be designated to restructure employment (whereas 1,146 billion PLN, at that time about 0,26 billion EURO, will be allotted for restructuring production capabilities, including the liquidation of mines). Assistance of this magnitude has not been received by any other sector in the Polish economy.<sup>9</sup> Nonetheless, the results realized thus far in restructuring programs remain disappointing.

In the year 2001, the sum of mining debts, which include unpaid taxes, arrears to ZUS (Social Insurance Institution), as well as debts to suppliers of commodities and services, soared to 21,5 billion PLN (at that time about 5,2 billion EURO), a sum equal to half of the national budget deficit). Subsequent government initiatives to restructure the sector are pushing the dates to achieve profitability for the branch continuously further into the future. The implementation of the governmental restructuring program for the years 2003–2006 resulted in 18 billion PLN's

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<sup>5</sup> Gilsenan M. „Against Patron-Client Relations” in: Gellner E., Waterbury J. (eds) PATRONS AND CLIENTS IN MEDITERRANEAN SOCIETIES, Duckworth, London 1977.

<sup>6</sup> Waterbury J. „An Attempt to Put Patrons And Clients In their Place” in: Gellner E., Waterbury J. (eds) PATRONS AND CLIENTS IN MEDITERRANEAN SOCIETIES, Duckworth, London 1977.

<sup>7</sup> Kamiński A. „Patologia procesu prywatyzacji. Kapitalizm polityczny. Korupcja” in: Jarosz M. (red.) MANOWCE POLSKIEJ PRYWATYZACJI, PWN i ISP PAN, Warszawa 2001.

<sup>8</sup> Data from: NIK (Supreme Chamber of Control) report „Informacja o wynikach kontroli restrukturyzacji finansowej i organizacyjnej górnictwa węgla kamiennego w latach 1990–2001” 178/2002/P01/146/LKA. On the process of Polish coal mining sector restructuring see also: Karbownik A., Turek M. „Zmiany w Zarządzaniu w Górnictwie Węgla Kamiennego w Polsce”; Karbownik A. „Kierunki Procesu Dostosowawczego Polskiego Górnictwa Węgla Kamiennego” in: PRZYSZŁOŚĆ WĘGLA KAMIENNEGO W EUROPIE ŚRODKOWOSCHODNIEJ, Konferencja programu SYNERGY, Katowice 1998; Karbownik A. „Reforma Górnictwa Węgla Kamiennego – Dotychczasowe i Przewidywane efekty”, Materiały Konferencyjne Szkoły Eksploatacji Podziemnej, PAN, Kraków 2000.

<sup>9</sup> To compare, the state budget allocates approximately 2,7 billion PLN for education.

(about 4 billion EURO) worth of debt relief for mining companies.<sup>10</sup> In spite of this, at the end of 2004 the sector's debts exceeded 7 billion PLN (at that time about 1,5 billion EURO). It is worth noting, however, that due to last year's boom in the world coal market and the doubling of coal prices, the Polish hard coal sector yielded a profit of 2 billion PLN for the first time within the last 15 years. This in turn has led to strengthening resistance and protests against further reforms. Government plans to privatize Katowicki Coal Holding and subsequently Jastrzębska Coal Company have met with sharp opposition.

### 3. Arguments

The point of departure for this analysis was determined by questions pertaining to sources of durability and the mining sector's relative imperviousness to change. I am arguing that one of the fundamental mechanisms serving the survival of the system is the presence of highly developed clientelistic networks and mutual dependencies between individual policy makers, i.e. key actors of the mining sector as well as its economic and political environment. The postponement of reforms serves to maintain opaqueness and facilitate the flow of public funds into private pockets.

The delaying of the restructuring process is simultaneously the result of classical mass clientelism, which is based on the bidding power of large groups, in this case miners, in relation to actual and potential political patrons. To the miners, restructuring means the liquidation of workplaces. Therefore, we can speak of a specific convergence of interests for both parties: the managing and supervisory personnel as well as the miners remain caught in the failure of reforms and maintaining the status quo.

### 4. Research Methods

Many quantitative and qualitative research tools were applied in the research and elaboration of results. The political-economic phenomenon of clientelism was subject to analysis from the inter-systemic perspective, and therefore from the individual level of actors and the micro-politics practiced by them. A database was constructed, illustrating the composition of personnel in supervisory and managerial organs concerned with the organizational objects of the coal mining industry and its administrative, economic and social environment (SPSS). A network analysis was applied to model flows between positions in the mining sector (Clementine). Forty in-depth interviews were conducted with key actors in the mining sector and its political-economic environment. Reports were analyzed from the results of over 20 inspections by NIK (Supreme Chamber of Control) in the coal mining sector. Similarly, an analysis of the legal basis for restructuring the coal mining sector (over 30 statutes) and an analysis of 7 governmental restructuring programs for the coal mining industry with modifications were executed. Likewise, content analysis of articles in weeklies such as the *Kurier Związkowy* and *Trybuna Górnicza* was carried out. Research methods are presented in Illustration 1 on the next page.

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<sup>10</sup> Among others debts from taxes from the state budget, dues for ZUS (Social Insurance Institution) in part financed by the payer, dues towards NFOŚiGW (The National Fund for Environmental Protection and Water Management). Act of 11.28.2003 on „The Restructuring of the Coal Mining Industry in the Years 2003–2006” (DZ.U.03.210.2037).

### Illustration 1: Research Methods

- **Data base** – composition of personnel in supervisory and managerial bodies of coal companies and other organizations of coal mining sector as well as key actors of its economic, political, administrative and social environment (SPSS)
- **Network analysis** – modeling of flows between positions in coal mining sector (Clementine)
- **In depth interviews** – 40 interviews with key actors of coal mining sector and its environment
- **Reports from inspections of NIK: Supreme Chamber of Control** – over 20 reports
- **Legal basis for coal mining restructuring** – over 30 Acts
- **7 governmental restructuring programs for the coal mining industry**
- **Articles in weeklies *Kurier Związkowy* and *Trybuna Górnicza***

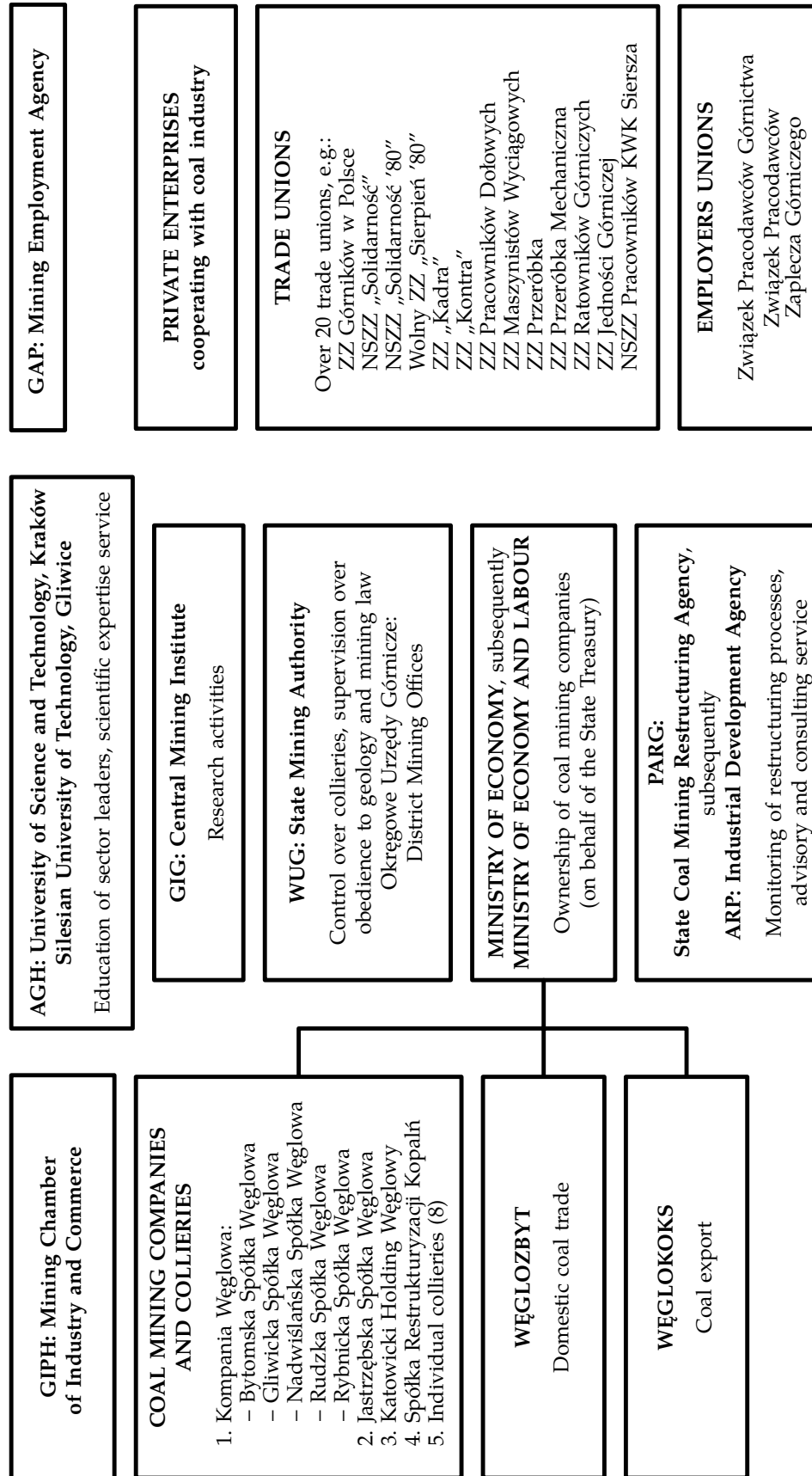
## 5. The Organizational Structure of the Coal Mining Industry

The phenomenon of clientelism in coal mining is fostered by a specific organizational structure in the sector, which was formed in 1993, after a short-term three year period of independence for the mines. Thereafter a process of commercialization was undertaken in the industry and 7 coal companies were created in the form of joint stock companies with the sole participation of the State Treasury. At that time the following Coal Companies were created: Bytomska Spółka Węglowa S.A., Gliwicka Spółka Węglowa S.A., Jastrzębska Spółka Węglowa S.A., Nadwiślańska Spółka Węglowa S.A., Rudzka Spółka Węglowa S.A., Rybnicka Spółka Węglowa S.A. and Katowicki Holding Węglowy S.A. In the same year the domestic coal trader „Węglózbyt“ and the coal exporter „Węglokoks“ were transformed into joint stock companies with the singular participation of the State Treasury. In the year 2000 a State Treasury property was formed called Spółka Restrukturyzacji Kopalń S.A. (Coal Mining Restructuring Company). In 2003 Kompania Węglowa S.A. was established, under whose authority the collieries from five coal companies were transferred.

The regulatory bodies for the mining industry are WUG (State Mining Authority) along with OUG (District Mining Offices). Academic reserves for the sector are comprised of GIG (Central Mining Institute) and Mining Faculties at AGH University of Science and Technology and Silesian University of Technology. According to the act „The Adjustment of the Coal Mining Industry to Functioning in the Conditions of a Market Economy and Specific Powers and Tasks of Mining Communes“ of 11.26.1998 (DZ.U.98.162.1112), the ownership rights to coal mining and coal trading companies belong to the Ministry of Economy (on behalf of the State Treasury). Control over the process of restructuring was entrusted to PARG S.A. (State Coal Mining Restructuring Agency), and subsequently ARP S.A. (Industrial Development Agency). In each mine, there are over a dozen workers' unions. Around the mining industry, there is a series of private businesses offering various services to the mines and coal companies. A schematic of the actual organizational structure of the coal mining industry is presented in Illustration 2.



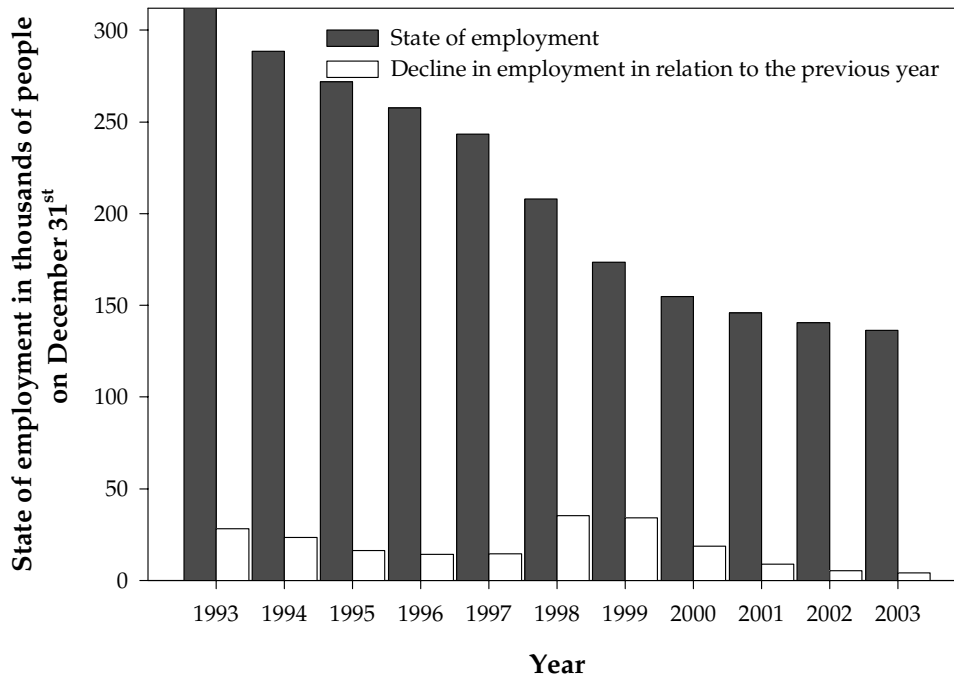
Illustration 2: The Organizational Structure of the Coal Mining Industry



## 6. Mass Clientelism. The Situation of the Miners

Even though there has been a significant reduction in the amount of workers employed underground, miners continue to comprise a professional group which is large enough to make the government and other political powers listen to them. In 1990 the average employment figure in the coal mining industry was approximately 387,800 people, whereas in 2004 the number dropped to 136,500 people, which reduced the total by practically 250,000 people.<sup>11</sup> The trend of restructuring employment in the mining industry is presented in Illustration 3.

Illustration 3: The Process of Employment Restructuring



The greatest intensity of departures from coal mining can be observed in the year 1998, which is associated with the implementation of a governmental program to reform the sector and the introduction of the 11.26.1998 statute „The Adjustment of the Coal Mining Industry to Functioning in the Conditions of a Market Economy and Specific Powers and Tasks of Mining Communes” (DZ.U.98.162.1112). The act introduced a series of indispensable tools for achiev-

<sup>11</sup> Data from NIK (Supreme Chamber of Control) report: „Informacja o wynikach kontroli restrukturyzacji finansowej i organizacyjnej górnictwa węgla kamiennego w latach 1990–2001” 178/2002/P01/146/LKA . On the employment restructuring process in Polish coal mining industry see: Karbownik A., Jędrzychowski S., Sobuła W., Tausz K., Wodarski K. „Analiza Problemów Społecznych w Procesie Restrukturyzacji Górnictwa Węgla Kamiennego” in: PRZYSZŁOŚĆ WĘGLA KAMIENNEGO W EUROPIE ŚRODKOWOSCHODNIEJ, Konferencja programu SYNERGY, Katowice 1998; Karbownik A., Jędrzychowski S., Sobuła W., Tausz K., Wodarski K. ANALIZA I OCENA PRZEBIEGU PROCESU RESTRUKTURYZACJI ZATRUDNIENIA W POLSKIM GÓRNICTWIE WĘGLA KAMIENNEGO W LATACH 1990–1997, GIG, Katowice 1998; Karbownik A., Jędrzychowski S., Sobuła W., Tausz K., Wodarski K. RESTRUKTURYZACJA ZATRUDNIENIA W POLSKIM GÓRNICTWIE WĘGLA KAMIENNEGO W LATACH 1998–1999, GIG, Katowice 2000; Szczepański M.S. OPEL Z GÓRNICZYM PIUROPUSZEM. RESTRUKTURYZACJA WOJEWÓDZTWA KATOWICKIEGO 1989–1996, GIG, Katowice 1997; Szczepański M.S. „Górnicy Górniośląscy – Ludzie Zbędni, Ludzie Luźni? Osobowościowe Uwarunkowania Restrukturyzacji Górnictwa Węglowego.” in: Szczepański M.S. (red.) GÓRNICZY GÓRNOŚLAŃCY – LUDZIE ZBĘDNI, LUDZIE LUŹNI?, AMP, Kraków-Katowice 1994; Szczepański M.S. „Kruszenie Węgla i Wydobywanie Górników – Społeczno-Kulturowe Uwarunkowania Restrukturyzacji Górnictwa Węgla Kamiennego” in: REFORMA POLSKIEGO GÓRNICTWA WĘGLA KAMIENNEGO – MONITOROWANIE REALIZACJI, Materiały Konferencyjne, Katowice, Politechnika Śląska 1999.

ing profitability from mining companies. One of these instruments, „The Mining Social Packet“, which encouraged miners to leave the mines, was extremely successful.

Aside from mining vacations, which assured the worker payments in the amount of 75% of the average monthly salary as well as social relief in the amount of 65% of the average monthly salary, the act introduced extraordinarily popular severance packages. The amount of one-time unconditional payoffs for miners leaving work amounted to 24 times the amount of the average monthly salary in mines and reached 50,000 PLN (at that time about 12,853 EURO).

In fact, one of the indisputable successes of the mining reforms is the significant reduction of employment in the sector. In the years 1998–1999, immediately after the introduction of the Packet, 70,000 workers left the mines. Nevertheless, in subsequent years the exodus from the mines slackened due to shrinking employment alternatives outside of the industry.

As in 1999, one of the respondents explained himself:

*Well, we're taking advantage of this package because it's evident that no one knows how long it will last. People are in a hurry — who knows when they'll change something or take it away? There is no reason to be surprised on one hand. But everything is going in the wrong direction; they're destroying mining and the whole country will soon regret it. (...) To have a grown man sit at home! There's money in the beginning and then what? Will his wife respect him, his kids respect him?*

One of the union activists commented:

*From the point of view of the union members, we're the ones who have mixed feelings, because with each program they are lessening employment. Conditions, well, they were worked out positively. On the one hand, those who stayed, well, they have a greater feeling of security, that there won't be group layoffs but only voluntary ones. Payoffs are perceived positively, financial conditions, though nowadays, there is less interest. But on the other hand, it's real wages which have dropped for us.*

Another respondent commented:

*From the time that the reform came in (1998) over 90,000 people lost their livelihood and just in mining. And probably a similar amount of workplaces — if not more — were lost in the so-called mining environment. This is all very interdependent. (...) And what did we get in return? Several thousand workplaces in a Special Economic Zone. Around 2,500 people work for „Opel“. Well, let it be in sum several thousand. A drop in the ocean. (...) People have started to understand that the Mining Social Package is a solution for the short-term. They have simply started to understand the consequences. (...) Finding work beyond mining, today, is a fantasy. This is starting to be visible with the naked eye, young people without work — it's pathological, whatever you call it. Because these are in large part young people, this is a social problem. For our family, this type of traditional Silesian family, well this type of situation is a threat.*

In 1997 unemployment in Silesia reached 6.4%, in the year 2000 it surpassed 13% and in the year 2003 it climbed to 16.5%. Still, in some mining towns, the level of unemployment is significantly higher. In Żory it reaches 24.3% and in Bytom 25.5%.<sup>12</sup>

A statute dated 11.28.2003, „The Restructuring of the Coal Mining Industry in the Years 2003–2006“ (DZ.U.03.210.2037), introduces a shelter-mobilization package. The program is built with elements of regional politics.<sup>13</sup> Miners employed underground are able to take advantage of

<sup>12</sup> Data from the internet informational resource of the Ministry of Economy <http://www.mgpi.gov.pl> as well as GUS (Central Statistical Office) <http://www.stat.gov.pl> and the portal <http://www.bezrobocie.pl>.

<sup>13</sup> For the realization of a „Program of Softening the Effects of Restructuring Employment in Coal Mining of the Silesian Region“ resources are to be allocated from a loan from the European Bank for Reconstruction and Development in the amount of 25 million EURO.

mining vacations, assured 75% of their monthly wage to the time of retirement benefit acquisition. However, to the workers on the surface, the focus is on stipends and skill re-qualification for a period not longer than 6 months in the amount of 100% of their monthly salary with contracts for re-qualification as well as loans of up to 20,000 PLN for the undertaking of small business activities. The act also foresees assistance to employers who create workplaces for those who are leaving mining, which includes the refinancing of the costs of the workers' salaries. A comparison of instruments of politics for restructuring employment, which were included in the statutes of 1998 and 2003, are presented in Illustration 4.

Illustration 4: Legal Solutions Directed Towards Workers in the Coal Mining Sector

<p><b>THE MINING SOCIAL PACKET</b></p> <p><b>Act of 11.26.1998 on the Adjustment of the Coal Mining Industry to Functioning in the Conditions of a Market Economy</b></p> <ul style="list-style-type: none"> <li>• mining vacation – 75% of average monthly salary</li> <li>• social relief – 65% of average monthly salary</li> <li>• one-time monetary send-offs <ul style="list-style-type: none"> <li>• 1998 – 14.4 times the amount of average monthly salary</li> <li>• 2002 – 7.2 times the amount of average monthly salary</li> </ul> </li> <li>• one-time unconditional monetary send-offs <ul style="list-style-type: none"> <li>• 1998 – 24 times the amount of average monthly salary</li> <li>• 2002 – 12 times the amount of average monthly salary</li> </ul> </li> </ul> <p><b>SHELTER-MOBILIZATION PACKET</b></p> <p><b>Act of 11.28.2003 on the Restructuring of the Coal Mining Industry in the Years 2003–2006</b></p> <p><i>Underground employees</i></p> <ul style="list-style-type: none"> <li>• mining vacation – 75% of the monthly salary to the time of acquiring retirement benefits</li> </ul> <p><i>Surface employees</i></p> <ul style="list-style-type: none"> <li>• stipend on skill re-qualification (for a period no longer than 6 months) in the amount of 100% of the monthly salary</li> <li>• contracts for re-qualification</li> <li>• loans for re-qualification (up to 20.000 PLN)</li> <li>• loans for undertaking of small business activity</li> <li>• assistance to employers creating work places for those that are leaving mining <ul style="list-style-type: none"> <li>• refinancing of costs of workers salary</li> <li>• reimbursement of costs of fixed assets for creating new workplaces</li> </ul> </li> </ul>
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Despite a significant reduction in employment, as an interest group, miners continue to possess significant negotiating power. Practically 136,500 persons are still employed in mining, and, along with their families and workers of general mining firms, comprise a substantial voting block. Miners as a clientele and their potential political patrons continue to have much to offer each other. In miners' circles there is a persistent belief in their own power. In 1998 it was expressed that:

*If anything happens, then 200,000 men will take to the streets. If it starts burning us so much that we've had enough, then we're going to make for Warsaw and they'll see who will win.*

An activist of one of the more radical work occupational unions exclaimed:

*There's less of us but we'll show them that we know how to fight over what's ours. No 'Solidarity' guys are going to cheat us. Union members! They're pretending to be union members but it's all politics. (...) They made a deal! To close the mines because people have to leave the mining industry. Well, we'll see who's going to have to leave.*

The next respondent was more drastic in his words: "They're going to bring us to a showdown and blood will spill. We're not going to let them walk all over us. They're not going to humiliate us."

The other side is well aware of the potential dangers posed by an open conflict with the miners.

*I was a witness to a demonstration by the miners next to the then Ministry of Industry and Trade, in the summer of 1992, in July, if I remember well. I'll say it directly, it was dangerous.*

One of the politicians recalled:

*Several years ago, I don't remember in which year exactly, I observed a mining demonstration next to the Council of Ministers from the window. Honestly, we had our hearts in our mouths. Anything could have happened.*

Another interviewee argued that:

*The specific nature of mining is as such that you only de facto need several people to make the whole mine stop functioning. These are great losses for the state. A few coal mines will stop and losses increase in an unimaginable manner. (...) We cannot allow this. Financially, the country cannot afford it, to do it by strength. Besides, mining is about 160,000 people. Politically, it cannot be allowed for some kind of .... It is obvious that the political risk and the price of such a conflict could be very high. That's why more moderate paths must be chosen to achieve the established goal.*

Another politician said:

*I am speaking with the full belief that it is necessary to do everything to prevent a situation where a crowd of 100,000 people – well, maybe I'm exaggerating; this many won't show up – but let it be even several thousand. A situation cannot be allowed which is made up of emotionally charged men armed with sticks, pick axes and stones or whatever will come with them to Warsaw. This type of situation is extremely dangerous. I don't even want to refer to drastic examples from Romania. I was a witness to this type of demonstration in Katowice and please believe me that even today my skin crawls at the idea of how this could have ended. All you need is an impulse and there is no control.*

The politicians' fears were confirmed during a mining demonstration in Warsaw in September 2003, when fighting between miners and police erupted and resulted in damages. The miners were sharply opposed to the restructuring plans contained in the governmental program for reforming the sector, with particular focus on the liquidation of 4 mines. In November a strike was undertaken in the mines. The power of the mining reserves did not go unnoticed and had its influence on the form of the restructuring act. Representatives of different political persuasions, including the SLD, expressed solidarity with the miners. The argument was raised that the liquidation of the mines would mean political suicide for the SLD party in Silesia. As a consequence, a series of modifications to the act were introduced and a provision was made allowing for the merger of mines.

When analyzing the course of argumentation as to the form of the mining restructuring program, it is necessary to pay closer attention to the activities of mining professional unions. In Kompania Węglowa alone, there are 28 active miners' unions, bringing the sum of labor organizations to 204 (for an average of 9 per mine). An indicator of union membership in the Kompania collieries is approximately at the level of 86.6%. In some coal mines, however, membership

surpasses 100% as a result of some miners belonging to several unions. In the act dated 05.23.1991, „Labor Unions“ (Dz. U.91.55.234 with later changes), the right to discharge union activists from their work duties for the duration of a term of office in the administrative body of the union organization is recognized along with the right to remuneration. Compensation is calculated as follows: one worker in a monthly assessment of work equal to the number of members employed by the workplace, when the number is less than 150; one worker, when the union numbers from 150 to 500 employed members in the workplace; two workers, when the union numbers from 501 to 1000 members employed by the workplace; three workers, when the union is comprised of 1001 to 2000 members employed in the workplace, and a subsequent worker is available with each additional 1000 employees, when the workplace's union organization numbers over 2000 people hired in the workplace, then hours can be dispensed in a part-time manner to a greater number of workers, in accordance with the regulations above.

The annual costs of maintaining 189 full-time union activists in a company reach 16,5 million PLN. In 2003 the average monthly gross pay of a union activist was 4,928 PLN (at that time about 1,132 EURO), while the average monthly gross pay of a worker was 3,777 PLN (at that time about 868 EURO).<sup>14</sup> Seeing that the activists are discharged from work duties under ground, their resistance against closing unprofitable mines, followed by the liquidation of union positions, is understandable.

## 7. Individual Clientelism and Cronyism

### The Financial Situation of Personnel Managing and Supervising the Mining Sector

One accepted research hypothesis states that the reason for the tightening of network clientelistic links among key actors in the sector and its political and economic environment is determined by their access to relatively large amounts of money. Here we are concerned with a legal source of income as well as the opportunity for the unofficial flow of public money into private pockets.

#### 7.1 Primary Income in Mining

##### Management Boards and Supervisory Councils

In accordance with the act passed on 11.26.1998, „The Adjustment of the Coal Mining Industry to Functioning in the Conditions of a Market Economy and Specific Powers and Tasks of Mining Communes“ (Dz.U.98.162.1112), in each of the coal companies (being sole-proprietorship companies of the State Treasury) there functions a 5 person management board. At the core of the statute dated 03.03.2000, entitled „The Salaries of Persons Managing Certain Legal Subjects“ (Dz.U.00.26.306) (popularly called the “act on salary caps”), the official salary of members of management cannot exceed 6 times the average monthly salary in the enterprise's sector which is currently around 14,500 PLN (at that time about 3615 EURO).<sup>15</sup> Until the appearance of this law, presidents and vice-presidents of management bodies had the opportunity to take salaries in sums two times higher. In comparison to the earnings of managers of large private companies, these are not particularly high amounts however, there remains the question of tying the amount of salary with the financial performance of the coal mining companies.<sup>16</sup>

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<sup>14</sup> Data from: the internet information service of Kompania Węglowa S.A. <http://www.kwsa.pl>.

<sup>15</sup> The average monthly salary in the industry sector in the 2004 amounted to 2,438 thousand PLN gross pay.

<sup>16</sup> For example, 30 thousand PLN is earned by the president of a construction firm from the Świętokrzyski Region, 27.000 PLN for a management board member of one of the country's medium sized IT firms listed on the stock exchange, 49.000 PLN for an management board member of one of the country's large pharmaceutical firms. Data from: *Rzeczpospolita* 11.05.2003.

None of the management board members who were interviewed expressed the desire to leave their posts despite the significant lessening of their income occasioned by the passing of the salary law. There was instead a reference to a feeling of moral responsibility:

*Well, of course I won't resign from my position. I've taken on a responsibility and I want to complete it as well as I can. I can't simply throw the toys and get mad, even though I'd have a good reason; you don't change the rules in the middle of the game. I was raised with a feeling of obligation and responsibility.*

Meanwhile, individuals beyond the boards of directors drew attention to the fact that even though there was a significant curtailment, the salaries of the management members continue to remain relatively high, and, as a result, the possibility of finding equally well-paying jobs is slim.

*Where will he make 12,000? Where? How many setbacks would he have to face? Here you have a steady income and peace and quiet. They're not going to overwork themselves especially. What kind of politics do we have today? Stepping away from decisions, waiting passively and only doing those things that they're told. What's he going to find better?*

The opinion has been expressed that the reduction of official wages will be quickly compensated for by an increase from unofficial income sources.

*A person lives at a certain level, right? He has certain obligations. And suddenly he's been left with half of his money. At the same time he's got some opportunities to get some money back in his pockets. (...) And do you think that he won't take advantage of these opportunities? He has a feeling of loss, that he was cheated. He's doing exactly the same (amount of work) but is getting half as much. You would have to be Saint Francis of Assisi. Anyhow, even under these salaries (now in force) only a few stop at this. Maybe I wrongly expressed myself – not everybody stops at this.*

The act of 03.03.2000, „The Salaries of Persons Managing Certain Legal Subjects“ (Dz.U.00.26.306), introduced further regulations to limit the universal practice in the branch of sitting on supervisory councils of multiple economic entities. In the essence of the statute, an individual can be a member of the supervisory council in only one company belonging to the State Treasury or in which the number of shares of the State Treasury surpasses 50%. The law also introduced salary limits for members of supervisory councils. The current regulations mandate that the monthly wage of a member of a supervisory council cannot exceed the average monthly salary in the enterprise's sector, i.e. in the year 2004 around 2,438 PLN (at that time about 542 EURO).<sup>17</sup>

This legislation fundamentally affected politicians who had been treating supervisory councils as their personal sinecures, which is strikingly visible after each parliamentary election. For politicians, entry into a supervisory council frequently becomes a springboard for running a private business in the sector.

Respondents commented on the effects of the act as follows:

*Truthfully speaking, it's fiction and everybody knows it perfectly well. In regards to the coal companies, there is nothing simpler than to check the registries in the Economic Court: the same names find themselves in councils and administrative units. Well, I'm personally curious if they waited out the statutory limits. This is nothing, it's not a concern in this or that company, because what kind of competition exists between them anyhow? But I do know that there were guys in the company and in the mines and they took money for it. Well, a little will pile up. The issue is with something else in various private companies who work for mining. The example comes from the top!*

<sup>17</sup> Data from: GUS (Central Statistical Office) <http://www.stat.gov.pl>

A member of a supervisory council of one of the organs under research argued:

*Nobody at this moment sits on supervisory councils because of income reasons. At least from my experience it results in the fact that for some, it's 'money for nothing'. In my opinion, and I stress this is just a private opinion, membership in a council ensures a series of privileges. It is widely known, anyhow, that this results from the fact (on 'The Adjustment of the Coal Mining Industry to the Functioning in Conditions of a Market Economy') that ministries, for example the Ministry of Finance, have their plugs in the councils. This is even understandable. However, politicians treat the supervisory councils like their personal sinecures. This is evident after each election. There are, in supervisory councils, people who limit themselves to taking a salary but there are also players to be found who try to squeeze something out for themselves. In this case, this is the truth, for the representatives of the workers things are clear: they are chosen to realize the interests of those who they represent. Anyhow, these type are also not holy and it's not possible to generalize. The issue is the fact that the councils become a place to fight and pursue particular interests, games with the management. There are many methods to re-compensate for favorability and assistance.*

A subsequent respondent claimed:

*(...) My feeling is the statute (on 'The Salaries of Persons Managing Certain Legal Subjects') in large measure hits politicians. Up until now, this was simply a constant practice, that these guys had chairs in several councils. I would call this a reward for those who are obedient. This is now supposedly going to end. Will it end? Who's going to check it? Is there any central register? Certainly not. Occasionally, there will be some sort of minor scandal that might explode because of this, if somebody has bad luck like a probing journalist won't let go or something. The case's neck will be wrung quietly.*

A member of a supervisory council of one company (on behalf of the workers) grasped the situation with these words:

*Somehow the politicians will work something out. Some type of commission here, a firm there, a partnership. They've already had a chance to see what and where. Don't worry your head about it.*

Another respondent said:

*Until this time, under the assumption that they did not fall under the act on 'The Limitation of Economic Activities Undertaken by Individuals Fulfilling Public Functions' (i.e., for example coal company management), these types of limits already existed, of course, since 1997, as to the number of [permissible] functions, of course, and as to income. It was possible to fulfill, of course, 2 additional functions on behalf of the State Treasury. Except that this act did not precisely define if it concerned the management boards or supervisory councils and in what eventual combination. I personally believe, as I interpreted it, that it pertains to the supervisory council. These additional (to the main) functions were payable up to an amount of 4 times the average pay in the industry. (...) This means theoretically, of course, there could have been more allotted, but this would have immediately led to the taxation department, to the budget, this surplus. And if somebody was not affected by statutory limits, then, well, he had an Eldorado and 'live and let live' attitude. Currently, the case is clear, one council and one salary, but again, the statute on caps on 'The Salaries of Managing Persons' but in sum, right, is also imprecise. Particularly, in regards to changes in the act on 'The Limitation of Activities'. (...) I believe and I will tell you that my opinion, of course, is not impersonal: I believe that the recently passed law is messy. It's imprecise. This has characteristics of purposeful activity.*



## 7.2 Additional Sources of Income in Mining

### Consulting and Advisory Bodies

Aside from fundamental income sources, key actors in the sector reap income via alternative means, e.g. from sitting on a series of commissions or from activities in consulting and advisory bodies. The first group of people active in these types of bodies are actually comprised of policy makers from the mining sector: members of coal company management boards, supervisory councils and directors of mines. Individuals nursing key positions in the sector are frequently invited to serve as consultants, wherein they appear in the role of impartial experts, though precisely because of the positions they occupy, their objectivity is called into question.

*It is given to observation that there exists a tendency for people who administer relatively, I would say, prominent functions to be customarily invited to consulting bodies. They are invited, and obviously paid for their expert activity, let's call it that. (...) Well, there is a certain problem even here. Whose interest do they represent? Because here a conflict is almost certain to arise.*

Another interviewee argues, however:

*Well, I'm not particularly surprised because for the good of the case, who is supposed to be in these commissions, who has the fundamentals, the work experience and practical knowledge?*

Activity in different types of expert and advisory bodies constitutes a method for „hibernating“ individuals periodically removed from strategic positions, due, for example, to the need to effect certain personnel changes in association with parliamentary election results or as the result of personal contestations between primary actors in the sector. Professional solidarity, in the majority of cases, does not allow individuals occupying responsible positions, up until a certain point, to plunge into non-existence: Their knowledge and professional experience could still be helpful. Since they have reached such a high position, they must represent a certain level of expertise, is the accepted line of thinking in the environment.

*A person who has passed all levels of his career has to have some basis for this. You could speak of arrangements, which raised him in individual cases. But generally he has to represent something with himself. If he loses his position, well, then you need to create a position for him. You are laughing but I'm speaking completely seriously.*

A subsequent respondent said:

*They're not going to let anybody perish. There are so many consulting bodies, PARG (State Coal Mining Restructuring Agency), GIG (Central Mining Institute), and WUG (State Mining Authority); companies continuously give work in evaluations, opinions, different documentations and plans. If not in a supervisory committee, then here or there. Nobody has died of hunger. Well, maybe if he was seriously mischievous. If somebody plays dirty then there are methods to, let me say, get him out. You could deconstruct a person because here everybody .... That's why it practically never happens.*

Work in consulting bodies or different types of commissions allows for survival from a financial point of view. From a different point of view, it maintains a professional preparedness in the event of change. It prevents one from falling out of the game.

*I personally believe that it's very good that practical people with a wide range of experience are taken advantage of, people who, due to various circumstances, are not on the candelabrum at the moment. And this doesn't fall under the rubric of 'they won't let their own die', you know; it's only it's only perceived that way.*

To summarize, it is worth noting the magnitude of sums spent by mining for consulting services. In 2000, mining companies spent 64.3 million PLN (at that time about 16 million EURO) for expertise, analysis and the different types of studies.

### 7.3 Additional Sources of Income in Mining

#### The Relationship of Mining Companies to Private Businesses

The relationship between coal companies and mines with private enterprises functioning in the mining environment deserves a separate discussion, with consideration of the myriad corrupt practices taking place on the border of the public and private sectors. Information obtained from informal interviews has found confirmation in the reports of NIK (Supreme Chamber of Control).<sup>18</sup>

Research confirms that a significant portion of private firms interested in performing various types of services for coal companies (such as supplying equipment and also acting as intermediaries in coal sales, debt operations as well as barter trade) belongs to members of the mining establishment and representatives of the political world. Through coal companies public money is being doled out equally to private firms and individuals, including politicians.

The law of 08.21.1997 is thereby being bypassed [“The Limitation of Economic Activities Undertaken by Individuals Fulfilling Public Functions” (Dz.U.97.106.679 with later changes Dz.U.00.26.306)]. The “Public Procurement” act of 06.10.1994 (Dz.U.98.119.773 with later changes Dz.U.00.12.136) is also being violated; almost all common tender procedures are abandoned or they are manipulated so that a firm which is personally tied to some key policy maker in the sector wins the bid.

From information gleaned from casual interviews it can be concluded that these are not isolated occurrences. There is no means, however, of estimating how many prominent actors in the sector are shareholders of private firms supplying equipment or providing services for mining. Respondents indicate:

*This is continuous practice. If (the members of the company management) are not owners (of private firms) officially, because they cannot be, the firm is registered to someone in the family, whoever. Everybody knows anyhow what's going on here and how everything works. Various financial moves can be made; capitalizing, buying and selling.*

For example, NIK (Supreme Chamber of Control) has noted that in the Rybnicka Coal Company there have been cases of equipment repair fees which were higher than the cost of new machinery.<sup>19</sup> In the transactions, one of the dependent companies served as an intermediary, of which a co-owner was the then president of the Rybnicka Coal Company and later members of his family. RCC, by bypassing the bidding procedures, procured from this firm a nationally produced repaired chain-and-flight conveyor, the price of which was higher than that of a similar device which could have been bought new directly from the manufacturer. This same firm, in which shares were held by the president of the company's son, mediated in the purchase without bidding on subsequent specialized equipment, taking an artificially higher provision.

The respondents described the practice wherein a private firm, in which one of the members of a given coal company holds shares, provides services for a mine belonging to a different company. Subsequently, a private company tied by family relations with the president of this company mediates, for example, in the sale of specialty equipment to the first company.

*This is safe; why do we need the kind of scandals Rybnicka had? Well, of course, in this case the question of trust comes into consideration, that I make it easier for you at my*

<sup>18</sup> See among others: NIK (Supreme Chamber of Control) reports „Informacja o wynikach kontroli efektywności zakupów maszyn i urządzeń oraz technologii w górnictwie węgla kamiennego” 236/97/P97/185/LKA, „Informacja o wynikach kontroli przyznawania i wykorzystywania dotacji budżetowych dla górnictwa węgla kamiennego” 59/98/P97/066/DGI, „Informacja o wynikach kontroli restrukturyzacji finansowej i organizacyjnej górnictwa węgla kamiennego w latach 1990–2001” 178/2002/P01/146/LKA.

<sup>19</sup> NIK (Supreme Chamber of Control) report „Informacja o wynikach kontroli efektywności zakupów maszyn i urządzeń oraz technologii w górnictwie węgla kamiennego” 236/97/P97/185/LKA.

*place and you, on your part, subsequently make it easier for me in your place. Everything is in accordance with the law. The tender, no shares or other non-transparencies. There are no suspicions. In case of inspection the case is clean. NIK (Supreme Chamber of Control) visited us and what? And nothing. And who stands behind it, well, we all know. (...) From a different perspective, let's be honest, what kind of guarantee do we have that a different firm would be better? It's easy to cast accusations. This is high quality equipment. In an offer based on many details, there is no way of telling who comes out in the process. There are a hundred ways that they could cut on us.*

It also happens that in the case of public tender the chosen bidders have earlier access to specific information about the object being ordered as well as the system of estimating offers. One of the businessmen said: "The issue is in acquiring tips on what the competition has in their offer. Then we can shoot off a quote. We simply need access to information." Another producer stated:

*It sometimes happens that the criteria for assessment and offers are formulated under (the characteristics of) a specific firm. Because this firm, for example, is tied, in some way, to some honcho. It's a friend or family, these kinds of situations happen. In such a case, there is generally no reason to waste time (to enter a bid).*

Another supplier stated:

*What do you do to cast aside firms starting out in a public tender, a firm which gives exceptional conditions and according to all criteria should win, but can't because firm X is also involved, in which the president (of the coal company) has shares? Let us exchange the president with the director because it would immediately be evident who I'm talking about and why. (...) So what do you do? A few days before the final deadline, or a day before the deadline to submit the offer, the bidder is informed that in the submitted offer there are formal inaccuracies. Whatever, bad commas, a lack of some sort of information, about which there was no earlier discussion or the expectation of complying with new data, some type which are generally insignificant, it wasn't formulated in clear conditions. It's too late to do anything. But this is OK anyway. Most frequently the offer is simply cast aside and in the explanation they write that it doesn't fulfill formal criteria.*

In the context of relations between private firms performing services and delivering equipment for mining, the problem of financing political parties was indicated. For example, owners of firms entering public tender during election periods are sometimes discreetly informed that financial contributions to an election fund of one of the presidential candidates will improve their chances in the auction. One of the interviewees related the following:

*I was discreetly informed, not even that, that I was informed – a certain, one could say, loose remark came that it's necessary to provide support. That of course, I have good chances of winning the bid and the offer was well prepared and so forth. Only that it would be appropriate to listen. Well, it was simply concerning the deposit of a significant, at least for me, pretty significant sum from the contract to the election fund (of one of the candidates entering the presidential elections.) Well, it was necessary to calculate for oneself. It wasn't the deal of a lifetime. Only that, theoretically, I could ignore such a suggestion; in principle, it was formulated in a very discreet manner. I didn't have to sign anything. But, if I don't do it, then I'm finished. Simply put, I don't have a chance for any contract. The end.*

Another respondent claimed:

*It's done like this, that, for example, I as a firm could allocate a sum of money, deposit it in a fund, let's assume SLD (Democratic Left Alliance) or AWS (Solidarity Electoral Action), or it's possible to play it so that I as a private person deposit it or let's assume the co-owner. In my case, there are two shareholders, so as private individuals. Am I allowed? Allowed! I get an order, sign a contract and I get so and so much for a job and I give away, well, this depends on what was agreed to. (...) Now they supposedly want to*

*change this in the Sejm (lower house of the Polish Parliament), new regulations for financing (political parties) are to be introduced, everything transparent. Parties are supposed to be financed from the budget, I recently heard about this kind of proposition.*

A subsequent interviewee discussed:

*It used to look like this, that they (the coal company or mine) could themselves deposit money to a foundation, which, let us say, functioned next to some kind of political party. And it appears that they were still able to deduct it from their taxes. Since they took away this opportunity from them, I'm talking about subsidization, these kinds of things are taken care of by private firms (contractors or suppliers). These could also reduce their taxes. (...) I heard this was the case, and no one personally suggested this to me, but I'm just a small fry. In firm X, for instance, shares are held by the son of president Y, well, it's probably significantly simpler this way. Without stress.*

It was indicated that:

*There exists a firm X in the town of Katowice. The owners of this firm commonly represent themselves as people of the left. Well, and there you go, they now get (several months after the victory of the left in the parliamentary elections) contracts in almost all companies. And if you take a closer look, they shouldn't, because they, for example, employ former miners (which is illegal).*

Similarly, organizations of the coal market and the principles of receivables turnover create opportunities for covert financing of political parties as well as taking advantage of unsubstantiated financial proceeds by people committed to this type of activity. Opinions have developed that:

*Around mining there has arisen a multitude of private firms which simply belong to people, I will say generally, from political circles. From this or that type of distribution they have entered, let's assume, into the supervisory councils. They'll make their way a little, get wind of the opportunities that are hidden in mining and they have simply fitted themselves into the structure. As one political scientist mentioned, you see, I like to read various things in my free time, political capitalism, that politics is a certain kind of trampoline to jump into the economy. (...) I have a series of examples. Being an intermediary, you know, in the purchase of equipment, the business of receivables, these barter transactions of course. In its time, this was unbelievable money. What kind of fortunes grew on this! Now this is regulated. The coal trade. Also limited now, coal companies are obliged to sell coal directly to the power plants, but still not long ago there was a whole chain of intermediaries.*

A different respondent claimed that:

*A stream of money from the coal trade flows to politics. The feather-bedding of Węglokoks, this is the most wanted goal. Coal companies can have, I don't know what kind of debts, and they have debts, Węglokoks is always ahead.*

Coal companies, in spite of legal regulations, use this so-called chain of intermediaries between producers and end purchasers of coal. It amounts to deception consisting of the fraudulent lowering of classes of coal. Respondents indicated a series of inconsistencies connected with the trade of coal as well as turnover of receivables. „Here there are possibilities to be found, in the class of coal for example, intermediary linkages, brokers, contracts with electric companies, postponing payment terms for companies.“ A subsequent interviewee suggested:

*I will only generally say that, firstly, you can cheat on the class of coal because it's practically impossible to check when the coal lays in a dump if it's from this colliery or from that one or if it was already burned. This is of course sporadically investigated but who can be sure? The second thing is intermediation – here it is possible to stir things up with price reductions and payment terms. Well, and remunerations. Or compensations, if you have good contacts, then really. (...) This is all based on personal contacts.*

Some of these accusations found confirmation in the NIK (Supreme Chamber of Control) reports.<sup>20</sup> Coal companies, in order to obtain customers, commonly utilized lengthening of payment terms and gave additional price reductions. They stepped back from direct sales of coal to big buyers with the power plants and steelworks included. In turn, transactions were established with them with the participation of intermediaries. NIK claims that the introduction of additional price reductions and excessive extensions of payment deadlines for delivered coal, relinquishing interest due on debts, even reducing main receivables and allowing for intermediary linkages with the sale of coal to large buyers created a corruption-prone situation. According to NIK, the practice of artificially lowering prices of coal by producers by reducing its quality has been limited. One of the respondents stated at the same time that:

*These are things which are in practice difficult to inspect. The coal left the mine, was laid on a dump at a contractor, perhaps this is no longer the same coal, that one has already been burned. But less of it was used because it was of better quality, right? Meaning there is a surplus. That's it.*

Private firms bought the receivables of coal companies for a fraction of their value to subsequently sell them back to companies for a considerably higher price. One of the respondents commented:

*Well, these kind of things are going to be difficult to prove. The price of these types of outstanding receivables varies; it depends precisely on the chance that there is an opportunity to sell it back to the company, or if some type of opportunities for compensation are developing, somebody there has a connection with a steelwork, it's different. (...) Really, it's very different. It's not possible to say in general. For example, intermediaries pay (for receivables) from 50–60 percent (of their value). Companies buy out receivables for some part of their value, well maybe not 100 percent but definitely higher than the price at which the intermediary bought it. This is what this is based on. But what chance exists practically to prove to people (from the management of the coal company) that they shared in this surplus? Taking advantage of benefits will be difficult to prove.*

Another interviewee discussed the mechanisms leading to fraudulent practices in one of the companies:

*This was working on the basis that the management was not giving agreement to the settlement of debt, even though, from the side of the creditor the freezing of interest was coming into play, or the creditor was giving beneficial reductions. Debt was purchased by firm Y, and the company bought it back from it, paying significantly more than if it had made an agreement with the creditor. Someone was making money on this, that's evident. (...) One more case arose. With a credit for 20 million from BWR (Bank Współpracy Regionalnej), about 20 million, I think. For insurance they gave coal silt twice this value. Except that this silt was not yet extracted. The president (of the management of the coal company) played a pretty good game. Generally, there was pretty good in-fighting because the management board did not give its approval. They recalled the management board, and into the new one came those who shouldn't have come. Well, then the prosecutor came.*

Another respondent drew attention to the fact that:

*A large number of companies, which concern themselves with the coal trade and receivables turnover, because this is the type of activity which is linked – well, a significant portion of these companies is tied to people who occupy, one could say, important decision-making positions in mining itself, i.e. simply with individuals sitting on company management boards or supervisory councils or maybe a little lower on the shelf, in mines. On the other side, people tied to the political world are also more or less directly*

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<sup>20</sup> NIK (Supreme Chamber of Control) report „Informacja o wynikach kontroli organizacji zbytu węgla kamiennego” 195/98/97186/LKA.

*involved in this type of activity, this type of people which, however, have something in common with mining. (...) These are the facts. What kinds of conclusions come from these facts, how to interpret them, well, this is a different matter. There is nothing more that I could add to the idea of the saying 'a bird which soils its own nest'.*

It is also necessary to draw attention to the fact that economic activity around mining is also undertaken by mining trade unions. Union companies are a sought-after partner in interests. The mines pay contract liabilities to them in a timely manner, as it would be unwise for directors of mines to seek conflict with unions. According to very general estimates of the Ministry of Economy, turnover of union companies reach 500 mln PLN yearly.<sup>21</sup>

Summing up, the relations between the state-owned coal companies and private firms constitute a field for many types of corruption. Compiled materials provide arguments for the thesis that it is via coal companies that public funds are streamed into private firms and individual accounts, e.g. those belonging to politicians.

## 8. A Carousel of Positions

### A Network of Flows. Mining and Politics

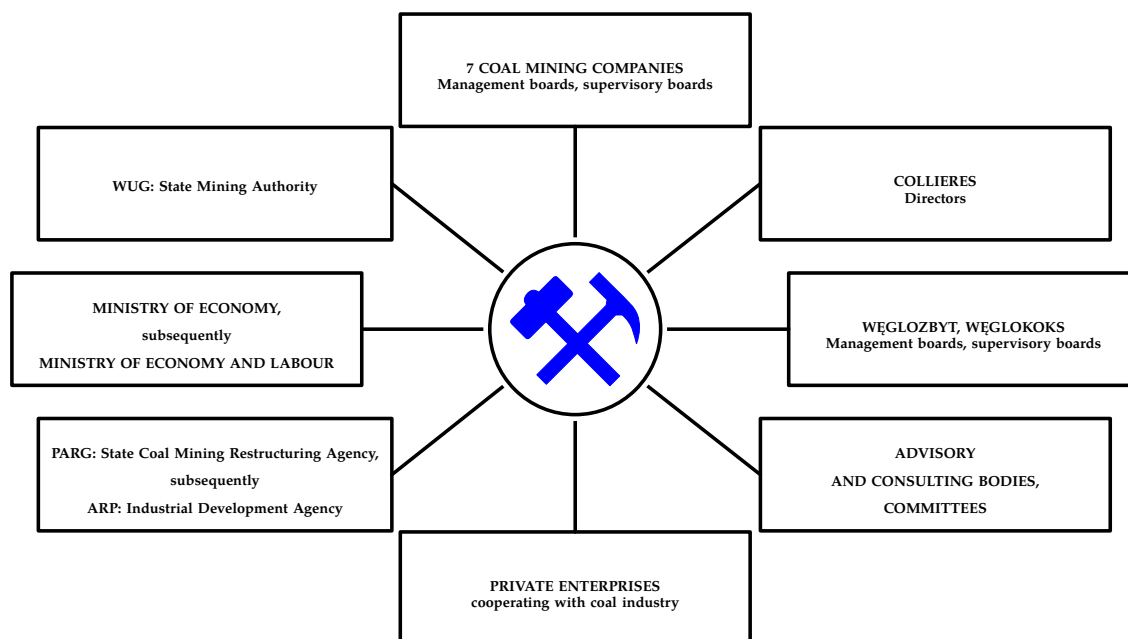
From the organizational perspective, coal mining creates a uniquely developed structure. A series of strategic positions in this structure insures access to power and what goes with it: access to money. However, this is not power given once and for all. Maintaining key positions demands the undertaking of many operations. Influence on staffing positions is consistently held by several people, which results from complicated, mutually dependent relationships among organizations active in mining. The larger the amount of people with whom a concrete actor is able to maintain good or very good relations, the greater his chances of obtaining support in the event of entry into a rivalry for a subsequent key position. Obtaining support from concrete individuals creates obligation towards them. In this type of situation, a quiet norm of reciprocity is expected, whose terms of payment may be delayed over time. The breaking of this protocol causes the bringing of sanctions onto oneself, including isolation from the circle of power. An exception exists if a lack of loyalty was the result of entry into an arrangement with a patron occupying a stronger position.<sup>22</sup> In this way, a network of mutual ties and dependencies is created. In the process of decision making, then, other than meritocratic motives come into play.

In mining power circles there are approximately 120 individuals with a similar professional biography who met each other either during their studies at the Faculties of Mining at the Silesian Technical University in Gliwice or the AGH University of Science and Technology in Krakow, at some point during their mining careers, in a mining company or while mutually sitting on a series of advisory bodies and commissions. Hence, the mining establishment consists of people who, in large part, know each other well or maintain cordial relations with each other. Outsiders are not allowed access to key positions because in the opinion of the milieu, they would not understand the specifics of the industry. The key arrangements of positions in the sector are represented by Illustration 5.

<sup>21</sup> A speech to the Parliament by the Minister of Economy Jerzy Hausner 09.12.2003.

<sup>22</sup> See: Waterbury J. „An Attempt to Put Patrons And Clients In their Place” as well as Gilsenan M. „Against Patron-Client Relations” in: Gellner E., Waterbury J. (eds) PATRONS AND CLIENTS IN MEDITERRANEAN SOCIETIES, Duckworth, London 1977.

Illustration 5: A Carousel of Positions



As one of the respondents commented:

*Let us take notice that policy-makers, people having factual power, are a closed group of people. Let's think of 100 (persons). Let there even be more. This isn't much. These people know each other. They stick with each other. There is, of course, room here for particular interests but generally one could speak of the common interest of the mining sector. And in association with the defense of this mutual interest certain decisions are made. The sphere of politics has to be in some way allowed access because politics insures this umbrella. So, for as much as it is necessary, some type of donations, let us paint a portrait, some kind of donations have to be gathered. With this there is agreement. I'm not speaking here of some type of conspiracy, please understand me well, that some kind of long-term strategy is being developed here. No, it results more from a contextual situation, the defense of personal interests for my today and my tomorrow.*

In coal mining we can discern a pathological power structure. Gaining entrance to the circle of power is not easy; however, once you enter it and accept its rules, it is largely possible to forecast remaining in the structure until retirement. The system of power which has evolved is so strong that all state, social, political and economic entities have to take it into account.

From a long-term perspective, the mining establishment, though not free from political pressure, is relatively immune to political shake-ups. Its members want to cooperate with every government because they are well aware that survival of the sector depends on the corresponding restructuring policy, and frequently on the specific decisions of individual politicians.

*The mining sector maintains in principle that with each authority you have to live well. Prominent politicians are invited to large 'Barbórka' (coal mining patron saint Barbara) celebrations; well, you simply need to give notice to authority because authority likes it and awaits it. It is necessary to foster good relations because much depends on it. Besides, you have to pay for peace. Carrying out politics costs money and in mining money flows like a big river, not a small stream. You cannot control this: simply stated, full control is impossible. Trade in coal, these are unimaginable monies and politicians crawl to us like flies to glue. Has anything changed after the elections in 1993? Has anybody experienced great pain in the time of Markowski (SLD member, the author of the govern-*

*mental coal mining industry reform of 1996)? And now? A carousel is a good term. Today, I'm here and you're there. Tomorrow, the opposite. There are enough positions.*

The fact is that every successive government causes certain moves and reshuffling in key posts in the coal mining sector in the aftermath of parliamentary elections. Management positions in coal companies are snapped up by supporters of the winning political power; as a result, individuals tied with the previous camp are removed to less prominent positions. According to respondents:

*Changes pertain to management boards and supervisory councils. From my observations, I could say that those from management sometimes find themselves in supervisory councils waiting for better times. And even if someone is well positioned, he receives a post in the management of a weaker company or simply a lower function in another. X made such a journey. He was the president (of the management board) of Bytomska Coal Company, later in the management board of Weglokoks, and subsequently he became a vice-president of Katowicki Coal Holding. Y, when he was called off from Rudzka Coal Company (from the position of the management president), he became the president of Jastrzębska Coal Company. But there is also a type of practice in which people sit simultaneously in the management of the company and in the supervisory council, of different ones of course. For example, (the members of) the management of PARC (State Coal Mining Restructuring Agency) routinely sits in councils in coal companies. But not only. (...) There is also a whole multitude of various functional positions, the type of consultant to the president of WUG (State Mining Authority). (...) Supervisory councils are composed of ruling bodies made up of over a dozen people. The role of president and vice-president are places reserved for, let's say, specialists with professional experience, people from the industry. Next, representatives of the workers, customarily, and of course representatives of the ministries, right? And after the elections these are swept away. (...) I know an example of a person who absolutely had no ties to mining, well, it is evident that in time, he got his own from political distribution (a position in the supervisory council of the coal company) which is currently very prosperous and he manages a relatively large private company (in the mining environment).*

A subsequent interviewee argued:

*I see the influence of politics here. We could argue as to how strong. We could say that miners won't hurt each other and that as an industry we have a mutual interest in supporting each other on the surface and these changes (in key positions) are a result of these kinds of adaptability mechanisms. De facto, nothing changes and the rules stay the same. (...) Personal conflicts (in mining) arise just like everywhere else. I would say that an exchange of authority sometimes becomes an opportunity for personal games. Generally, it is a closed group, governing itself and following its own rules. I am inclined to this thesis even though maybe I shouldn't be. (...) But I see a different danger here. Everywhere you hear about mining barons, interests and so forth. I would propose turning our attention to the political class. Supervisory councils, members are called according to a party key, sometimes I have the feeling that there is a complete bypass of merit-based criteria. Councils are treated like spoils of war. I would risk the assessment that they are a source of financial aid to the political class. But not as much because of the appanages of these concrete individuals, because what are we talking about here anyway, the wage limits act regulated certain issues. Although I have my doubts about the legitimacy of accepted solutions pertaining to management. (...) Returning to the issues (salaries of members of supervisory councils), there is no money here. I'm concerned with gains from corruption. (...) For these people and the (political) groups that they represent.*

The opinion has been expressed that:

*Changes on the political scene force certain personnel changes. This is evident. But not a hair will fall off of anybody's head. A few years maybe, not even four; it's evident what's happening on our political scene, and we've had different experiences here. So a few*



*years and the wheel starts turning to the other side. If you don't allow others to live then they won't allow you. And this is for one's entire professional life, one's whole life. I'm not stating that it's not allowed to have political sympathies; they're even necessary. Only that we work here.*

The results of the network analysis and reconstruction of professional paths of actors indicate that the management and supervisory personnel of the mining sector create a closed, self-reproducing system. Small changes in key positions are the result of adaptation mechanisms responding to the needs of the environment. However, inter-systemic rules of functioning remain intact.

## 9. Conclusions

### Reasons and Consequences for the Occurrence of Networks of Clientelistic Linkages in Mining

In the process of undertaking research, support was found for the initial hypothesis on the existence of clientelistic linkages in mining. The compiled research material indicates that one of the primary reasons for the intensification of clientelistic linkages is the access to a steady flow of public monies. Apart from official remuneration for work on executive boards and supervisory councils of coal companies (as well as in a number of expert committees), advisory and opinion-making bodies, there are numerous informal and unregulated means to access to financial reserves, such as launching business activities and reaping the benefits from the mining environment. The slowing of reforms only serves to prolong the current state of non-transparency, which enables unchecked financial flows. A whole array of corrupt practices takes place where the public and private sectors converge. The implementation of restructuring programs could constrict them significantly. For politicians, the privatization of coal mining companies would carry with it the liquidation of staff positions in supervisory councils, which constitute pleasant sinecures and, at the same time, springboards to business ventures. An interest in maintaining the status quo and delaying reforms is shared by key actors in the sector, politicians and miners. From the miners' perspective, reform means continued lay-offs, which, in the structural unemployment context of Silesia, could lead to a dramatic reduction in living conditions. The types of clientelism in the coal mining sector are presented in Illustration 6 on the following page.

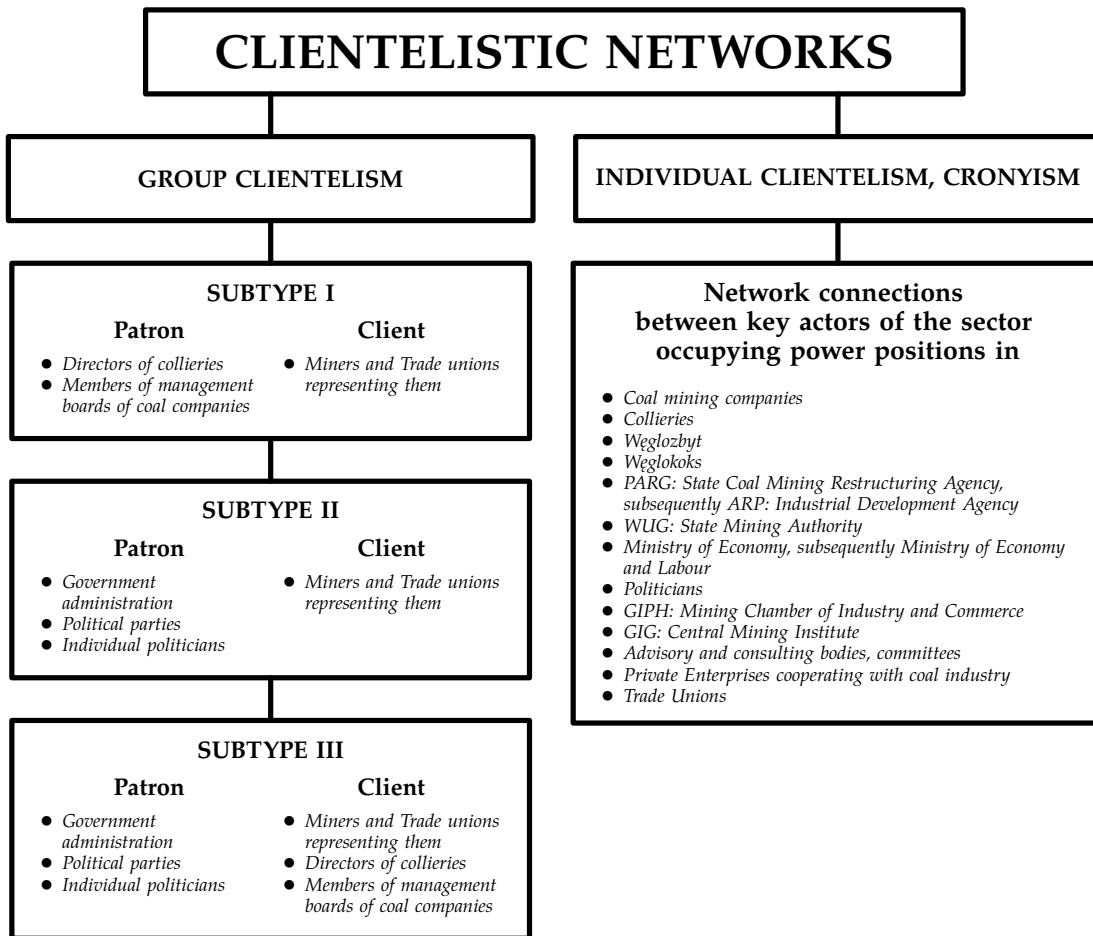
The existence of networks of clientelistic relations between key actors of the coal mining industry and the sector's political and economic environment, coupled with mass clientelism, exerts a negative influence on the process of restructuring the sector. This antagonistic impact contributes to the delay of economic transformation in Poland, the cost of which is carried by society. Clientelism consequently disrupts the process of systemic differentiation between politics and economy, which, according to Niklas Luhmann's theory of autopoietic systems, is a precondition of system development.<sup>23</sup> Moreover, it leads to the erosion of relations between business entities (as defined in legal terms) and therefore violates the basic principles of free market economics and democracy.

The political cum economic clientelism is conditioned by the system, because to a large extent, it results from the exaggerated role of the state in economic life. In such cases, one of the most effective methods of limiting clientelistic networks is the privatization of the economy.

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<sup>23</sup> Luhmann N. SOCIAL SYSTEMS, Stanford University Press, Stanford, California 1995.

Illustration 6: Types of Clientelism in the Coal Mining Sector



Poland's entry into the European Union presents an opportunity to restructure the coal mining industry. As a member of the Union, Poland will be forced to observe rules pertaining to public assistance for the coal-mining sector. The EU allows for the subsidy of coal for certain defined goals, such as insuring the safety of independent energy supply. It is not unreasonable to expect that EU membership will bring changes to the regulation of the public sphere; and that the ideals of transparency and openness will be introduced while the processes of decision making will be subordinated to meritocratic criteria and not to interests arising from network linkages.

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## Appendices

### Appendix A: Government programs for hard coal industry restructuring

1. „Restrukturyzacja górnictwa węgla kamiennego w Polsce – realizacja pierwszego etapu w 1993 roku w ramach możliwości finansowych państwa.” (1993)
2. „Program powstrzymania upadłości górnictwa węgla kamiennego.” (1993)
3. „Restrukturyzacji górnictwa węgla kamiennego na lata 1994–1995, część II – Program dla realizacji II etapu w okresie 1994–1995” (1993)
4. „Górnictwo węgla kamiennego. Polityka państwa i sektora na lata 1996–2000. Program dostosowania górnictwa węgla kamiennego do warunków gospodarki rynkowej i międzynarodowej konkurencyjności.” (1996)
5. „Reforma górnictwa węgla kamiennego w Polsce w latach 1998–2002.” (1998)
6. „Korekta programu rządowego: Reforma górnictwa węgla kamiennego w Polsce w latach 1998–2002.” (2000)
7. „Restrukturyzacja górnictwa węgla kamiennego w Polsce w latach 2003–2006 z wykorzystaniem ustaw antykryzysowych i zainicjowaniem prywatyzacji niektórych kopalń.” (2002)

### Appendix B: Selected reports from the Highest Chamber of Control (NIK) inspections in the coal mining sector

1. „Informacja o wynikach kontroli restrukturyzacji finansowej i organizacyjnej górnictwa węgla kamiennego w latach 1990–2001” 178/2002/P01/146/LKA
2. „Zagrożenie korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli” DSK/2000
3. „Informacja o wynikach kontroli organizacji zbytu węgla kamiennego w latach 1996–1998” 195/98/97186/LKA
4. „Informacja o wynikach kontroli efektywności zakupów maszyn i urządzeń oraz technologii w górnictwie węgla kamiennego” 236/97/P97/185/LKA
5. „Informacja o wynikach kontroli przyznawania i wykorzystywania dotacji budżetowych dla górnictwa węgla kamiennego” 59/98/P97/066/DGI
6. „Informacja o wynikach kontroli realizacji ustawy Prawo Geologiczne i Górnicze” 200/98/P97/087/DOŚB
7. Wystąpienie pokontrolne: „Wynik kontroli rozpoznawczej przebiegu i efektów procesu oddłużeniowego w Kopalni Węgla Kamiennego „Rozbark“ w Bytomiu, będącej zakładem Bytomskiej Spółki Węglowej S.A, w latach 1993–1995” LKA/R/005/96
8. Wystąpienie pokontrolne: „Wynik kontroli przeprowadzonej w Nadwiślańskiej Spółce Węglowej S.A. w Tychach w zakresie wpływu postępowania oddłużeniowego na sytuację ekonomiczno-finansową Spółki w latach 1993–1996” LKA/41021/19/96

### Appendix C: Selected legal acts concerning coal mining sector

Dz.U.82.2.13 – tekst: rozp. 1981.12.30

Szczególne przywileje dla pracowników górnictwa – Karta górnika.

Dz.U.90.14.89 ustawa 1990.02.24

Likwidacja Wspólnoty Węgla Kamiennego i Wspólnoty Energetyki i Węgla Brunatnego oraz zmiana niektórych ustaw.

Dz.U.90.46.269	rozp.	1990.07.02
Szczególny tryb likwidacji Wspólnoty Węgla Kamiennego oraz Wspólnoty Energetyki i Węgla Brunatnego.		
Dz.U.90.46.270	rozp.	1990.07.02
Powierzenie wykonywania niektórych zadań oraz uprawnień Wspólnoty Węgla Kamiennego oraz Wspólnoty Energetyki i Węgla Brunatnego organom administracji państwowej.		
Dz.U.96.115.551	rozp.	1996.09.23
Szczegółowe zasady i tryb udzielania oraz sposób wykorzystania dotacji przeznaczonych dla górnictwa.		
Dz.U.97.113.735 – tekst	ustawa	1997.08.27
Dz.U.97.160.1081	zmiana	1997.12.29
Restrukturyzacja finansowa jednostek górnictwa węgla kamiennego oraz o wprowadzenie opłaty węglowej.		
Dz.U.98.63.410	rozp.	1998.05.08
Warunki uzyskania uprawnień, sposób obliczania, szczegółowe zasady i tryb wypłacania w 1998 roku osłon socjalnych z tytułu urlopów górniczych, zasiłków socjalnych i jednorazowych wypłat dla zatrudnionych pod ziemią pracowników górnictwa.		
Dz.U.98.63.409	rozp.	1998.05.08
Szczegółowe zasady i tryb udzielania oraz sposób wykorzystania dotacji przeznaczonych dla górnictwa.		
Dz.U.98.162.1112	ustawa	1998.11.26
Dostosowanie górnictwa węgla kamiennego do funkcjonowania w warunkach gospodarki rynkowej oraz szczególne uprawnienia i zadania gmin górniczych.		
Dz.U.99.47.465	rozp.	1999.04.30
Szczegółowe zasady i tryb przyznawania oraz sposób wykorzystania dotacji z budżetu państwa przeznaczonej na finansowanie likwidacji kopalń oraz usuwania szkód wywołanych ruchem zakładu górniczego, powstałych w wyniku reaktywacji starych zrobów, oraz szczegółowe warunki powodujące cofnięcie lub czasowe wstrzymanie wypłaty przyznanej dotacji budżetowej.		
Dz.U.99.52.538	rozp.	1999.04.30
Szczegółowe zasady i tryb przyznawania oraz sposób wykorzystania dotacji przeznaczonych na finansowanie restrukturyzacji zatrudnienia, warunki, zasady i tryb przyznawania, obliczania i wypłacania świadczeń z tytułu uprawnień osłonowych i aktywizujących, wysokość minimalnych świadczeń i zasiłków socjalnych oraz szczegółowe warunki powodujące cofnięcie lub czasowe wstrzymanie wypłaty przyznanej dotacji budżetowej.		
Dz.U.97.106.679 – tekst:	ustawa	1997.08.21
Dz.U.99.49.483	zmiana	1999.07.01
Dz.U.00.26.306	zmiana	2000.03.03
Ograniczeniu prowadzenia działalności gospodarczej przez osoby pełniące funkcje publiczne.		
Dz.U.99.90.1010	rozp.	1999.10.15
Szczegółowe zasady tworzenia i funkcjonowania funduszu likwidacji kopalń, ustalania wysokości odpisów i terminów przekazywania środków na ten fundusz oraz ich wykorzystania.		

Dz.U.99.111.1298	rozp.	1999.12.27
Zmiana rozporządzenia o szczegółowych zasadach i trybie przyznawania oraz sposobie wykorzystania dotacji przeznaczonych na finansowanie restrukturyzacji zatrudnienia, warunkach, zasadach i trybie przyznawania, obliczania i wypłacania świadczeń z tytułu uprawnień osłonowych i aktywizujących, wysokości minimalnych świadczeń i zasiłków socjalnych oraz szczegółowych warunkach powodujących cofnięcie lub czasowe wstrzymanie wypłaty przyznanej dotacji budżetowej.		
Dz.U.97.133.883 – tekst:	ustawa	1997.08.29
Dz.U.00.12.136	zmiana	2000.01.21
Ochrona danych osobowych.		
Dz.U.98.119.773 – tekst:	ustawa	1994.06.10
Dz.U.00.12.136	zmiana	2000.02.23
Zamówienia publiczne.		
Dz.U.00.26.306 – tekst:	ustawa	2000.03.03
Wynagradzanie osób kierujących niektórymi podmiotami prawnymi.		
Dz.U.96.118.561 – tekst:	ustawa	1996.08.30
Dz.U.00.94.1037	ustawa	2000.09.15
Kodeks Spółek Handlowych.		
Dz.U.91.55.234	ustawa	1991.05.23
Dz.U.00.107.1127	zmiana	2000.11.09
Związki zawodowe.		
Dz.U.01.5.41	ustawa art.2; art.3	2000.12.15
Zmiana ustawy o dostosowaniu górnictwa węgla kamiennego do funkcjonowania w warunkach gospodarki rynkowej oraz szczególnych uprawnieniach i zadaniach gmin górniczych.		
Dz.U.94.27.96 – tekst	ustawa	1994.02.04
Dz.U.00.120.1268	zmiana	2000.12.22
Prawo geologiczne i górnictwo.		
Dz.U.01.28.303	rozp.	2001.02.20
Udzielanie pomocy publicznej w sektorze górnictwa węgla.		
Dz.U.03.210.2037	ustawa	2003.11.28
Restrukturyzacja górnictwa węgla kamiennego w latach 2003–2006		







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