

## Work on the Polish Civil Code in Stalinist Period (1948–1956)

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### **Abstract:**

The paper focuses on the course of work on the Polish Civil Code in Stalinist times. Its aim is to indicate the influence of stalinization on the drafts created at that time, mostly on the example of inheritance law. In Poland the Stalinist period started after the political breakthrough in the autumn of 1948 and finished in 1956 with another political breakthrough. The influence of political conditions on legislative proposals followed – with varying strength – the rhythm of breakthroughs and turning points. Ideological pressures were particularly strong in the early 1950s, and the solutions presented at that time constituted a clear victory of the politics over the law, but – as it later turned out – only a temporary victory. The obligatory transplantation of the Soviet standards found the fullest expression in the draft elaborated in 1951 and its later versions of 1954 and 1955. In the course of subsequent work continued after 1956, in the times of political thaw, the restoration of the traditional institutions of the civil law was gradually made possible.

### **Keywords:**

Polish Civil Code; codification; Stalinist period; inheritance law; civil law

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### **Introductory Remarks and Periodization**

The aim of this paper is to present the course of work on the Polish Civil Code in Stalinist times and indicate the influence of stalinization on the legislative proposals, mostly on the example of inheritance law. In Poland the Stalinist period started after the political breakthrough in the autumn of 1948 and finished in 1956 with another political breakthrough. In the course of codification work conducted after the Second World War in the field of the civil law one can indicate the following events:

1. Unification of the civil law (1945–1946)
2. The first draft of the Civil Code (1947–1948)
3. Political breakthrough of 1948
4. Hasty codification work (1950–1951)
5. Constitution of 1952
6. Complementary work (1952–1953)
7. Draft of 1954 and its discussion
8. Further work on the draft and its new version of 1955
9. Political thaw of 1956.

### **Unification of the Civil Law (1945–1946)**

After regaining independence in 1918 the laws of the partitioning countries were still in force on the Polish territories. In case of the civil law there existed 5 different legal systems. The unification work carried out in the interwar period was not successful in the field of the civil law.<sup>1</sup> Despite the huge efforts of the Codification Commission made in 20 years period, only the obligation and commercial law was codified. Immediately after the WWII new communist authorities started to work in order to introduce unified civil law in all Polish territories. Unification action was conducted by the Ministry of Justice in the period of 1945–1946 and its most important achievement was issuing 10 decrees unifying civil law:

- Personal Law of 1945
- Matrimonial Personal Law of 1945
- Civil Status Registration Law of 1945
- Family Law of 1946
- Guardianship Law of 1946
- Matrimonial Property Law of 1946
- Inheritance Law of 1946
- Property Law of 1946
- Land Registers Act of 1946
- General Provisions of the Civil Law of 1946

All these acts were prepared in less than two years. The achievement of such an impressive pace was possible primarily thanks to the drafts of the interwar Codification Commission. What is important, these interwar drafts were based on the classical solutions of the civil law derived from the laws previously binding in Poland (*BGB*, *ABGB*, Napoleonic Code). For this reasons, the classical legal standards, rising from the European legal tradition, could still exist in the first years of the new, socialist system.

### **The First Draft of the Civil Code (1947–1948) and the Political Breakthrough of 1948**

The unification action was proclaimed a great success and called the “revolutionary deed of Polish jurists”. The use of the drafts of the interwar Codification Commission was passed

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<sup>1</sup> See more: MOSZYŃSKA, A. Polen: Codification of the civil law in Interwar Poland. In: LÖHNIG, M. – WAGNER, S. (ed.). „Nichtgeborene Kinder des Liberalismus“? Zivilgesetzgebung im Mitteleuropa der Zwischenkriegszeit. Tübingen: Mohr Siebeck, 2018, pp. 149–194.

over in silence. Immediately after finishing the unification, the authorities wanted to move on to the next step – combining all decrees into one act – the first Polish Civil Code.

On 18 February 1947 the Minister of Justice appointed the Commission to develop a uniform Polish Civil Code. In less than 2 years, this Commission managed to draft all 5 books of the Civil Code (four of them were published).<sup>2</sup> In autumn 1948, however, the political breakthrough took place, and further codification work were stopped at the beginning of the next year.

This upheaval initiated a drastic change in the political course, the remains of the democratic system still preserved in some spheres were rejected and all the domains of public life were subordinated to rapid Stalinization. This political breakthrough also determined the fate of the codification of the civil law. The civil law was assigned an active role in the construction of the socialist system, which meant the necessity to shape its solutions according to the Soviet pattern. These conditions were not met by the draft from 1947–1948, implementing traditional legal concepts. Therefore, the work on the act consolidating the unification decrees was discontinued, at the same time efforts undertaken during this first attempt to codify civil law in the post-war Poland were destroyed.

### **Hasty Codification Work (1950–1951)**

Until recently we didn't know much about codification work conducted in the period 1950–1954. These years remained *terra incognita* not only in legal history literature. The then-living eminent jurists also passed over in silence this five-year period, as well as the main participants of the codification work.<sup>3</sup> Filling this knowledge gap proved possible thanks to the research conducted by the author in the Archives of the Ministry of Justice (Archive of New Files in Warsaw).<sup>4</sup>

The next wave of codification activities began in September 1950. The Presidium of the Government issued a resolution proclaiming the codification of the civil and criminal law as an “urgent and necessary” matter. In the same document the Minister of Justice was obliged to prepare a draft of the Civil Code in only 11 months. What is very important, the

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<sup>2</sup> It was widely pointed out that this first codification was supposed to be only of technical nature, combining unification decrees in one act.

<sup>3</sup> SZER, S. *Prawo spadkowe (Inheritance Law)*. Warszawa: Państwowe Wydawnictwo Naukowe = PWN, 1955, p. 14; WASILKOWSKI, J. Fragmenty sprawozdania w Sejmowej Komisji Wymiaru Sprawiedliwości (Excerpts from the report at the Justice Commission of the Parliament). *Państwo i Prawo*, 1959, No. 1, pp. 67–68; idem. Dyskusja nad projektami Komisji Kodyfikacyjnej (Discussion on the Codification Commission drafts). *Prawo i Życie*, 1960, No. 4, p. 1; idem. Zagadnienia kodyfikacji polskiego prawa cywilnego (Issues of the codification of Polish civil law). *Nowe Drogi*, 1960, No. 11, p. 29; WASILKOWSKI, J. – WOLTER, A. Projekt kodeksu cywilnego /charakterystyka ogólna/ (Draft Civil Code / general characteristics/). *Nowe Prawo*, 1961, No. 12, pp. 1509–1510; GWIAZDOMORSKI, J. *Prawo spadkowe w zarysie (Inheritance law. An overview)*. Warszawa: PWN, 1967, p. 22; CZACHÓRSKI, W. Przebieg prac nad kodyfikacją prawa cywilnego PRL (The course of work on the codification of the civil law in the People's Republic of Poland). *Studia Prawnicze*, 1970, No. 26–27, p. 8.

<sup>4</sup> The detailed results of this research was previously published in two articles: MOSZYŃSKA, A. Prace nad kodyfikacją majątkowego prawa cywilnego w latach 1950–52 (Work on the codification of the property civil law in the years 1950–52). *Miscelanea Historico-Iuridica*, 2015, Vol. XIV, No. 2, pp. 165–180; eadem. Prawo spadkowe w nieznanym projekcie kodeksu cywilnego (Law of succession in the unknown draft of the Civil Code). *Z Dziejów Prawa*, 2017, Vol. 10, pp. 163–180.

concept of the codification work has completely changed.<sup>5</sup> This new code was supposed to constitute a breakthrough in the development of Polish legal science, “directing it decisively to Marxist tracks”.<sup>6</sup>

The codification work in 1950 has to be started from the beginning, because of the indicated reasons, its basis could not become the first draft of the Civil Code prepared in the years 1947–1948, as it remained faithful to classical, Western European legal standards.

This new wave of codification activities, started in autumn of 1950, did not include the newly enacted family law and general provisions of the civil law.<sup>7</sup> The efforts focus on other parts of the civil law: rights *in rem*, obligation and inheritance law – collectively named as “property civil law”. This common terminology had to emphasize the separation of these provisions from personal relations regulated in family law.

Characterizing generally the codification work carried out in the period 1950–1951, one can point out two main features. First of all, the work was accompanied by constant pressure of time. As already indicated, the Minister of Justice was obliged to prepare a draft of the Civil Code in just 11 months and as archival materials proved this – seemingly unfeasible – deadline was met.<sup>8</sup> What’s more, archival materials reveal that the idea of hasty codification, was the notion of the Minister himself, who, afraid of losing his position, was determined to deliver a concrete results of the Department governed by him.

Secondly, the aim of the codification work was a thorough reconstruction of the civil law according to the Soviet pattern.

### ***1. The Preliminary Theses***

The first stage of the codification work was the preparation of the **preliminary theses** for particular books of the future code: property law, obligation law and inheritance law. The influence of the sharpening political climate is clearly visible on the example of proposals regarding inheritance law.

The first version of the theses to the succession law was a clear testimony to the full development of the Stalinist era in Poland. The author of the theses was Seweryn Szer – professor of the civil law, committed supporter of the Marxist ideology (in fact he was the only participant during the whole codification work consistently defending constructions referring to Marxist ideology). At the same time he was an employee of the Ministry of Justice as the Deputy Director of the Legislative Department (the unit responsible for codification) and the Head of the Civil Law Division located in this Department.

<sup>5</sup> GRODZISKI, S. Prace nad kodyfikacją i unifikacją polskiego prawa prywatnego /1919–1947/ (Work on the codification and unification of Polish private law /1919–1947/). *Kwartalnik Prawa Prywatnego*, 1992, No. 1–4, p. 28; idem. Z dziejów unifikacji polskiego prawa cywilnego (The history of unification of Polish civil law). *Czasopismo Prawno-Historyczne*, 1985, No. 2, p. 299.

<sup>6</sup> Memorial of the Minister of Justice of 12 September 1951 to the Presidium of the Government. Archiwum Akt Nowych (New Acts Archive), collection No. 285 – Ministry of Justice in Warsaw, file signature 2388, page 45 (further quoted as: AAN 285, Vol. 2388, p. 45).

<sup>7</sup> Family Code was adopted on 27 June 1950 (Dziennik Ustaw /Journal of Laws of the Republic of Poland/, abbreviated „Dz. U.”, No 34, Issue 308), and the general provisions of the civil law were adopted on 18 July of the same year (Dz. U. No. 34, Issue 311). On the course of work on Family Code, see more: FIEDORCZYK, P. *Unifikacja i kodyfikacja prawa rodzinnego w Polsce /1945–1964/ (The Unification and codification of family law in Poland /1945–1964/*. Białystok: Wydawnictwo Uniwersytetu w Białymstoku, 2014, pp. 145–282.

<sup>8</sup> MOSZYŃSKA, Prace nad kodyfikacją, p. 177; eadem, Prawo spadkowe w nieznanym projekcie, p. 179.

These theses – as Seweryn Szer pointed out – were supposed to be a “compass excluding political errors”.<sup>9</sup> Therefore, they presented what – in the new political reality – was accepted and what was not. The changes that took place in this respect in just two years were tremendous.

The theses were preceded by an introduction in which on 12 pages he cited the views of Marxist classics on the succession issues, and then discussed in detail the evolution of Russian inheritance law.<sup>10</sup> The aim of that long presentation was to justify drastic changes according to the Soviet standards.

The **first thesis** concerned the circle of statutory heirs and almost literally repeated the then binding Soviet solutions (the decree of the USSR Supreme Council Presidium of 14 March 1945 on statutory and testamentary heirs). It proposed to introduce three groups of persons entitled to intestate succession. What is most important, the circle of statutory heirs was narrowed, excluding from inheritance not only further descendants of siblings, but even their children.

The **second thesis** – which was also a copy of a Soviet solutions – drastically limited the freedom of testation.<sup>11</sup> The testator was able to appoint in the will only persons belonging to the circle of statutory heirs.<sup>12</sup> This regulation was particularly severe in situations where as a result of the war many people lost their closest family and did not have statutory heirs at all. The state, cooperative or social organizations could also inherit on the base of a will.<sup>13</sup>

The **third thesis**, introduced a reserve system, however this name was not used explicitly. The proposal to introduce a reserve system was modelled on Soviet and Bulgarian law. The compulsory share amounted a half of the statutory inheritance share, however the compulsory share of minor descendants or those incapable of work was equal to their full statutory share.<sup>14</sup> In this way the testator was deprived of the possibility of disposing most of his property in defiance of the rights of compulsory heirs.

According to the **fourth thesis**, in the absence of relatives, the estate was acquired by the state, however, not as the last statutory heir, but as an estate without a claimant.<sup>15</sup> Seweryn Szer explained that the idea of the state as a last statutory heir was modelled on the bourgeois

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<sup>9</sup> Minutes of the meeting of the Civil Law Codification Commission of 28 February 1951. AAN 285, Vol. 2383, p. 43.

<sup>10</sup> SZER, S. *Tezy wstępne referatu w sprawie kodyfikacji prawa spadkowego (Preliminary theses of the paper on the codification of inheritance law)*. AAN 285, Vol. 2384, pp. 61–72.

<sup>11</sup> The decree of the USSR Supreme Council Presidium of 14 March 1945 on statutory and testamentary heirs contained identical solutions (cf. AAN 285, Vol. 2384, p. 72).

<sup>12</sup> SZER, S. *Projekt Kodeksu Cywilnego. Księga czwarta. Prawo spadkowe. Tezy wstępne (Draft Civil Code. Book Four. Inheritance law. Preliminary theses)*. AAN 285, Vol. 2384, p. 148.

<sup>13</sup> The initial version of the theses stated that in the absence of statutory heirs, the testator could (freely) appoint a testamentary heir at his discretion. At the meeting of the Codification Commission, however, this provision was removed. In effect a testator who did not have statutory heirs at all could not appoint any natural person in his will. He could appoint only state, cooperative or social organizations. In case he did not draw up a will, his assets were acquired by the state.

<sup>14</sup> SZER, *Projekt Kodeksu Cywilnego*, pp. 148–149. The idea to introduce a reserve system was modelled on Soviet and Bulgarian law (SZER, S. *Z zagadnień kodyfikacji prawa spadkowego. Państwo i Prawo*, 1951, No. 5–6, p. 924).

<sup>15</sup> SZER, *Projekt Kodeksu Cywilnego*, p. 149. The rule that estate without a claimant was acquired (but not inherited) by the state was provided by Soviet, Bulgarian and Czechoslovakian law (SZER, *Z zagadnień kodyfikacji*, p. 923).

laws. Such a “civilistic” approach to inheritance rights could not be maintained in the new political order, in which the state acted simultaneously as authority and property owner.<sup>16</sup>

The **fifth thesis** modelled – like the previous ones – on Soviet law,<sup>17</sup> introduced the principle that the heir was responsible for inheritance debts only up to the value of the inherited estate.<sup>18</sup> What is most important, the heir was not obliged to compile an inventory of the estate, but if he made it, it was presumed that the inventory covered all estate assets. The proof to the contrary burdened the creditor, thus liability for debts was limited in the way significantly harming the interests of the creditors.

All five theses concerning the most important institutions of inheritance law were strictly shaped on the basis of Soviet law of 1945. The freedom to dispose of the property was severely restricted – both in *inter vivos* and *mortis causa* dispositions – giving priority to rights of the necessary heirs protected by reserve system and compulsory share. The testamentary succession was generally devoid of any meaning – the testator could transfer his property only to persons who belonged to the circle of the statutory heirs, which was significantly narrowed. In the absence of the closest family, the estate was acquired by the state.

The theses were then discussed at the meeting of the Codification Commission of the Civil Law held on 22 March 1951. Seweryn Szer, presenting his theses, compared each of them with the latest regulations in other countries of people’s democracy (Czechoslovakia and Bulgaria), and – above all – with the Soviet law.<sup>19</sup>

The discussion at the Codification Commission meeting was a fundamental contrast between the earlier debate on the first draft of the Civil Code. In the years 1947–1948, the members of the Commission discussed the proposed solutions in detail and for a long time. Two years later, the discussion was only colourable or concerned issues of the secondary importance. As far as the inheritance law draft was concerned, only one member of the Commission – judge Maurycy Grudziński – dared to oppose the drastic restrictions on the freedom of testation. Significant tightening of the circle of statutory heirs and introduction of the reserve system, however, took place without any objection. The traditional institutions of inheritance law have been eliminated or significantly restricted without any major protest. During the discussion held in 1948, the members of the Commission often referred to Western European standards; two years later these standards could not have been even mentioned, except in the form of criticism. Now it was only one accepted way that legal system could follow.

## **2. Further Work**

On the basis of the resolutions of the Codification Commission, the drafts of the particular books of the Civil Code were prepared and subjected to consultations in 1951. However, neither the political climate of that time nor the short period defined for the debate served a proper exchange of views. The drafts were not published, they were only sent to selected persons so it is hard to call it a public discussion. First of all, ministries and central offices

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<sup>16</sup> SZER, *Projekt Kodeksu Cywilnego*, p. 155; idem. *Tezy wstępne referatu*, pp. 77–78.

<sup>17</sup> BIAŁOSTOCKI, S. – WIERZBOWSKI, E. Radzieckie prawo spadkowe (Soviet inheritance law). *Palestra*, 1959, No. 10, p. 69.

<sup>18</sup> SZER, *Projekt Kodeksu Cywilnego*, p. 149.

<sup>19</sup> Minutes of the conference of the Civil Law Codification Commission of 22 March 1951. AAN 285, Vol. 2384, p. 250.

were invited to submit comments. Jurists and selected research workers were also asked to submit observations. The debate also took place in the columns of the journals, but indeed it was not a real discussion, while it was limited to the propagation of an official approach to codification issues by the employees of the Ministry of Justice.

During the consultations, it was postulated to restore the freedom of testation and to extend the circle of intestate successors. However, the final version of the draft, elaborated in the autumn of 1951, took into account the comments on technical issues, but not of a fundamental importance. The circle of statutory heirs, not including the descendants of siblings, remained unchanged. The reserve system was maintained, although under the old name “Legitime”. The testator was deprived of the possibility of disposing most of his property in defiance of the rights of compulsory heirs. Liability for debts was limited to the amount of the inheritance, what significantly harmed the interests of the creditors. Only due to ministerial arrangements, the narrow limits of freedom of testation was slightly widened.

In less than a year, the employees and collaborators of the Ministry of Justice managed to prepare the Draft Civil Code which thoroughly reformed the then-binding regulations according to the Soviet model. On 1 September 1951, the Draft Civil Code with rationale was submitted to the Presidium of the Government. However, the works carried out at a frantic pace were at that point almost completely stopped, because the authorities were waiting for the adoption of a new constitution, which would give a direction to all further legislation.

### **Constitution of 1952**

The so-called “Stalinist Constitution” was adopted on 22 July 1952. In fact, Comrade Stalin was the co-author of this most important act of People’s Republic of Poland. The norms of the constitution were quite general and left much freedom in shaping not only detailed solutions, but even the basic rules of civil law. The most important for the future regulation of civil law was that the constitution diversified the uniform concept of ownership, introducing its various types and forms.<sup>20</sup> Complicated system of particular types of property aroused numerous doubts and controversies, being unclear to legal theoreticians and practitioners.<sup>21</sup> The constitution first distinguished social property (including state and cooperative ownership), secondly, individual property (divided into capitalist and small-scale production property, depending on whether the owner based production on his personal work or wage labour) and thirdly, the so-called personal property. The constitution granted different protection to each of these types of property.

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<sup>20</sup> On the subject of property law in the Constitution of the Polish People’s Republic, see more: MACHNIKOWSKA, A. *Prawo własności w Polsce w latach 1944–1981. Studium historycznoprawne (Property law in Poland in the years 1944–1981. Historical and legal study)*. Gdańsk: Wydawnictwo Uniwersytetu Gdańskiego, 2010, pp. 295–312.

<sup>21</sup> Cf. inter alia: Polska Akademia Nauk. Komitet Nauk Prawnych. *Zagadnienia prawne Konstytucji Polskiej Rzeczypospolitej Ludowej. Materiały Sesji Naukowej PAN 4–9 lipca 1953 r. (Legal issues of the Constitution of the Polish People’s Republic. Materials of the Scientific Session of the Polish Academy of Sciences 4–9 July 1953)*. Vol I. Warszawa: PWN, 1954, pp. 76–77; Vol. III. Warszawa: PWN, 1954, pp. 37–38.



## Draft of 1954 and its Discussion

The enactment of the new constitution, started the slow, sluggish procedures – lasting almost three years – which aim was to adapt the Draft Civil Code to the provisions of the constitution. They were concentrated primarily in a special committee appointed by the Communist Party, which carried out ideological verification of the draft, and later in the Ministry of Justice. However, the intensity of these efforts could not be compared to the hasty codification carried out in 1950 and 1951, and what is more important, these efforts finally did not lead to significant modifications of the draft.

The draft finally developed in 1954 was divided into 4 books. The first contained provisions relevant to all civil law relations (general provisions). The second book regulated ownership and other rights *in rem*, the third contained the law of obligations, and the fourth the inheritance law. Following the Soviet example, provisions on the family law have been regulated outside the proposed Civil Code.<sup>22</sup>

Among the general provisions, one of the guiding rules was the principle of the prohibition of abuse of rights – in accordance with art. 2 no one could use his rights in a way that violated the principles of social coexistence. In the field of property law, the draft copied a complicated system of various types and forms of ownership from the constitution. The book on the obligation law regulated relations both between natural persons, between social economy entities and between social economy entities and natural persons. The issue of regulating all these types of relations in one code raised many doubts.<sup>23</sup> In the area of inheritance law, the most important changes, introduced after the enactment of the new constitution, concerned the re-restriction of the already narrow limits of freedom of testation. This freedom in the new political order was considered an arbitrary and excessive abuse of the private property rules. A significant novelty were the rules regarding the inheritance of shares in agricultural production cooperatives.

The draft with rationale was published in 1954 in order to subject it to a broad discussion. The debate held in the second half of 1954 on the Draft Civil Code covered not only the authorities, but above all a large group of legal theoreticians and practitioners. Almost all legal centres were included in the consultations: universities, the Association of Polish Lawyers, judicial authorities, legal journals. The central point of the discussion was the scientific session organized in December 1954 jointly by the Polish Academy of Sciences (Committee for Legal Sciences) and the Ministry of Justice.

The Draft Civil Code gained a definitely negative opinion of the researchers and practitioners gathered at the session. In the discussion the numerous defects of the draft were pointed out. These defects resulted primarily from the clear copying of the Soviet model, which was completely foreign to the Polish legal tradition. In the area of inheritance law, the limitation of statutory heirs and limitation of the freedom of testation were widely criticized.

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<sup>22</sup> In the Family Code of 1950 (see more: FIEDORCZYK, *Unifikacja i kodyfikacja*, pp. 145–282).

<sup>23</sup> On similar discussion in Czechoslovakia see more: SKŘEJPKOVÁ, P. Entwicklung des Tschechoslowakischen Handels- und Wirtschaftsrechts nach 1945. In: MOHNHAUPT, H. – SCHÖNFELDT, H. A. (ed.). *Normdurchsetzung in osteuropäischen Nachkriegsgesellschaften (1944–1989). Einführung in die Rechtsentwicklung mit Quellendokumentation*. Band 4. Tschechoslowakei (1944–1989). Frankfurt am Main: Vittorio Klostermann, 1998, pp. 211–212.



### **New Version of the Draft from 1955 and the Political Thaw of 1956**

All the comments formulated in the discussion were gathered and analysed in the Ministry of Justice. Then another ideological consultations were conducted and finally another version of the Draft Civil Code was elaborated. This new version was published at the end of 1955 with a subtitle stating that the text of the draft was “elaborated as a result of a nationwide discussion”. In fact, the postulates from the public debate were only partially taken into account, first of all reservations of a secondary or purely technical nature were complied, while the key issues were subjected only to minor modifications.

The result of the described work was another draft of the Civil Code, adapted to the requirements of the constitution, subjected not only to political arrangements, but also thoroughly discussed in legal circles. The Minister of Justice was preparing to submit the draft to the parliament – according to his plan, the code could be briefly discussed in the parliament and adopted already in October 1956. Work on the completed draft, however, was again interrupted by the political breakthrough, which took place exactly in October 1956.

### **Conclusions**

The influence of political conditions on legislative proposals followed – with varying strength – the rhythm of breakthroughs and turning points. Ideological pressures were particularly strong in the early 1950s, and the solutions presented at that time constituted a clear victory of the politics over the law, but – as it later turned out – only a temporary victory. The obligatory transplantation of the Soviet standards found the fullest expression in the theses elaborated in 1951, as well as in the draft from the same year and its later versions of 1954 and 1955. In the course of subsequent work continued after 1956, in the times of political thaw, the restoration of the traditional institutions of the civil law was gradually made possible. The Polish Civil Code, finally enacted in 1964, remained faithful to the classical concept of the civil law as it derived its structure and most institutions from the great Western European codifications.