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**NEW STATE, NEW LAW?
AN UNKNOWN DRAFT OF THE POLISH
LABOUR CODE FROM 1949**

1. The state, as it is currently understood, comes from the Greek polis. The word, depending on the context, is translated into “city” or “state”. The state, for entire centuries in Greece, was nearly synonymous with polis. The classical era seems to be the most interesting, during which the polis becomes the foremost center around which the life of the era is organized.¹ In its mature form the polis is viewed as an independent community of citizens who govern themselves without forming state structures separated from the community (lack of political representation).² This community inhabited a specific area (usually consisting of an urban center and neighbouring rural areas), was connected by language, religious cults it fostered and moral values it professed. It was a place where a person was seen through the prism of the quality of his citizenship and his political activity. The Greek polis was not a flawless state. However, some ideals which guided and formed the nation’s character can also become useful today. This article is an attempt to present these values using as an example a certain state and its law.

2. The territorial shape of the Polish state reborn after the Second World War and the ruling authority actually did not depend on Polish military input. Poland, despite the fact that it took an active part in the coalition against Hitler, could not exercise the right of self-determination of nations. Therefore, the statement that the Polish citizens were actually stripped of their right to form their own polis would not be groundless. In view of the facts presented further it would be difficult to ascertain that

¹ W. Jaeger, *Paideia*, Warszawa 2001, p. 14–141.

² B. Bravo, E. Wipszycka, *Historia starożytnych Greków*, vol. 1, Warszawa 1988, p. 133–134.

the post-war Polish state was really an independent community of citizens who governed themselves. Great powers, especially the Soviet Union, were the ones who decided about the borders and the government of the nation. The entering of the Polish territory by the Soviet Army along with the 1st Polish Army, in order to liberate it from German occupation, allowed Stalin to impose on the Polish people political leadership which was not in accordance with the will of the majority. On the 21st of July of 1944 the Polish National Liberation Committee (PKWN) was formed in Moscow, de facto performing the role of a government subordinate to the Soviet Union.³ Ignoring the role of the Polish government in London and the underground structures functioning within the Polish territory and subordinate to that government Stalin, in a telegram sent to W. Churchill, pointed out that the formation of PKWN was necessary since no other powers which could create Polish government in the liberated territories existed.⁴ The Soviet government in an agreement with PKWN on the 26th of July 1944 recognized PKWN as an only agent empowered to create state structures within Polish territories, completely denying this right to the London government. In December of 1944 PKWN was transformed by the Soviet authority into an Interim Government of the Republic of Poland and in June of 1945 the Interim Government of the National Unity in turn took its place. This government was shortly accepted on the international arena as the legal authority in Poland.

Territorial shape was similarly forced onto Poland. The allied powers, along with the growth of military significance of the Soviet Union, were inclined to accept the ethnic criteria as a basis to establish the future Polish-Soviet border.⁵ During subsequent conferences of the heads of the great powers (the Soviet Union, Great Britain and the USA) it was agreed that the eastern border will run along the Curzon line, which meant stripping Poland of such pre-war voivodships as for example Wilno, Nowogrodek, Tarnopol, Stanislawow, and Lwow. At the same time the western border was to be moved to the Oder River and the Baltic Sea, including Gdansk and the southern part of Eastern Prussia.⁶ Thanks to this Stalin was planning to further extend his sphere of influence.⁷ As an answer to these decisions,

³ P. Wiczorkiewicz, *Historia polityczna Polski 1935–1945*, Warszawa 2006, p. 381.

⁴ J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju i prawa polskiego*, Warszawa 1996, p. 623.

⁵ M. Kallas, A. Lityński, *Historia ustroju i prawa Polski Ludowej*, Warszawa 2000, p. 18–19.

⁶ J. Bardach, B. Leśnodorski, M. Pietrzak, as above, p. 633.

⁷ P. Wiczorkiewicz, *Historia...*, op. cit., p. 461.

made without the knowledge of the legal authority of the Republic of Poland, the Polish government in London stated that “the Polish people see the stripping away from eastern Poland half of its territory as a new partitioning of Poland.”⁸

3. The new political power which took over governing Poland wanted its activities to be seen as legitimate. The appearance of legitimacy was to be kept by upholding the continuance of the legal order from the Second Polish Republic. This legitimizing power of tradition was long ago noticed by Max Weber. It seems obvious that there exist many connections between tradition and authority. It has been noticed that no nation has ever reached a condition which would allow it to ignore referring to the past as a source of legitimacy.⁹ It has been discovered that controlling the reference of the populace to time is not only a source of authority but also one of more important ways of its execution. Furthermore, there is no doubt that exercising authority relies upon manipulating values, which can also be applied in the political exploitation of law.

The partial and selective continuation of the between-war law resulted from the PKWN manifesto from the 22nd of July 1944.¹⁰ Only thing negated by this document was the legality of the April Constitution but basically any other legal documents, dated before September 1939, were not questioned. The change of authority in Poland was supposed to look like an evolution not a revolution.¹¹ The new authority wanted to keep up this appearance at least until the 1947 elections. At that time, however, the legal status had been in a certain way defined through the partially preserved pre-war solutions and new legislative acts inspired by the authorities’ vision. Thus it seemed unnecessary to completely discard the solutions from the Second Polish Republic period.

The formal continuity of law, at least in the beginning stages of the People’s Republic of Poland, was ensured especially in civil law and labour law. However, regarding criminal law, despite the formal preservation of pre-war regulations, new legislative acts were issued which not only unified but also altered the pre-war laws. Moreover, right from the beginning of the existence of the People’s Republic of Poland, all military law of the Second

⁸ M. Kallas, A. Lityński, as above, p. 19.

⁹ B. Szacka, *Polis i pamięć zbiorowa* [in:] *Filozof w polis*, ed. M. Kowalska, Białystok 2004, p. 76.

¹⁰ A. Lityński, *O prawie i sądach początków Polski Ludowej*, Białystok 1999, p. 11.

¹¹ *Ibid.*, p. 269.

Republic of Poland was derogated.¹² In its place a penal military law was created, saturated with Soviet standards and solutions, all of which later on appeared also in common law.¹³

The law which was in force in the People's Republic of Poland had two main goals to meet: support the regime and combat political opposition. This role was especially obvious in criminal law. Adaptation of legislative acts to the new political situation was visible in the decrees issued between 1944 and 1946 which intensified legal responsibility for acts directed against the state. The legal basis of these repressions was, among others, the PKWN decree from the 31st of August 1944, dealing with penalties for Nazi war criminals found guilty of murder and abuse of civilian population and prisoners, and for traitors of the Polish people,¹⁴ which, despite the fact that it only established penal responsibility against only one occupier, in practice was used to sentence soldiers of the National Army and civilian activists of the Underground Polish Nation.¹⁵

In civil law, after the unification which occurred during 1945-46, the Minister of Justice in 1947 called into existence a commission which was to design a draft of a uniform civil code.¹⁶ The commission worked until 1948 at which time the authorities decided that the created "draft, was in style of a modern bourgeoisie code", which canceled any further work of the commission.

4. During the Second Polish Republic there existed numerous legal acts on a high legislative level dealing with labour law. In connection to this after World War II work was undertaken to, foremost, unify existing regulations. This task was taken on by a commission created in April of 1947 by the Labour Department of the Labour Ministry and Social Welfare.¹⁷ The first meeting of the commission took place on July 1st of 1947.¹⁸ Work to compile labour law regulations continued until September of that year. As a result of these meetings the content and layout of labour law was es-

¹² Ibid, p. 24.

¹³ Ibid, p. 18.

¹⁴ Dz. U. No 4, pos. 16.

¹⁵ M. Kallas, A. Lityński, *Historia...*, op. cit., p. 295–296.

¹⁶ P. Fiedorczyk, *O początkach prac nad kodyfikacją prawa cywilnego w 1947 r.*, "Miscellanea Historico-Iuridica" 2006, vol. IV, p. 109–110.

¹⁷ New Act Archives, Justice Ministry, 3500, k. 29.

¹⁸ *Report from 20.09.1947 on the progress of the commission gathering labour law regulations between 1 July and 20 September of 1947*, AAN, Min. of Labour and Social Welfare, 837, k. 1.

tablished, materials dealing with all the basic sections of labour law were compiled, and a number of technical and executive tasks were performed. Initiating the work on creating a unified labour code was the next stage of the task. On the 26th of May, 1948 by order of the Minister of Labour and Social Welfare, a Commission for the Codification of Labour Law was called into existence.¹⁹ It operated under the Labour and Social Welfare Ministry. The first meeting of the Commission took place shortly thereafter (June 1st 1948).²⁰ Doubts, starting right at the beginning of the Commission's meetings, were caused because of the inability to solve a very basic issue, the subject matter of the labour code. During discussion the contended issues turned out to be, for example, regulation by the code of public employees, cottage industry, worker cooperatives and vocational teaching contracts. Soviet solutions surfaced during these disputes.

The Commission's work resulted in the preparation of the labour code draft of 1949.²¹ It seems that it was never published.²² The labour code draft included the following chapters:²³

1. Preliminary regulations (labour code entity scope, concepts of employer, employee, the workplace, workplace manager);
2. The responsibilities of employers and employees;
3. Employment contract;
4. Remuneration for work;
5. Work regulations;
6. Work safety and hygiene;
7. Labour inspection;
8. Time of work;
9. Women labour protection;
10. Teen labour protection;
11. Introductory regulations (repealing and transitional regulations).

This article, brief out of necessity, will be limited to present the most important regulations of the labour code, ones which safeguarded the interests of the workers. Granting numerous guarantees in favor of the workers

¹⁹ *Decree No 60/48 of the Minister of Labour and Social Welfare from 26 May 1948 for the creation of the Commission for the Codification of Labour Law*, AAN, Min. of Labour and Social Welfare, 838, k. 2.

²⁰ First Minutes of the meeting of the Commission for the Codification of Labour Law from 1 June 1948, AAN, Min. of Labour and Social Welfare, 839, k. 8–10.

²¹ *Labour Code Draft*, AAN, Min. of Labour and Social Welfare, 841, k. 1–80.

²² Among others this thesis can be confirmed through the confidentiality clause covering the project. See *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 26.

²³ The sequence of the chapters presented is in accordance of their sequence in the draft.

was one of the main ways of changing labour law after the Second World War. In this manner it diverged from regulations introduced by Sanation during the economic crisis of 1932 and 33. This amendment especially concerned the expansion of regulations dealing with work safety and hygiene, vacation law, time of work, and the protection of women. As part of detailed deliberations we will attempt to ascertain how much the regulations of the labour law draft retained the legal status in effect at the beginning of the post-war period.²⁴

The protective function of the labour code was ensured by regulations relating to labour protection. A significant act in this domain was the decree issued in 1946²⁵ specifying the basic requirements of labour safety and hygiene included in the decree from 1928.²⁶ The 1949 the labour code draft also anticipated a separate chapter devoted to labour safety and hygiene. Most of the decisions which were included in this contained a referral to the ordinance of the Council of Ministers.²⁷ This especially concerned the introduction of prohibitions of production, of sale and distribution, of storing and importing from abroad of certain substances, especially those dangerous to life and health of workers (art. 7); establishing of rules concerning the organization of first aid in the event of a sudden illness or an accident during work (art. 8); or defining the behaviour and the responsibly of workers during work, aimed at protecting their lives and health (art. 9). Therefore the basic rules assuring the protection of life and health of workers were set within the draft. These addressed the environment in which the workers laboured. Article 2 of the draft expected that the machines and technical devices should be constructed in such a way as to provide the workers with safe and hygienic working conditions and especially to possess appropriate shielding and safeguards. The conditions of the premises where the workers are to work were detailed to an extraordinary degree. According to article 3

²⁴ Beyond discussion is the regulation of the labour code draft regarding the protection of the so called endurance of workers loyalty. Detailed analysis of these regulations can be found in: A. Giedrewicz-Niewińska, *Podstawy nawiązania stosunku pracy w projekcie kodeksu pracy z 1949 r.*, [in:] *O prawie i jego dziejach księgi dwie*, ed. M. Mikołajczyk, Białystok–Katowice 2010, p. 485–496.

²⁵ A decree of the Ministers of Labour and Social Welfare, Health, Industry, Rebuilding, Public Administration and Reclaimed Lands issued in agreement with Ministers of National Defense, Treasury, Justice, Education, Agriculture and Agricultural Reform, Communication, Post and Telegraph, Forestry and Food Supply and Trade from 6 Nov. 1946 regarding general regulations dealing with labour safety and hygiene, Dz. U. No 62, pos. 344.

²⁶ A Decree of the President of the Republic of Poland from 16 May 1928 regarding labour safety and hygiene, Dz. U. No 35, pos. 325.

²⁷ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 47–48.

of the draft, these premises, depending on the type of production, type of plant and number of workers, should be large enough, well ventilated, cleanly maintained, adequately lit and heated and should have appropriate devices to remove dust, gases, harmful vapours and waste created during production. Facilities which were to ensure the workers with healthy living conditions while at work, such as eating rooms, changing rooms, washing rooms and lavatories should fulfill workplace hygiene requirements; in facilities where more than 5 women are employed there should exist separate lavatories, changing rooms and bathing rooms for them and in places with over 100 women – bathing facilities (art. 4). Also stressed within the draft was that the living quarters of the workers attached to production facilities should fulfill hygiene requirements as well (art. 5).

A separate chapter was devoted to the prevention of occupational diseases and their elimination.²⁸ These regulations had their counterparts in the decree from 1927.²⁹ According to the definition included in the labour code draft, occupational diseases were those diseases which were acute or chronic and which occurred as a result of practicing a certain occupation, given work or the conditions under which it is performed. Lists of these illnesses and the sanitary and hygiene rules which had the task of preventing and eliminating these occupational diseases were to be established in separate acts. The remaining chapter resolutions were devoted to procedure of conduct in the event of the discovery of occupational diseases which were subject to mandatory reporting. The illnesses listed were subject to mandatory reporting by the following entities: a) a physician who examined the patient and diagnosed or suspected the disease, b) the physician examining the body or performing the autopsy regardless of whether the given disease was diagnosed during the life of the patient, c) a veterinarian who during the performance of his duties obtained information regarding people who became infected with a reportable disease (art. 4 and 5). The report was received by, according to art. 6 of the draft, district (municipal) general administrative authority and the district labour inspector. The entities listed conducted an investigation aimed at establishing the recognition of the disease and its origin, this particularly involved ordering the examination of the patient and his coworkers, an inspection of the place where the occupational disease accident had place and, if necessary, the inspection of

²⁸ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 49–52.

²⁹ Decree of the President of the Republic of Poland from 22 Oct. 1927 regarding occupational disease prevention and elimination, Dz. U. No 78, pos. 676.

the bodies of the victims of occupational disease (art. 7). The investigation concluded with the issuance of an appropriate decree whose aim was to eliminate the causes of the occupational disease. Additionally, the labour code draft provided for further protection for workers employed in jobs subject to occupational poisoning which consisted of moving these workers to different jobs until they were completely healed. Subsequently, in such an event, article 10 of statute 1 guaranteed the receipt of salary no lower than the current one, the average taken from preceding three months. Similar protection was extended to workers already affected by occupational poisoning or disease. The latter article 10 of the 1st and 2nd statute of the draft also ordered to move to different jobs either until they were completely healed, or permanently if treatment did not prognosticate an improvement of health. However, the guarantee to receive current level salary concerned only those temporarily moved to different jobs.

One of the next sections of the labour code draft regulated working time.³⁰ At the beginning it is worth mentioning that the regulations included in this section were not numbered. This section has only been divided into: chapter 1 “General regulations”, chapter 2 “Extending working hours”, chapter 3 “Working on Sundays and Holidays”, chapter 4 “Working at night”, chapter 5 “Remuneration for overtime work”, and chapter 6 “Breaks during work”. The above-mentioned division into chapters clearly shows that the issue regarding working time was extensively addressed in the draft. Remembering the limitations of this paper we will present only some of the regulations of the “Working time” section. According to the draft working time was taken as the number of hours the employee is obligated by the contract to stay at the workplace or outside of it at the disposal of the employer.³¹ A solution which was beneficial to the workers was provided during defining the norms of basic working time. According to this working time of all workers employed with a contract consisted of, not counting resting breaks, at most 8 hours per 24 hour period, 6 hours per 24 hour period on Saturday and could not exceed 46 hours per week.³² It seems especially important that the labour code draft repeats the solution adopted in the statute which was amended after the war dated from the 18th of December, 1919 regarding working time in industry and sales³³ which re-

³⁰ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 60–69.

³¹ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 60.

³² *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 60.

³³ Dz. U. from 1933, No 94, pos. 743; amended with a decree from 19 Sep. 1946 changing the statute dealing with working time in industry and trade, Dz. U. No 51, pos. 285.

introduced the so-called “English Saturday”, which meant shortening the maximum weekly working time from 48 to 46 hours.³⁴ The above-mentioned working time norms could be subject to modification depending on the occupational group they dealt with. Therefore, certain decrees could separately regulate the working time for workers employed in a) industry, b) facilities where work is dependant on the seasons or weather conditions, c) medical facilities, d) coal mining, e) branches of production, occupations or facilities where work is particularly strenuous or harmful to the worker’s health.³⁵ It is worth stressing that in cases stated above a particular decree could only be issued after consulting the opinion of the labour unions. Undoubtedly this solution shows evidence of the growing influence of the union movement on the regulation of labour relations in post-war Poland. The appearance of the above condition in the labour code draft was one of the elements confirming the democratic character of the solutions planned.

In chapter 2 the creators of the labour code in detail worked out the conditions in which extending working hours would become possible.³⁶ At the same time the norms limiting employees’ overtime hours were presented. According to the draft extending working time was acceptable in an event when, as a result of past or impending disasters threatening the workplace or unfortunate accidents, it became necessary to preserve the safety of the workers, to preserve the integrity and further operation of the workplace, to perform tasks which if not performed would cause the spoilage of materials or mechanical devices, and in ports in the event of a malfunction of a ship to save the endangered cargo, and where the time can not exceed 12 hours in a 24 hour period, as long as it does not concern a rescue mission. Additionally there existed the possibility, but only after previously notifying or receiving permission from an appropriate labour inspector, in events caused by exceptional proven necessity of the workplace; in sales in order to perform annual inventory; and in sea ports in order to complete loading or unloading of a ship. However, in these circumstances the draft limited the number of overtime hours for each worker to 120 per year and to 4 per a 24 hour period. Two further situations in which it was acceptable to extend working time concerned “national or economic necessity” and making up for hours not worked during the week in which the working time lasted less than 46 hours. The continuous shifts working time was also sepa-

³⁴ M. Świącicki, *Prawo pracy*, Warszawa 1968, p. 57.

³⁵ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 60–62

³⁶ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 62–64.

rately regulated in the labour code draft, accepting that the regional labour inspector after consulting with the voivode and after hearing the opinion of the labour unions, can allow for the extension of working time of certain groups of workers to an average of 56 hours per week. Additionally it was stipulated that the 8 hour per 24 hour period working time can be extended one day per week for one or two consecutive working shifts.³⁷ A further guarantee of workers' protection for workers working continuous shifts was the regulation which stated that for those who on average work a 56 hour week, working time must be organized in such a way that every worker could take advantage of minimum 24 hour rest period twice in a 3 week interval.³⁸

The labour code draft introduced banned on overtime work for certain types of workers. This concerned pregnant women who reached the fourth month of pregnancy, women with children below the age of eighteen months, and teenage workers.

Compared to the period between wars the regulation dealing with remuneration for overtime work, in the labour code draft was far more advantageous. With a decree from May 16, 1945³⁹ a regulation was restated which returned the original level of pay for overtime hours: 100% for overtime hours above 2 hours per day at night, Sundays and Holidays and 50% for all other cases.⁴⁰ The labour code draft afforded a special guarantee of payment for overtime hours for workers who worked extended hours despite the fact that the employer did not obtain permission for this. At the same time, the right to get paid for overtime hours was not extended to workers in management who arrange their working time themselves and to workers with non standardized working hours.⁴¹

Regulations of the labour code dealing with women's working rights were also supposed to safeguard those rights.⁴² They mainly concentrated on safeguarding maternity. These regulations were in part based on the statutes from the 28th of April of 1948⁴³ which, in a new way, regulated the

³⁷ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 63.

³⁸ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 64.

³⁹ Decree from 16 May 1945 regarding the change of article 16 of the statute from 18 Dec. 1919 dealing with working time in industry and trade, Dz. U. No 21, pos. 117.

⁴⁰ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 68.

⁴¹ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 68.

⁴² *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 70–71.

⁴³ Statute from 28 April 1948 regarding the change of the statute from 2 July 1924 on the subject of labour of youth and women, Dz. U. from 1949, No 27, pos. 182; statute from 28 April 1948 regarding the change of the statute from 28 March 1933 dealing with social insurance, Dz. U. from 1948, No 27, pos. 183.

protection for the continuation of the right of pregnant women to work, the rights to change work during pregnancy and the puerperal period. The labour code draft made these changes permanent by stating in §2 that a pregnant woman can stop working for a period of twelve weeks (so called puerperal break⁴⁴ or maternity leave,⁴⁵ extended in comparison to the regulations of the between wars period) of which at least 2 of those weeks should be before and at least 8 should be after giving birth, while the remaining two weeks the woman may use at will either directly before the two week period before giving birth or directly after the eight week period after giving birth.⁴⁶ Another element of pregnant women protection was the §1 of the draft which said that such a woman when employed in a strenuous position should be, if possible, starting with the sixth month of pregnancy, moved to a less strenuous position. At this time the remuneration of this worker can not be lower than her current pay, an average of the last three months.

Extensive regulations dealt with the protection of a woman from employment contract dissolution. A general ban on dismissal or dissolution of an employment contract during pregnancy and during leave after giving birth concerned a woman who has been working at a given place of employment for at least 3 months (§3 of the draft.) An exception from this rule was included in §5 of the draft which allowed the dissolution of such a contract based on very important reasons or through the fault of the worker. However, in order to dissolve such a contract the permission of the workers' council or its delegate and in the event of their lack – the permission of the regional labour inspector was necessary.⁴⁷ In the event of dissolution of a contract by the employer for important reasons the draft additionally stipulated that it could not happen during the period of four months before the due date unless the given facility was to be completely dissolved. In accordance to §4 of the draft the employment contract which would end within the period of four months before the due date, if it was entered into for a defined period of time or for a period of completion of a certain job, would be extended until the day of birth.

The next section of the labour code draft dealing with teen workers should also be counted among those protective regulations. It has been di-

⁴⁴ A. Świącicki, *Prawo...*, op. cit., p. 58.

⁴⁵ T. Zieliński, *Zarys wykładu prawa pracy. Część I Ogólna*, Katowice 1979, p. 103.

⁴⁶ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 70.

⁴⁷ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 71.

vided into such chapters as: chapter 1 “General regulations”, chapter 2 “Conditions of employment”, chapter 3 “Medical examinations”, chapter 4 “Additional training”, chapter 5 “Remuneration”, and chapter 6 “Apprenticeship”.⁴⁸ An especially interesting solution was forwarded in the labour code draft concerning the time of vocational or additional training.⁴⁹ Regulations in the draft maintained the change made in the law currently in force through a decree from the 29th of September of 1945⁵⁰ which extended the time of the aforementioned training from the pre-war time of 6 hours per week to 18 hours per week while at the same time including them into standing working time. In this manner the creators of the draft preserved the policy started after the war of preparing teens for an occupation. This gave a real shape to the possibility of fulfilling an earlier demand which asked that practical vocational training was combined with theoretical teaching.⁵¹ It was also directly stated in the labour code draft that unpaid employment of teens is prohibited just as receiving payment for vocational training of teens by the employer is prohibited.⁵²

There are, however, no other protective regulations in the labour code draft from 1949. This concerns especially the regulation from 1948 which extended workers vacation time including vacation time for the teens.⁵³ Also, no regulation included in the labour code draft instituted a prominently protective rule in effect today which states that provisions of employment contracts and other acts under which labour relations are formed must be in accordance with the regulations of labour law. Provisions less beneficial for the worker than the regulations of labour law are void and appropriate regulations of labour law are applied instead of them (art. 18 of the current labour code).

5. On the 18th of October of 1949 “a motion to suspend the activities of the Commission for the Codification of Labour Law, however retaining the Independent Department for the Codification of Labour Law, whose scope of activity will become defined in the organizational statute of the Ministry

⁴⁸ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 72–75.

⁴⁹ *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 74.

⁵⁰ Decree from 29 September 1945 regarding the change of the statute from 2 July 1924 on the subject of labour of youth and women, Dz. U. No 43, pos. 236.

⁵¹ A. Święcicki, *Prawo...*, op. cit., p. 58.

⁵² *Projekt...*, AAN, Min. of Labour and Social Welfare, 841, k. 75.

⁵³ A decree from 28 July 1948 regarding the change of the statute form 16 May 1922 dealing with time off for workers employed in industry and trade, Dz. U. No 36, pos. 258.

being designed” was sent to the Minister of Labour and Social Welfare.⁵⁴ However, we can not find an answer of the minister to this motion in the archives.

As an explanation of the above-mentioned motion it was stated that “the design of the labour code is encountering very serious obstacles of political and technical and legislative nature”.⁵⁵ It seems that the political obstacles were initiated with the turn which had place in the second half of 1948 consisting of “the exposing and eliminating of the rightwing-nationalistic lean” during the August-September plenary session of KC PPR in 1948.⁵⁶ The goal of complete Sovietization of social and political relations was consistently strived for. This was accompanied by changes of the Polish labour law connected to the realization of the “six year plan.” It instituted the construction of a large industry “at a cost of intense labour of the entire nation, dedication and sacrifice”.⁵⁷ The protective function of labour law became weakened. New legal acts, fitted to the needs of economic policy of the time, appeared. This especially concerns the statute from March 7 of 1950 regarding the planned employment of graduates of vocational high schools and universities,⁵⁸ as well as the statute from March 7 of 1950 regarding the prevention of the liquidation of working personnel in occupations or specialties particularly important for the nationalized economy.⁵⁹ The first introduced an injunction to work according to which the graduates of particular schools had the duty to assume employment at a designated facility and remain employed there for a period stipulated in the referral, not to be longer than three years. The second of these statutes introduced a different means of administratively influencing employee distribution. It provided the possibility of issuing an order to the worker to remain in present employment for a period not exceeding two years. The economic direction chosen by the authorities required a dramatic increase in the number of employees. Hence an effort was made to activate the society’s labour force such as unemployed women and the surplus labour force of the rural areas.⁶⁰ With the statute from 26 February of 1951 the ban

⁵⁴ *Application to Suspend the Activities of the Commission for the Codification of Labour Law*, AAN, Min. of Labour and Social Welfare, 838, k. 6.

⁵⁵ *Application...*, AAN, Min. of Labour and Social Welfare, 838, k. 6.

⁵⁶ M. Kallas, A. Lityński, *Historia...*, op. cit., p. 438.

⁵⁷ T. Zieliński, *Zarys...*, op. cit., p. 104.

⁵⁸ Dz. U. No 10, pos. 106.

⁵⁹ Dz. U. No 10, pos. 107.

⁶⁰ A. Świącicki, *Prawo...*, op. cit., p. 63.

prohibiting women from working underground in mines was lifted and the prohibition of employing pregnant women or women with infants at night was reduced.⁶¹ There is no doubt that reaching the goals set by the authorities was only possible by achieving a rise in the number of people employed, but also by ensuring of appropriate performance of work. This was expressed in the passing of the bill from the 19th of April of 1950 about ensuring of the socialistic labour discipline⁶² in which the necessity to obey labour discipline was underlined. There were serious repercussions, both statutory and criminal, for unexplained absences at work, tardiness, or leaving the place of work prematurely.

During this period the actual role of the labour unions also decreased.⁶³ Certainly, their administrative functions were expanded (among others they were given tasks regarding labour protection and labour inspection, or social insurance in the event of an illness or pregnancy) but in reality this weakened the main function of the labour unions, especially the representation and protection of workers' interests. In 1950 the process of marginalizing of the significance of collective labour agreements also began.

The legal solutions which appeared in the 50's did not have their counterparts in the regulations of the labour code draft of 1949. Hence, the Codifying Commission did not really know "in which direction the labour law reform must proceed".⁶⁴ There were obstacles connected with the loss of power of some of the regulations of labour law in force based on which the labour law draft was created. This concerned, for example, the elimination of the above-mentioned ban on women working underground in mines or the elimination of labour inspection as an independent organ.

6. The condition of the Polish state as a polis after World War II is terrible. The policies carried out by the authorities had only as their objective to increase the goods of the authorities and to fulfill its needs. It can be seen in the example of the formation of the borders of the Polish nation, governing or repressions. However, true political activity, as stated by Socrates, should consist of a struggle in which the citizens can become the best.⁶⁵ In every other event in such a polis "everyone can meet with an

⁶¹ Statute from 26 February 1951 regarding the change of the statute on the subject of the labour of youth and women, Dz. U. No 12, pos. 94.

⁶² Dz. U. No 24, pos. 168.

⁶³ A. Świącicki, *Prawo...*, op. cit., p. 66.

⁶⁴ Report No 4 from the plenary session of the Commission for the Codification of Labour Law from 22 February 1949, AAN, Min. of Labour and Social Welfare, 839, k. 15.

⁶⁵ *Platona Gorgiasz*, trans. W. Witwicki, Warszawa 1958, no 521 a.

uncertain fate”, and “everyone can be put up for judgment by even a great fool and a rascal.”⁶⁶

The authorities of the People’s Republic of Poland kept up the appearance of the continuation of the pre-war polis by partially adopting the law from that period. The idea was to legitimize this authority. In reality this law was adjusted using a foreign model which in Polish law meant the influence of Soviet law.

Indisputable supremacy of a particular political power in the entire Polish nation, gained by victory of World War II, only collapsed after nearly 45 years. This event is reminiscent of Greece which freed itself from the rule of Sparta after nearly 30 years after the Peloponnesian war. This brought hope to both nations that insatiable imperialism can be replaced by old honorable values.

S U M M A R Y

The state, as it is currently understood, comes from the Greek polis. It was a place where a person was seen through the prism of the quality of his citizenship and his political activity. The Greek polis was not a flawless state. However, some ideals which guided and formed the nation’s character can also become useful today. The condition of the Polish state as a polis after World War II is terrible. The authorities of the People’s Republic of Poland kept up the appearance of the continuation of the pre-war polis by partially adopting the law from that period. The idea was to legitimize this authority. In reality this law was adjusted using a foreign model which in Polish law meant the influence of Soviet law.

⁶⁶ Ibid, no 521 c.