

From the Potsdam Conference to the victory of the peaceful revolution of the Solidarity Trade Union

The Polish border regime in the years 1945–1989

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Contrary to the situation in Western European countries, the end of the Second World War and the defeat of the German Third Reich did not bring freedom to Poles. On the basis of the agreements between the Allies – the US, Great Britain and the USSR – signed in Tehran, Yalta and Potsdam, Poland remained within the sphere of influence of the Soviet Union. The outcomes of these agreements were significant for Polish people. First of all, the state's political system became a totalitarian one, with its all negative consequences. The most important of these were the lack of free elections and the absence of democracy, mass persecutions and murders of not only the system's political opponents but also of people who were not connected with the opposition but who were considered to be political opponents by the communist authorities. Even if Poland was formally an independent state, *per facta concludentia* it lost its independence and became a puppet state. This was because all crucial decisions concerning political, economic, social and military matters came directly from the leaders of the USSR or needed their approval. An important example is the draft of the Polish constitution written in Russian with the personal handwritten remarks of Joseph Stalin¹. Even though Poland was the first to fight against the German Third Reich and even though it was an important part of the anti-Nazi coalition, the victorious Allies decided that Poland would finally lose more than half of its territory². This resulted in a large operation of forced resettlement of Polish citizens from east to west, and considerable changes to Polish borders. As a result, after the Second World War, Poland had borders with the Soviet Union in the east, Czechoslovakia in the south, the DDR in the west and in the north, across the Baltic Sea, with Denmark and Sweden. The total length of the Polish border was 3 538 km. In comparison, after the First World War, Poland had had land borders with Germany, The Free City of Gdańsk, Lithuania, Latvia, the Soviet Union, Romania and Czechoslovakia. At that time the total length of the Polish border was 5 529 km³. According to the Allies' decisions, not only were Poles obliged to leave their places of living but also Germans from Silesia, Pomerania, Prussia and The Free City of Gdańsk were forced to resettle. After World War II, these territories were granted to Poland.

The communists were in power in Poland from the end of the Second World War until the collapse of their rule in 1989. They did not come to power as a result of free elections but by force, torture, violence and the 'brotherly help' of Soviet tanks. The communist ideology was never widely popular or widely supported by Poles. There were many reasons for this. The most crucial were the conservative beliefs of society based on the need for an independent state rooted in the Catholic religion. Poles did not accept the communist ideals of the international revolution, the fall of national states and the rise of one supranational communist state. It was also impossible for Poles to approve of the

1 Adam Dziurok, Marek Gałęzowski, Łukasz Kamiński, Filip Musiał 'Od Niepodległości do Niepodległości, Historia Polski 1918-1989', Wydawnictwo IPN, Warszawa 2011, wydanie 2, page 255.

2 For example, Poland lost big cities such as Lwów (Lviv), Wilno (Vilnius) and seven voivodships situated in the east to the USSR - Adam Dziurok, Marek Gałęzowski, Łukasz Kamiński, Filip Musiał, *op.cit.*, pages 206-212.

3 Henryk Dominiczak "Wojska Ochrony Pogranicza w latach 1945-1948", Wydawnictwo Ministerstwa Obrony Narodowej, Warszawa 1971, wydanie 1, pages 17-24.

state's atheism and its fight against the Catholic Church, which were ideals or actions imposed by the communists. Another important value for Polish people was their private property, of which the communists tried to deprive them. Last but not least, Poles had had a bad historical experience with the communist ideology, following the Polish-Soviet war of 1920, in which the Soviets had tried to conquer the newly established Polish state⁴. Proof of how unpopular they were in Poland might be the fact that during their rule, the communists never used the word 'communism' in the name of their party or the name of the Polish state.

The first parliamentary elections after the Second World War were organized on January 16, 1947. According to the Allies international agreements, the opposition party called the Polish People's Party (PSL) were allowed to take part in these elections. As one could predict, the communists from the Polish Workers Party (PPR)⁵ with the help of public functionaries from the Civic Militia (MO) and from the ranks of the Ministry of Public Security, which were under the control of Ministers connected with the PPR, applied terror and force against the members and followers of the PSL. For example, people from the opposition were arrested on false pretexts. Investigations were often conducted because of their alleged collaboration with the Nazis in the period of German occupation or under the pretext of illegal possession of a weapon. During interrogations, the detained were beaten and tortured to admit to crimes they had never committed⁶. About 400,000 people were removed from the electoral roll and 80,000 people were arrested to prevent them from voting. The votes weren't counted because it was agreed in advance that the communists from the PPR would receive 80 percent of the votes, their allies 10 percent and the opposition from the PSL only 10 percent. These elections were held in accordance with Stalin's alleged bon mot: 'it is not important who votes, it is important who counts the votes'⁷. Therefore, if the measure of the legality of a state's power is free elections, communist rule in Poland did not fulfill this condition. The new political system was absolutely against human nature. Citizens could not satisfy their basic needs in the scope of political, social, economic or religious freedom. Democracy was crushed, economic rules were detached from reality and subordinated to communist ideology, and religion, seen as the last bastion of opposition, was persecuted. For these reasons, emigration, or if that was not possible, even escape from the country was often the only chance to avoid repression, to improve one's economic situation or professional development.

The border regime – how to turn the country into a prison

The years 1945–1948 when the communists were gaining power in Poland was a time of confusion when their authority was precarious because of very strong underground military opposition. A significant problem was also the existence of a political opposition such as the PSL. Until the fake elections in 1947, and the establishment of one communist party – the PZPR in 1948 – the question of a border regime was not the most important one. However, after the stabilization of their power over the country, the creation of an effective border regime became one of the urgent needs to shape the new

4 On November 10, 1918 after 123 years of partition of Poland between Russia, Germany and Austria, Poland became independent.

5 On December 21, 1948 as a result of the unification congress, Polish communists from the PPR and from the Polish Socialist Party (PPS) established one party - the Polish United Workers Party (PZPR) which existed until its self-dissolution on January 30, 1990 - Adam Dziurok, Marek Gałęzowski, Łukasz Kamiński, Filip Musiał, op.cit. page 234.

6 The files of the completed investigation ref.no. S 8.2000.Zk (Sn 105.2001.Zk.Wa), conducted in the Branch Commission for the Prosecution of Crimes against the Polish Nation in Warsaw. It concerned communist crimes consisting of repressions against the members and followers of the PSL.

7 Adam Dziurok, Marek Gałęzowski, Łukasz Kamiński, Filip Musiał, op. cit. pages 222-230.

communist order in the People's Republic of Poland (PRL)⁸. Obviously, if people could not vote in democratic elections, they voted with their feet. This meant mass emigrations or escapes from the oppressive country. How can one understand the term border regime? It consists of legal, administrative and military regulations concerning the civil right to leave the country as an immigrant or by way of temporary departure. It ought to be concluded that the most characteristic feature of all communist regimes in the former Soviet Bloc was the violation of fundamental human rights and freedoms. One of these was the right to change one's place of residence or the right to free movement. It should be noted that since 1945 Poland has been a part of the United Nations Organization and, as a state, has adopted the Charter of the United Nations where generally the most important human rights and freedoms are listed. Admittedly, Poland was not against but abstained from voting on the resolution of the General Assembly of the United Nations regarding the Universal Declaration of Human Rights⁹ wherein article 13, it is declared that: 'Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country'¹⁰. However, it is significant that in the following years the PRL government as a part of the Organization for Security and Co-operation in Europe (OSCE) adopted the final act of the conference on security and co-operation in Europe signed in Helsinki on August 1, 1975. This international agreement declared that the participating states confirmed their respect for 'human rights and fundamental freedoms and that they will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound'¹¹. It should be emphasized that these international agreements which were generally binding legal acts, were a part of the international legal order even if they did not have the attribute of hard international law. The PRL's government was obliged to abide by these rules¹². Otherwise, after the collapse the communism, functionaries who violated them should be held responsible for that. Examples include the cases of the DDR soldiers and public functionaries responsible for the killing of refugees on the border between the DDR and the BRD, called the trials of the shooters at the Berlin Wall (Mauerschützenprozesse)¹³. From a legal point of view, the most important international agreement, apart from the acts mentioned above, which regulated the human rights to emigrate or to depart from the country, was the UN Convention on Civil and Political Rights adopted by the General Assembly of the UN on December 16, 1966 in New York. In part 3, article 12 of this Convention, it was explicitly stated that 'Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to

8 The constitution adopted by the Polish parliament on July 22, 1952, introduced the new official name of the country – the People's Republic of Poland (PRL) – Journal of Law 1952, number 33, position 232.

9 On December 10, 1948, the General Assembly of the United Nation in Paris adopted the resolution A/RES/217(III) Universal Declaration of Human Rights.

10 Source, <https://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng>. Access 2020.05.28.

11 Source, OSCE documents, Helsinki Final Acts <https://www.osce.org/helsinki-final-act>. Access 2020.05.28.

12 The Charter of United Nations and the Universal Declaration of Human Rights as the examples of the law widely recognized by the international community as compulsory. Also in law doctrine (Radbruch formule) not only statutory law (lex), connected with the theory of legal positivism but also the customary law or natural law (ius) are recognized as duty binding – Gustav Radbruch 'Filozofia Prawa', Wydawnictwo Naukowe PWN, pages 193-200.

13 Jerzy Zajadło 'Odpowiedzialność za Mur. Procesy strzelców przy Murze Berlińskim', Wydawnictwo Arche 2003, pages 11-20.

leave any country, including his own. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. No one shall be arbitrarily deprived of the right to enter his own country'¹⁴. These provisions were very significant because the PRL in 1977, without any reservations, ratified this Covenant¹⁵. Nevertheless, while implementing the communist ideology to stop mass emigration, to avoid the influx of people and ideas from democratic countries, the Polish government, in line with existing Soviet solutions, decided to close the borders. This means that, just after the stabilization of their power to govern the country, the PRL government introduced a strict border regime closing the state's borders and making the citizens the prisoners in their own country. This new regime consisted of severe restrictions regarding a reduction of departures from Poland. This was expressed by limiting the issue of passports to Polish citizens. It should be noted that these restrictions changed throughout the decades. They depended on the actual policies pursued by the Soviets and the Polish governments. Whenever they tried to be open for co-operation with Western bloc countries and show "democratic face", the number of passports issued increased. If internal or external conflicts escalated, the number decreased as was the case in 1981 when the Polish military junta led by general Wojciech Jaruzelski introduced martial law¹⁶. These questions will be described later in this article. To understand the mechanism of the functioning of PRL state power in the years 1945–1989, it should be emphasized that Poland was a totalitarian, dependent country, where the driving force of all actions was first of all the will of communist party leaders from the USSR and later the will of communist party leaders from Poland. This is also visible in relation to the border regime. When the USSR during Stalin's rule pursued a policy of isolation from Western countries, Poland completely closed its borders. When, on the other hand, Gorbachev was in power, introducing the policies of 'perestroika' and 'glasnost', Polish borders were opened¹⁷. To effectively control the overseas travel of citizens, the communist government was obliged to create a tight administrative passport system and a military border security order. Fundamentally, these requirements were implemented by two main institutions. The first was the administrative body called the Passport Bureau. The second, institution, designated to implement the border regime was the military force called the Border Protection Troops (WOP).

The WOP – the military arm of the border regime

In order to explain the functioning of the border regime, one should begin with the problem of the military security of borders. Immediately following WWII, Polish borders were guarded by the regular troops of the Polish Army. Because this kind of military unit was not properly trained in border protection, and because they usually did not have sufficient technical resources and appropriate structures to protect the borders, this situation did not last long. In the period from June to September 1945, the new Polish authorities began to organize specialized military units trained to protect the state's borders¹⁸. Initially, they considered the patterns existing in Poland before WWII when

14 Source, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. Access 2020.05.29.

15 Journal of Law, 1977, number 38, position 167.

16 Dariusz Stola 'Kraj bez wyjścia? Migracje z Polski 1949-1989', Wydawnictwo Instytut Pamięci Narodowej-Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu, Instytut Studiów Politycznych PAN, Warszawa 2010, pages 312-314, 484-490.

17 Dariusz Stola, op.cit., pages 24-27, 334, 339.

18 Jerzy Prochwicz 'Powstanie Wojsk Ochrony Pogranicza wrzesień-grudzień 1945 r.', published in 'Studia z Dziejów Wojskowości, t. V, 2016', Wydawca Ośrodek Badań Historii Wojskowej Muzeum Wojska w Białymstoku, pages 215-216.

Polish borders were secured by two different kinds of units. The first one was the Border Guard (SG). It was a police and customs formation. Their units protected Poland's borders with Germany, the Free City of Gdansk, Czechoslovakia and Romania. The second kind of border service in the interwar period was the Border Protection Corps (KOP). It had an exclusively military character and protected Poland's eastern borders with the USSR, Lithuania and Latvia¹⁹. Mainly for ideological reasons – very quickly the work to establish new border units was handed over to the officers of the Red Army. As a result, the solutions existing before WWII were not implemented in the new border regime²⁰. On September 13, 1945 the special military units – the WOP, designated for border protection were established based on Order No. 0245 issued by the Commander-in-Chief of the Polish Army. These units were under the control of the Ministry of National Defence²¹. They were organized according to the system of the Soviet border troops of the NKVD. This means that the WOP protected Poland's borders against military, political and customs threats or violations. The first commander of the WOP was colonel Gwidon Czerwinski, a Soviet Army officer serving in the border troops of the USSR Army²². His nomination was typical because from 1944 to 1945 an enormous number of Soviet officers became commanders in the new Polish Army called the People's Polish Army (LWP)²³. Their role was to organize and supervise the most important structures and posts in the LWP. For example, in the years 1949–1956, Red Army marshal Konstanty Rokossowski was the Polish Minister of National Defence. It is significant that after his return to the USSR, in the years 1958–1962, he was the vice-Minister of the National Defence of the USSR. During his time in Poland, he continued the sovietisation of the Polish Army. It involved the acceptance of Soviet patterns in the army and the presence en masse of Soviet officers in command positions in the Polish Army. Thus, just after the establishment of the WOP, eight out of eleven regional unit commanders were from the Red Army. Apart from that Soviet Army officers received fifty one out of one hundred and twenty eight command posts. It was often enough to have a Polish-sounding family name for Soviet officers to receive a new position in the Polish Army. Even knowledge of Polish was not necessary. Because of the shortage of soldiers, in the initial period, from September to December 1945 when the WOP's units started their activity, they protected mainly Poland's southern and western borders. This was because, until the construction of the Berlin Wall in August 1961, it was relatively easy to leave 'the communist paradise'. Probably, that was the reason why, in the beginning, the eastern and northern borders of Poland were considered less important²⁴. In the initial period, the staffing needs of the WOP were as follows – 4 054 officers, 6 600 non-

19 Grzegorz Goryński 'Powstanie, Organizacja i Funkcjonowanie Straży Granicznej w latach 1928-1939', published in *Słupskie Studia Historyczne* 2012 number 18, Wydawnictwo Naukowe Akademii Pomorskiej w Słupsku, pages 225-242.

20 Jerzy Prochwicz op.cit., pages 216-220.

21 Łukasz Grabowski, Marcin Maruszak 'Zarys struktur oraz Zadania Zwiadu Wojsk Ochrony Pogranicza i Kontroli Ruchu Granicznego w latach 1945-1991', published in 'Pamięć i Sprawiedliwość' number 2(20)/2012, Wydawnictwo Instytutu Pamięci Narodowej-Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu, Warszawa 2012, page 303.

22 Jacek Wygoda 'Zwiad Wojsk Ochrony Pogranicza jako organ bezpieczeństwa państwa w rozumieniu ustawy lustracyjnej', published in *Aparat Represji w Polsce Ludowej* number 1(8-9)/2011, Wydawnictwo Instytutu Pamięci Narodowej-Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu, Warszawa 2011, pages 99-100.

23 It was the name of the Polish Army widely used by the PRL's media, films and propaganda. It never existed in the Polish official sources of law which used the term 'Polish Army' or 'Military Forces of Polish People's Republic'.

24 Grzegorz Zaremba 'Wschodnia granica Polski i jej ochrona przez Wojska Ochrony Pogranicza, w latach 1945-1991', published in *Rocznik Wydziału Nauk Prawnych i Ekonomicznych KUL*, tom VIII-IX, zeszyt 1, Lublin 2012-2013.

commissioned officers and 17,801 soldiers. The shortage of staff often reached 40%²⁵. It is worth mentioning that not all of Poland's western borders were initially protected by the WOP. For instance, until September 1947, Szczecin harbor, which was very important for the Polish economy, was occupied by the Soviets and it was completely out of the control of the Polish state. As a result, it could not be protected by the WOP²⁶. This port was used by the Soviets to transport property which was massively stolen from Poland and Eastern Germany to the USSR. It was occupied for two years. The premises of the synthetic gasoline factory situated in the town of Police, near Szczecin were treated in the same way. By virtue of Order number 0163 issued on September 28, 1945, by Red Army marshal Georgij Zhukov, the factory as well as parts of two towns, Police and Szczecin, were occupied. This order resulted in the creation of the USSR's enclave on Polish territory which existed until September 25, 1946²⁷. As a result of the Soviet dismantling action, the factory was turned into ruins. The production of gasoline was never restarted. It proves that the PRL was treated by the USSR as a conquered country and perfectly illustrates Poland's poor, quasi colonial position. The most significant problem which arose during the organization of the WOP was the lack of well-trained soldiers and officers prepared for this kind of service. In the beginning, the new authorities were forced to accept people from 'ideologically hostile' units such as the pre-war Polish units of the SG and the KOP. After a few years, as a result of the influx of military school graduates, the 'cleansing' of the WOP's troops from these 'hostile elements' began. The new officers and soldiers were expected to have the right ideological attitude to make sure that they would not flee the country. They also had to be prepared to treat refugees as enemies of the Polish state. This idea was expressed in guidelines issued on August 30, 1945, which said that WOP's recruits had to be well-trained, politically dependable and born after 1921²⁸. However, these expectations were not always fulfilled. In fact, it was often the case that the worst soldiers and officers were sent to the WOP, because their previous commanders tried to use that as a way of getting rid of them. As a result, statistics show that the WOP's troops had problems with a lack of military discipline, corruption, abuse of power, beating, desertion, hooliganism, insulting superiors or drunkenness on duty. The most serious problem, however, was that of soldiers' escapes. To discourage potential refugees, every unsuccessful attempt was publicized. An example is the case of Henryk Mirzyński and Henryk Kaźmierczak. They served as conscript soldiers in the Navy Platoon of the WOP in Gdynia. Because escapes across the Baltic Sea to Sweden or Denmark (Island Bornholm) were quite popular among the fishing boat crews²⁹, on January 14, 1950, Mirzyński i Kaźmierczak received the task of participating in the voyage of the fishing boat 'Ksawery' SWI-59. Their duty was to prevent the potential escape of six men working on this boat and to patrol the maritime

25 Jerzy Prochwicz op.cit., pages 228-229. Also Grzegorz Goryński 'Dyscyplina i praktyka dyscyplinarna w Wojskach Ochrony Pogranicza (1945-1965). Zarys problematyki', published in *Aparat Represji w Polsce Ludowej 1944-1989, Aparat Represji w Polsce Ludowej* number 1(16)/2018, Wydawnictwo Instytutu Pamięci Narodowej-Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu, Warszawa 2018, pages 323-326, page 334.

26 Jerzy Prochwicz op.cit, pages 231-232, 234-235.

27 Piotr Zaremba 'Walka o Polski Szczecin', Wydawnictwo Zakład Narodowy im. Ossolińskich, Wrocław 1986, pages 347-354, 363-364, 372-379.

28 Henryk Dominiczak op.cit., page 76.

29 Marcin Kłodziński 'Ochrona granicy państwowej przed nielegalnymi uciezkami przez Wydział II Kaszubskiej Brygady Wojsk Ochrony Pogranicza w latach 1980-1983. Procedur i metody działania', published in *Pamięć i Sprawiedliwość*, number 11/1 (19) 2012, Wydawnictwo Instytutu Pamięci Narodowej-Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu, Warszawa 2012, pages 351-375. Also Jarosław Molenda 'Ucieczki z PRL', Wydawnictwo Bellona, Warszawa 2015, pages 25-53.

border. Ironically, the roles on the boat reversed. During the voyage, the soldiers terrorized the crew of the boat at gunpoint. Then they ordered the crew to take a course to Sweden. Unfortunately, after six hours, the weather became stormy. The soldiers were not accustomed to such weather. They got seasick, lost their strength and became completely exhausted. The crew seized the soldiers and returned to Gdynia. In 1951 the soldiers were sentenced to death³⁰.

The escape organized by sergeant major Jan Kępa had a similar tragic finale. He was accompanied by six of his mates from the WOP's watchtowers in Pokrzywna situated on the Polish-Czechoslovak border and one woman who was a civilian employee in the watchtower. On March 11, 1951 they crossed the Czechoslovak border and headed towards Austria. Unfortunately, they had no maps and lost their way. During the next few days, all of the refugees were caught. Following secret trials, Jan Kępa was sentenced to death and his accomplices were given long prison sentences. Probably the content of Kępa's letter to his parents, written just before the escape, resulted in such a severe punishment. In this letter, he wrote that he hated his 'dirty' work as a counterintelligence officer of the WOP and that he did not want to be a 'secret dog serving Moscow's interests'. Even the forester who helped them was sentenced to fifteen years in prison. Despite a request to Bolesław Bierut – the president of Poland – signed by 141 neighbors of Kępa's family, Jan Kępa was shot³¹. From a legal point of view, soldiers' escapes had usually been treated as crimes of desertion and espionage. According to the Penal Code of the Polish Army issued in 1944, which was in force until 1969, the punishment for the desertion while holding a gun was severe and meant at least a five-year term of imprisonment. In fact, the death penalty could only be applied during the time of war³². However, communist judges, juggling with the provisions of the penal law, classified an ordinary escape as espionage, which had always been punished by the death penalty. They were in a position to sentence innocent people with violations of fundamental penal procedures or penal code provisions. They conducted trials with the intention of repression or the physical elimination of the accused who were treated as enemies of the communist state and ideology. It was a common practice in those times³³. Even though there were numerous changes in penal provisions and the government's policy, officers who escaped were usually sentenced in absentia to the death penalty or long prison terms³⁴. On the other hand, the criminal policy and jurisprudence regarding civilians who were caught during illegal border crossings changed. In the early years of the PRL, civilians were quite severely punished. In the mid-eighties, verdicts were rather mild,

30 Grzegorz Goryński op.cit. pages 329-331.

31 Monika Bortlik-Dźwierzynska, Marcin Niedurny 'Uciekinierzy z PRL', Wydawnictwo Instytutu Pamięci Narodowej-Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu, Katowice-Warszawa 2009, pages 14-19. Also Grażyna Kuźnik 'To grzech uciec do Czech', published in Dziennik Zachodni from April 2, 2010, <https://dziennikzachodni.pl/to-grzech-uciec-do-czech/ar/239648>, access 30.05.2020.

32 Decree of the Polish Committee of National Liberation from September 23, 1944, the Penal Code of the Polish Army, article 118 § 2, published in Journal of Law, 1944, number 6, position 27.

33 Witold Kulesza 'Odpowiedzialność karna sędziów i prokuratorów za zbrodnie sądowe', published in 'Przestępstwa Sędziów i Prokuratorów w Polsce w latach 1944-1956', pod redakcją Witolda Kuleszy i Andrzeja Rzeplińskiego, Warszawa 2000, Wydawnictwo Instytutu Pamięci Narodowej-Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu, Uniwersytet Warszawski Instytut Profilaktyki Społecznej i Resocjalizacji, pages 507-512. Also Witold Kulesza 'Crimen lease iustitiae, Odpowiedzialność karna sędziów i prokuratorów za zbrodnie sądowe według prawa norymberskiego, niemieckiego, austriackiego i polskiego', Łódź 2013, Wydawnictwo Uniwersytetu Łódzkiego, pages 373-405.

34 At the beginning of 1970, the new penal code enacted by Parliament on April 19, 1969 came into force. In chapter XXXVII it regulated crimes committed by soldiers – Journal of Law, 1969 number 13, position 94.

even though judges were not independent and the PRL was a totalitarian state. Usually, in this period courts sentenced the fugitives to conditionally-suspended short terms of imprisonment, or community service, or fines³⁵. Probably this resulted from the different policies pursued by the PZPR and the government, concerning the possibility of leaving the country. These changes were caused by the fact that the PRL was becoming weaker as a result of its huge foreign debt and growing opposition.

A very important part of the WOP was the Reconnaissance Border Defense Troops (Zwiad WOP). This was a special unit having the character of an intelligence and counterintelligence service. Ipso facto the Zwiad WOP was a kind of state security authority and at the same time a part of the military formation. It is significant that, as was the case with other PRL state security services such as the Internal Military Service (Military Police) and the Directorate of the Second Section of the General Staff of the Polish People's Army (intelligence and counterintelligence), the Zwiad WOP had no legal, formal founding act to regulate its status or duties. This situation continued until March 23, 1956 when the decree on the protection of state borders was issued. It means that for eleven years the Zwiad WOP functioned on the basis of secret orders or regulations. This in turn shows that matters of legality were not important to the government of the PRL. The Zwiad WOP was used to protect the borders using operational methods. Its main task was to select, recruit and then obtain information from secret collaborators in order to prevent illegal border crossings and smuggling as well as to conduct surveillance of foreigners coming into the PRL. The methods used by the Zwiad WOP were similar to those used by intelligence and counterintelligence services³⁶.

Another form of border protection was the non-uniform service dubbed 'N'. This was conducted by the soldiers of the basic military service and it had nothing to do with the above-mentioned Zwiad WOP. After special training, which included being taught the ability to fight with and without a gun, and the skills of disguise, soldiers wearing civilian clothes started to patrol the border. They usually pretended to be port, shipyard or railroad employees. Sometimes they played the role of tourists or fishermen but they were always armed. They were particularly active during holidays and in tourist destinations³⁷. The technical measures taken to control the borders of the PRL were not as cruel as the ones used, for example on the Czechoslovak-Austrian border, where the electric fence was charged with between 4000 and 6000 Volts, leading to the deaths of refugees trying to cross the border to the West³⁸. Instead, by 1955 the state borders were protected by 1,100 kilometers of the fence and barbed wire. They were supported by 1,314 watchtowers. As mentioned above, the protection of the western border was a priority, which is noticeable in the statistics. On the German border which was 460 kilometers long, there were 470 kilometers of the fence or barbed wire and 316 watchtowers. This means that there was a watchtower every 1,450 meters along the border. In 1948, automatic signal flares started to be used for border protection. They immediately informed soldiers when an 'intruder' entered the 'forbidden area'. In 1955 there were more than 13,500 such sensors in use. It is believed that 250 kilometers of the most

35 Marcin Kłodziński op.cit. page 374.

36 Jacek Wygoda op.cit. pages 102-103, 109-113.

37 Ireneusz Bieniecki, Izabela Szkurłat 'Służba niemundurowa Wojsk Ochrony Pogranicza w latach 1958-1991. Wyższy szczebel służby liniowej czy namiastka służby rozpoznawczej?', published in *Scripta Historica Słupskie Studia Historyczne*, number 23, wydawnictwo Akademia Pomorska w Słupsku, Słupsk 2017, pages 277-298.

38 The files of ongoing investigation ref.no. S 7.2016.Zk (Sn 106.2016.Zk.Kr), conducted in the Branch Commission for the Prosecution of Crimes against the Polish Nation in Cracow. It concerns communist crimes consisting of the killing of Polish citizens by officers of the Czechoslovak communist state in the years 1948 – 1989 when attempting to cross the Czechoslovak – Austrian border.

'sensitive' border sections used even more technically advanced electric sensors. Additionally, following Soviet patterns, wherever it was possible next to the fence there was a ten-meter-wide strip of land which was regularly harrowed and patrolled by the WOP's soldiers. Harrowing made it easy to detect any trace of people or animals. Each case of identifying human tracks in the immediate proximity of the border raised the alarm in order to check whether the border had been illegally crossed. In 1955 the total length of this harrowed strip was 2 900 kilometers along the western border. 90 percent of the eastern and 60 percent of the southern borders were also protected in this way. In addition, all trees and bushes were cut down in an area of 100 meters adjacent to the border. One of the most bizarre measures taken in 1952 to control the northern border was the harrowing of beaches by the Baltic Sea. This means that in the evening the beaches were closed and access for tourists was practically prohibited. At the same time estuaries to the sea were illuminated and patrolled. Some of them were blocked by barriers³⁹. Moreover, to seal the borders even more thoroughly, on the basis of the decree issued by the Council of the State on March 23, 1956, the government decided to create a border zone⁴⁰. This was an area of 2–10 kilometers adjacent to the border. There were numerous bans and restrictions in place in this territory. For example, a permanent settlement and temporary stay required the local authorities' permission⁴¹. Cameras, big dogs or pigeons were also prohibited. Windows overlooking the border side had to be darkened⁴².

Who were the fugitives chased by the WOP and on what scale did escapes from the PRL happen? What was the method used by the fugitives to leave the country? The most popular method was to use a legal journey to the West such as an official or business trip, sports competitions or tourist trips organized by the state travel offices. Participants in these events simply did not return to Poland. Deciding on this kind of escape, fugitives avoided the risk of death, injury or penal trials. It is worth emphasizing that the PRL's authorities, unlike in some other communist countries, had never decided to introduce the crime of illegal refusal to return to the country in the penal code⁴³.

The most spectacular were the frequent escapes of public functionaries, holding very high positions. One of them was colonel Józef Światło, who was the vice-Director in the Tenth Department of the Ministry of Public Security who had direct access to top secret files and the most important figures such as President Bolesław Bierut. In December 1953, taking the opportunity of an official trip to Berlin where he participated in a meeting with Erich Mielke from the STASI, Światło managed to escape to the US. This event and his speeches broadcast by Radio Free Europe resulted in the liquidation of the Ministry of Public Security and high-level staff changes⁴⁴. Another senior functionary who made a lucky escape to the West was the colonel of the Polish Secret Services, Paweł Monat, who also had wide access to top secret Polish intelligence and counterintelligence information. In July 1959, Monat, his wife and son, on the pretext of going on vacation to Yugoslavia, escaped to the US⁴⁵. The most severe consequences for communists, however, resulted from the escape of a colonel of the Polish Army, Jerzy

39 Dariusz Stola *op.cit.* page 41.

40 *Journal of Law*, 1956, number 9, position 51.

41 Lech Grochowski 'Ewolucja prawna ochrony granic Polski w XX-XXI wieku', published in *Zeszyty Prawnicze UKSW* 11 3(2011), Wydawnictwo Uniwersytet Kardynała Stefana Wyszyńskiego, Warszawa 2011, pages 136-140.

42 Dariusz Stola *op.cit.* page 41, and Henryk Dominiczak *op. cit.* pages 310-314.

43 Dariusz Stola *op.cit.* page 44.

44 Andrzej Paczkowski 'Trzy twarze Józefa Światły. Przyczynek do historii komunizmu w Polsce', Wydawnictwo Prószyński i S-ka, Warszawa 2009, pages 171-228.

45 Jarosław Molenda *op.cit.* pages 151-181.

Kukliński. He was an officer in the military headquarters, one of the main associates of general Wojciech Jaruzelski, who in the eighties was Prime Minister of Poland, Minister of National Defense and leader of the PZPR. Just before the introduction of martial law in Poland in December 1981, Kukliński, his wife and two sons were smuggled to West Berlin and next to the US by CIA agents serving in the American Embassy in Warsaw. Colonel Kukliński had been a CIA spy since the seventies. During his secret activity he provided the US with plans regarding USSR nuclear and conventional attacks in Europe, the location of three secret bunkers built as headquarters for the Soviet command in case of a nuclear war (codename "albatross") and plans for the introduction of martial law in Poland⁴⁶. A functionary of the communist state who fled the country was captain Jerzy Koryciński from the Ministry of Internal Affairs (civil intelligence department). In 1983 he did not return from his official trip to Sweden. He disclosed the identities of Polish and Soviet spies operating in the West. In the years 1948-1950, 205 employees of the Ministry of Foreign Affairs, including ambassadors, refused to return to the PRL. Among these were Czesław Miłosz who later, in 1980, received the Noble Prize for literature⁴⁷ and Marcel Reich-Ranicki who in the PRL was an officer in the Ministry of Public Security. He refused to return from his official trip to West Germany. Then he became popular as a host of the TV program 'Das Literarische Quartett'. The escape of diplomats also took place in the eighties. In December 1981, after the introduction of martial law, two PRL ambassadors, Zdzisław Rurarz in Japan and Romuald Spasowski in the US, for political reasons, as their protest against the rule of communist junta, decided to stay in the US⁴⁸. This means that throughout the PRL's existence, the communists had a serious problem securing the loyalty of the Poles.

A real worry for the USSR and the Polish government, were the escapes of the Polish Air Force pilots -in particular when they piloted the most modern military jet aircrafts. For instance, lieutenant Franciszek Jarecki served in the Air Force base in Słupsk, a town near the Baltic Sea. On March 5, 1953 on the day of Stalin's death, during a military training flight, he escaped to the island Bornholm in Denmark. His flight was in a MIG 15 which was a very modern fighter aircraft at the time. Because of the enormous speed of the plane and the short distance between the Polish coast and Bornholm Island, Jarecki's escape lasted only a few minutes. Like other fugitives piloting aircraft or helicopters, he flew very low so as not to be detected by radars. He was surprised by the fact that there was no proper landing strip on Bornholm Island, so he had to land on the grass strip. He was also scared that he had got lost and landed on Soviet territory because of the Russian inscriptions situated on the airstrip. Fortunately, they were only the remains of a short Russian occupation of Bornholm and he managed to successfully flee. His MIG 15 was given to the US military services which did not return it to Poland until they had made about 70,000 pictures and plaster casts of individual parts of the plane⁴⁹. Another Air Force pilot who flew to Bornholm Island was lieutenant Zdzisław Jaźwiński in a MIG 15 bis, in May 1953. In 1955 lieutenant Zygmunt Gościński on LIM-2 (a more modern fighter aircraft than the MIG) also flew to Bornholm. In 1983 lieutenant Zbigniew Wojas and Captain Henryk Książek in an attack helicopter MI-2 flew to Sweden (Island Tärnö). To conclude, between 1945-1989 nineteen Air Force pilots escaped from

46 Sławomir Cenckiewicz 'Atomowy szpieg. Ryszard Kukliński i wojna wywiadów', Wydawnictwo Zysk i S-ka, Poznań 2014, pages 83-461.

47 Dariusz Stola op.cit page 43 and Jarosław Molenda op.cit. pages 267-290.

48 Grzegorz Majchrzak 'Wyroki śmierci w stanie wojennym', pages 61-64, published in Biuletyn Instytutu Pamięci Narodowej, number 11(22), November 2002.

49 Jarosław Molenda op.cit., pages 119-134.

Poland. In this way, the Air Force lost twelve military planes or helicopters⁵⁰. The fugitives were not only the soldiers or the functionaries of the communist state but also ordinary people. Because of the lack of direct borders with countries of the Western Bloc, the fugitives often used fishing boats to reach Bornholm Island or the Swedish Coast. For example, in the years 1948–1949, 22 fishing boats with 88 people on board fled to Sweden. The fugitives also used self-made boats, yachts or kayaks. Others hid on ships or ferries running between Poland and Scandinavian countries. It was usually without the knowledge of the ship's crew but sometimes the crew participated in escapes, receiving money in exchange for smuggling people⁵¹. Another successful method of escape was hijacking civil planes flying around Poland. Due to the short distance, hijackers usually forced the pilot to fly to West Berlin. They always chose Tempelhof Airport located in the American sector of Berlin because the authorities in this area were very understanding of Polish hijackers. A significant proportion of passengers, even though taken by surprise, were very content to be 'the victims of such a crime' and they refused to return to Poland. An example of this kind of escape is the case of Czesław Kuderek. He was the pilot of a plane flying from Warsaw to Wrocław. On February 12, 1982 during the flight, he reported by radio that the plane was being hijacked. In fact, this message was fake because on the plane there were his family members and friends who had bought tickets for the flight in order for all of them to escape to Berlin together. In the same year, a hijacking was committed by a functionary of the Civic Militia special forces who was on board to prevent escapes. Funnily, it was the third time the captain of this plane had been hijacked. It all proves that the number of hijacked planes was rather high in the PRL. In 1982 alone there were eight such incidents⁵².

Unfortunately, not all escapes were successful. Some of them ended very tragically as was the case with the flight of Dionizy Bielański. He was a pilot working in an agricultural aviation service company. On July 16, 1975 on the plane AN-2, he tried to flee to Austria. Flying over Czechoslovak territory, he was detected by radar. After receiving permission from general Wojciech Jaruzelski, the PRL's Minister of National Defence at the time, Bielański's plane was shot down by Czechoslovak military aircraft⁵³. Another unlucky escape was that of Jan Kukuczka. On March 29, 1974 he was shot by a Stasi functionary on the U-Bahn/S-Bahn station Friedrichstrasse in Berlin, where there was a border checkpoint between East and West Berlin. Kukuczka tried to cross this checkpoint in a very naive way, threatening to detonate all the bombs he pretended to have. The Stasi's functionaries did not try to overpower him. He was simply shot to death at a convenient moment⁵⁴.

According to the data gathered by the Ministry of Internal Affairs, the total number of registered escapees from the PRL was 30 488. It is hard, however, to present the precise numbers illustrating the scale of all attempted and successful escapes. Dariusz Stola assumed that there could have been as many as 200–400 unsuccessful attempts at an illegal border crossing. He estimated that by considering the number of people convicted

50 Jarosław Molenda op.cit., pages 136-149, 294-313.

51 Jarosław Molenda op.cit. pages 25-52.

52 Dariusz Stola op.cit. page 314.

53 The files of completed investigation ref.no. S 62.2006.Zk (Sn 215.2007.Zk.Wa), conducted in the Branch Commission for the Prosecution of Crimes against the Polish Nation in Warsaw. It concerned the communist crime consisting of killing Polish citizen Dionizy Bielański by an officer of the Czechoslovak Air Forces according to the illegal order given by general Wojciech Jaruzelski, Polish Minister of National Defence.

54 The files of ongoing investigation ref.no. S 47.2018.Zk (Sn 501.2018.Zk.Po), conducted in the Branch Commission for the Prosecution of Crimes against the Polish Nation in Poznań. It concerns the communist crime consisting of killing of Polish citizen Jan Kukuczka by a Stasi functionary in Berlin and Stefan Appelius 'Tod im Tränenpalast', published in Zdf 39/2016, pages 108-110.

of illegal border crossing. There were 300–500 such cases a year but the number also comprised the crimes of smuggling or illegally entering the country. As far as successful escapes are concerned, Dariusz Stola estimated that there must have been about 100 every year. He drew this conclusion on the basis of the data provided by the Ministry of Internal Affairs saying that in 1960 there were 90 such cases, in 1961 – 61 cases, in the years 1964–1965 52 cases but in 1975 only 18 cases. He also took into consideration the fact that public functionaries themselves were not aware of the actual number of successful escapees who were smart enough not to leave any trace. Sometimes, it was possible to discover the fact in letters sent to family or friends who were vetted by the state services. The hidden number of successful escapes was relatively high in the period before the Berlin Wall was built.

The annual number of people who legally left but then refused to return to the country, according to Dariusz Stola, was about 200–500. This number is made up of those who left the country for professional reasons, for example, the workers of Polish enterprises, sailors, artists or sportsmen, and those who participated in tourist trips. There were about 100–250 individuals a year in each group. This figure rose drastically in the 80's, when the possibility of legal departure was much bigger. In the years 1981–1989 the number of citizens who did not return to Poland was about one million. Even if the data from 1989 was inaccurate because all registrations were discontinued, still the scale of the phenomenon was enormous⁵⁵. It is necessary to emphasize that the WOP was a relatively effective state institution which succeeded in decreasing the scale of escapes. Its history was not marked by as tragic cases as the ones which took place, for instance, on the border between the DDR and the BRD. Despite this, the WOP was one of the important institutions creating the inhumane system of communist oppression in Poland. For this reason, on the basis of the act issued on October 12, 1990, the WOP stopped its activities and its units were transformed into the Polish Border Guard (SG) – the new formation of the democratic Polish state⁵⁶.

Access to a passport as a means of access to freedom

In addition to military restrictions connected with the functioning of the WOP's military units, to stop departures from the PRL, the communist authorities introduced administrative procedures and provisions of law which supported such military limitations. Thus, the border regime in the PRL was based on two foundations. The first one was the WOP operating with the help of the state security services. The other one was the Ministry of Internal Affairs (in the first period of the PRL called the Ministry of Public Security) with its specialized department, the Passports Bureau. In subsequent years it was given various similar names and functioned until the collapse of communism in Poland. According to the provisions of law, only a passport issued by state authorities was a document entitled a citizen to cross borders between countries. After WWII, however, it was frequently reported that there were, for instance, Polish citizens in Berlin who crossed the border on the basis of passes issued by the Polish Red Cross, Polish Western Union or even by the 'Warsaw cafe' from Wałbrzych. There were also instances of civilians wearing military uniforms and pretending to be soldiers who crossed the border without any control at all⁵⁷. To stop this uncontrolled influx and outflux of people, establishing an institution responsible for issuing passports became very urgent. In the years 1945–1948 the Polish government ad hoc introduced new regulations regarding the issuing of passports. The legal basis for this was the passport act of July 14,

55 Dariusz Stola op.cit pages 42-43, 99, 210-218, 483, 490.

56 Journal of Law, 1990, number 78 position 462.

57 Henryk Dominiczak op.cit pages 309-310.

1936. According to this law, it was possible to cross the border having one of four types of passports. They were: ordinary passport, service passport, diplomatic passport and collective passport. It was important that a passport was issued by the new Polish authorities. *Prima facie*, it might seem strange that the communists accepted the law of 1936 enacted by their political enemies. But this pre-war act had provisions that were suitable for the new regime. According to article 3 of the act, it was possible to reject a passport application because its issue might threaten some important state interest or state security, peace or public order. These concepts were so general that it was possible to prevent citizens from getting a passport in practically every case⁵⁸. In opposition to pre-war regulations, the communists established one central institution entitled to issue passports. This was the Department of Passports and Visas in the Ministry of Foreign Affairs. In fact, it was a kind of a smokescreen because its decisions were taken in Department VII of the Ministry of Public Security which generally dealt with intelligence cases. It must be noted that temporary passes for people working or having fields in Czechoslovakia were issued by local authorities but only after permission had been given by the local units of the security services and the WOP⁵⁹.

In the opinion of PZPR authorities, the solutions applied in this first period were only partially effective. The number of issued passports was still considered excessive. As a result, on the basis of the act of April 7, 1949, there were some amendments introduced. From then on, the Ministry of Public Administration with its Department of Foreign Passports, was responsible for issuing passports⁶⁰. But again it was not an independent unit because all requests were reviewed by the Ministry of Public Security and the Ministry of Foreign Affairs. The final decision depended on a small informal group of four members from the Central Committee of the PZPR. This group probably functioned until 1954⁶¹. In 1950, after the liquidation of the Ministry of Public Administration, the system of issuing passports did not change much. The only organizational difference was that the Bureau of Foreign Passports was established in the Ministry of Public Security. To legitimize the new passport system, the decree on Foreign Passports of August 14, 1954, enacted by the Council of the State, confirmed the regulations which *ipso facto* had been in force for nearly ten years. According to this act, the Minister of State Security was entitled to issue ordinary and service passports. The Minister of Foreign Affairs could issue service and diplomatic passports for the staff of the Ministry. Diplomatic or consular passports, which were documents exclusively for Polish citizens living abroad, were issued by consuls and diplomatic officers. Such passports were valid for a maximum of five years. Generally, the passport entitled its holder to leave the country only once and only in the period mentioned in an additional document called a passport clause. Additionally, there was an obligation to report to the Polish Consulate or Embassy once the citizen reached their final destination. After returning to Poland, it was necessary to give back the passport to the Bureau of Foreign Passports. In case of a lost or found passport, it was also necessary to report it to the Bureau. Violation of these provisions was punished by a fine. The Bureau was always entitled to invalidate a passport. This decree finally repealed the act of 1936⁶².

In the first years of the PRL, apart from strict passport law, there was also limited access to the Passports Bureau which was meant to discourage Poles from traveling. It was

58 *Journal of Law*, 1949, number 34, position 254.

59 Dariusz Stola *op.cit.* pages 32-33.

60 *Journal of Law*, 1949, number 23, position 153 and 154.

61 Dariusz Stola *op.cit.* page 34-35.

62 *Journal of Law*, 1954, number 39, position 170.

situated only in Warsaw. Therefore, the whole procedure was connected with troublesome travels. Because of a small number of employees designated for the job, it was necessary to wait long hours in the office of the Passports Bureau. Moreover, even if the application was accepted, the passport was issued after months of waiting. It is worth emphasizing that passport fees were enormous. For an ordinary passport, it was 5 000 zlotys and for an emigration passport, the price was as much as 20 000 zlotys while the average salary at the time was only 466 zlotys a month. An important part of this horrible bureaucracy was the staff working in the Passport Bureau, in accordance with the principle of the Polish communists ‘, not a high school diploma but an honest desire, turns you into an officer’. This resulted in the fact that uneducated and primitive people worked there. It was burdensome for citizens but convenient for the authorities. The party and the government did not need competent clerks. They needed obedient people who would simply serve their needs⁶³.

The consequence of this policy was that there were few temporary departures from the PRL. For instance, in 1951 the total number was 9,360 people, but only 1 980 of them went to Western Bloc countries. In 1955, which was the last year of severe restrictions, only 4 742 people travelled to West⁶⁴. As mentioned earlier, in 1954 as a consequence of the escape of Józef Światło, the Ministry of Public Security was liquidated. This had an influence on the organization of the passport system. On the basis of the decree of December 7, 1954, issued by the Council of State, the Ministry of Internal Affairs was established and the Bureau of Foreign Passports became one of its parts⁶⁵. Further changes were brought about by the political turbulence in the communist party in the USSR. This was connected with Stalin’s death in 1953 and the taking over of power by Nikita Khrushchev. He condemned Stalin’s policy of terror and initiated the rehabilitation of the victims. It was obvious that greater liberalism in the USSR would cause changes in the satellite state of the PRL. In 1956, after the death of Bolesław Bierut who was the leader of the PZPR, and de facto had a dictatorship position in the country and after taking over the power by Władysław Gomułka, deep changes became inevitable. The years of Stalinism and full isolation were over.

The next period in the history of the border regime in the PRL is often referred to as a ‘partial thaw’. This means that overseas journeys significantly increased. In the years 1956–1970, when Władysław Gomułka was the leader of the PZPR, annual travel to the Western Bloc countries ranged from 22 892 to 114,133⁶⁶. On June 17, 1958 parliament enacted a new Act on Passports which was in force with few changes until the end of the PRL. According to this law, every citizen was entitled to receive a passport. This basic rule was only seemingly very democratic because in the next articles there were a lot of exceptions. Additionally some of the provisions were so imprecisely expressed that they allowed any interpretation in accordance with the will of the authorities. For example, a passport application could be rejected due to ‘important state reasons’, ‘other social considerations’, when the citizen during a stay abroad ‘conducted activities against PRL’s interests’ or when ‘as a result of their behavior they discredited the PRL’⁶⁷. Thus, passports were still issued in accordance with top secret ordinances or guidelines passed by the Minister of Internal Affairs. There were numerous categories of citizens who could not get a passport. They were, for instance, ‘enemies of the PRL’,

63 Dariusz Stola op.cit. pages 34-40.

64 Witold Bagiński ‘System paszportowy PRL-od ograniczeń do swobody podróżowania’ published in *Paszporty wczoraj i dziś. 25 lat wydawania paszportów przez wojewodów. 10 lat wydawania paszportów biometrycznych*, Warszawa 2016, page 15, and Dariusz Stola op.cit. page 486.

65 *Journal of Law*, 1954, number 54, position 269.

66 Dariusz Stola op.cit. page 486.

67 *Journal of Law*, 1959, number 36, position 224.

a term used with reference to people who presented anti-communist opinions, people who were under secret surveillance or observation conducted by the state secret services. Fundamentally, relatively young and well-educated citizens stood little chance of getting a passport. So did individuals having access to state secrets. Restrictions also applied to state officers such as the functionaries of the Civic Militia, the Security Service, judges, prosecutors or officers of the Polish Army. The officials granting passports were obliged to check whether a would-be passport holder's name was not listed in a special catalog called 'departure restrictions'. This catalog was created on the basis of various information regarding a citizen. Sometimes it came from anonymous denunciations. Obviously, the people whose names were featured in this catalog could never obtain a passport. What is more, they would never find the reason why their application was rejected because all the information in the catalog was confidential and functionaries were obliged to make up false causes. Over the years, the number of people addressed in this catalog ranged from 25 000 to 40 000. Clearly, the system had nothing to do with the rule of law and democracy. It should be noted that cases of corruption happened. This was the result of imprecise provisions and deterioration in the discipline. The passport system played an important role in state security. It served as a perfect opportunity to recruit secret collaborators. The functionaries of the secret services were entitled to call a passport applicant. During the interview, if the person presented a positive approach and seemed to be useful for the regime, the candidate obtained a proposal of collaboration. Sometimes to encourage the candidate, the functionaries offered their help with the granting of a passport. The passport system provided a great occasion to gather extensive data on citizens. This was possible because the passport questionnaire included a lot of questions regarding the people submitting the application, their private or professional life and their family⁶⁸.

It is also worth mentioning that in the 60's and 70's the PRL government signed many international agreements facilitating travel with Socialist Countries such as the USSR, Czechoslovakia, the DDR, Romania, Hungary, and Yugoslavia. Thanks to them, it was possible to travel to such countries without visas and on the basis of a simplified version of passports. In the years to come, to cross the border with some of these countries, it was sufficient to have only a regular ID containing a special permission stamp. These solutions resulted in a huge increase in travel between 'brother countries'. After the introduction, in 1972, of the possibility of crossing the border with the DDR on the basis of an ID only, the number of trips increased from 200 000 in 1971 to 9.5 million in 1972. It was also possible thanks to the decentralization of the system. All the formalities could now be completed in major Polish cities. There was a sufficient number of employees working in the central and regional Bureaus and they had a higher level of education than in the 50's. Therefore, the waiting time was reduced. Unfortunately, passport fees were still considerably high and depended on the kind of passport or the destination. It was a very complicated system with 70 different tariffs⁶⁹.

In the 70's there was a continuation of the liberal policy regarding departures. The number of travelers to Western and Eastern Bloc countries systematically increased. In 1971, for the first time ever, the total number of departures exceeded one million. This comprised 911 442 journeys to socialist countries and 156 856 to capitalist countries. But it was not the end of the growth. In 1972, the Polish people discovered their true passion for traveling. Obviously, doors were opened wide within the Eastern Block only. Therefore, there were more than 10 million departures in such countries. Departures to the

68 Dariusz Stola op.cit. pages 148-157, 169-176.

69 Witold Bagiński op.cit. page 21, and Dariusz Stola op.cit. pages 145,153,157-164.

West also increased and reached a total of 208 454. In the subsequent years of the decade, the total number of people traveling remained stable at about 10 million. Interestingly, the number of departures to the West was 114 133 at the beginning of the 70's and reached as many as 695 073 at the end of the decade⁷⁰. This phenomenon is probably the result of the fact that, in the 70's, the PRL when compared to other communist countries was more open and less oppressive. Additionally, in the years 1972–1974 the government signed international agreements with Austria, Sweden and Finland waiving the need for visas, which made it easier to travel between these states⁷¹. Apart from that, the PRL government took large loans from Western countries. They bought licenses for the production of cars, buses, machines and consumer goods such as Coca-Cola, Pepsi-Cola, jeans, cigarettes and tape recorders. This activity resulted in even more overseas business travel to the West. It also coincided with the policy of détente between the USSR and the US. This open policy of the PRL may have been supported by Edward Gierek who was the leader of the PZPR. He had spent a significant part of his childhood and youth as an immigrant in France and Belgium where he had had the possibility of experiencing the reality of life in the West. He also knew French very well⁷². In totalitarian regimes, the personality of the leader was always very important and had a direct influence on the policy of the state. Despite these positive changes, the PRL was still a totalitarian state in which, for example, in 1976 the parliament enacted an amendment to the PRL's constitution. In article 2a it was stipulated that the communist party (the PZPR) had the leading role in the state. This amendment legitimized the rule of the communist party which, ipso facto, had existed since the beginning of the communist regime in Poland⁷³.

The beginning of the next decade brought a sharp decrease in travel to Eastern countries. The reason was the victorious strikes and establishment of the Solidarity trade union (Solidarność) in 1980 with its 10 million members. Shocked Eastern Bloc governments felt that they had to create a barrier to the 'Polish anti-communist revolution'. As a result, all simplified border traffic agreements were terminated. In 1982 there were only 678 599 departures and even though in 1988 the number increased up to 5 258 994, it never returned to the level of the 70's. The opposite tendency could be observed with regards to travel to the West which, for the first time ever, exceeded one million (1 247 961). This was the result of the fact that in 1980, after the strikes, the communist regime became weak. This 'carnival' of travel to the West did not last long because martial law was introduced in December 1981. Therefore, in 1982 there were only 168 835 departures to the West⁷⁴. Among them there were 4 385 interned members of Solidarity and their families who, at the will of general Wojciech Jaruzelski, were forced to emigrate because they were treated as 'anti-socialist elements'. In practice, they had no possibility of returning because their passports had a clause which meant that it was a 'one-way ticket'. In theory, they could have asked the Polish Embassy for consular passports but, in practice, the authorities were far from being interested in fulfilling their enemies' requests⁷⁵.

It was not the first time in the history of the PRL in which the government decided that a certain group of citizens could leave the country or were forced to emigrate. In addition to members of the opposition, the policy affected Jews and Germans. There were two

70 Dariusz Stola op.cit. page 486-487.

71 Journal of Law, 1974, number 20, position 108, and Journal of Law 1974, number 11, position 65, and Journal of Law, 1974, number 11, position 65.

72 Adam Dziurok, Marek Gałęzowski, Łukasz Kamiński, Filip Musiał op.cit page 374

73 Journal of Law, 1976, number 5, position 29.

74 Dariusz Stola op.cit. page 487.

75 Dariusz Stola op.cit. pages 316-319.

reasons behind this. The first was the possibility of gaining profits because West Germany and Israel were ready to pay for Germans and Jews to emigrate. At the same time, the PRL treated it as an opportunity to get rid of the elderly, handicapped, and sick people, and sometimes also criminals who they considered to be unproductive and useless. Another reason for the policy of expelling German and Jewish citizens was the communists' willingness to establish one nation-state. The most extreme case of their efforts was the 'anti-Zionist campaign' conducted in the years 1968–1969 when about 13 000 people were forced to emigrate. At the same time, those emigrants were required to waive their rights to Polish citizenship and, instead of a passport, they received a 'travel document' called a 'dog's passport'. These documents said that their holders were not Polish citizens and only had the right to leave the territory of the PRL without the possibility of returning. Most cases of Jewish emigration, however, had a more civilized character. Emigration passports were issued as a result of bilateral agreements reached between the PRL and Israel. In May 1948, the PRL and Israel are alleged to have signed a payment or trade agreement containing secret clauses regarding emigration. The original document has been lost and there is only a summary available. The largest emigration of Jews took place in the years 1949–1950 and finally finished in 1952. The total number of people who left Poland was about 29,000. The next wave of Jewish emigration took place in the years 1955–1958 when more than 50,000 people emigrated. It must have been possible because of a bilateral secret trade agreement. This document, however, is also missing⁷⁶.

As far as German emigration is concerned, its economic benefits were also crucial but not in all cases. The first wave of emigration, called 'Aktion link', launched in 1950, had a different character. It was organized on the basis of an agreement between the new communist states - the DDR and the PRL. These departures mainly took place in the years 1950–1951 and continued on a small scale until 1954. From the Polish communist government's point of view it was an opportunity to complete the repatriation of Germans which had been started by the Allies after the war but was soon interrupted. The official reason for this emigration was a humanitarian action involving family reunifications. The total number of departures concerned was about 75 000 people. Despite the fact that the agreement was signed between the PRL and the DDR, some people were also sent to West Germany. This was, however, the main destination of the next wave of emigration which took place in the years 1956–1958 and was a result of a business agreement where permission for emigration was granted in return for trade benefits. It resulted in a total number of about 275 000 departures. The 70's brought another rise in emigration to the BRD. It was also based on a bilateral agreement ensuring very large loans for the PRL as well as recognition by the BRD of the Polish Western border on the Odra and Nysa rivers. This time the scale of emigration was also impressive. The total number of departures was about 175 000 people. It was not the end of emigration to West Germany. In the 80's, which was the last decade of the PRL, emigration usually resulted from individual requests as no new agreement was signed between the two governments, despite the efforts of some Polish officials. However, many people did not seek permission to emigrate from the PRL but they tried to formalize their stay in the BRD after they had refused to return to Poland from their tourist trips. This was only possible when they managed to prove their German origin or the fact that they were persecuted members of the opposition. In many cases, it was barely possible because they had nothing to do with the German nation or the Polish anti-communist movement⁷⁷.

76 Dariusz Stola op. cit. pages 49-55, 61-62, 129-132, 136-140, 220-222.

77 Dariusz Stola op.cit pages 71-79, 117, 121-127, 209, 233-251,344-355,360-362.

The collapse of the system

The end of martial law on July 22, 1983 marked the beginning of the collapse of the passport system established after WWII. In the years to follow, the number of departures systematically increased. This was linked to internal circumstances such as the activity of the democratic opposition and a dramatic economic situation as well as external matters and the fact that the regime in the USSR became weaker. The new policy introduced by Gorbachev was a sign for the Polish communists to begin to make changes. Apart from that, the PRL began to seek a way out of international isolation. However, its top priority was to lift economic sanctions introduced as a response to martial law. All these factors led to the introduction of slightly more liberal passport rules. In 1983, the parliament enacted an amendment to the Act on Passports of 1959. It introduced an obligation to present written grounds for a negative decision except in the case of applications that threatened state security and defense, the protection of classified information and economic stability. This amendment, however, did nothing to change the imprecise provisions which still existed regarding the possibility of rejecting a passport application, which have been described earlier in this text⁷⁸. This was not a problem in practice, though, as the law was accompanied by secret guidelines and instructions ordering a real change in policy and the mitigation of previous harsh requirements. Thus, in 1987 liberalization of the passport system was a fact. For instance, it was possible to visit people who had escaped from the country. As a result, there were more than one million departures in 1987 and 1988⁷⁹.

Ultimately, on December 7, 1988, the Council of Ministers introduced a revolutionary regulation which, in theory, was related to passport fees but in practice meant the total collapse of the passport system. This regulation was extremely surprising because it was not introduced by an act of law passed by Parliament but by much less important state body. It contained provisions of law introducing one type of passports for all countries valid for a maximum of ten years. The authorities removed the duty to give one's passport back to the Passports Bureau after a return to the country. Put simply, it was possible to keep a passport at home and travel whenever one wanted. As was usually the case, this regulation was followed by guidelines issued by the authorities in the Passport Bureau, which reduced the number of people prohibited from obtaining a passport who were listed in the catalog called 'departure restrictions' mentioned earlier in the text. The guidelines also introduced total decentralization so that passport decisions could be issued by regional departments. As a result of these changes, in 1988, 2,7 million passports were issued and in the first ten months of 1989, Polish people received 3,7 million passports⁸⁰.

The border regime in Poland was an important part of the communist totalitarian system imposed on Poles after WWII. It allowed the country to be changed into a prison for its citizens. Almost nobody wanted to live in the 'communist paradise'. Therefore, it was necessary to stop the outflow of people from the country. Otherwise, the situation would have led to a demographic and economic disaster and finally to the end of the regime. The communists of all the Eastern Bloc were perfectly aware of that truth. For this reason, they tried everything, even if it required committing crimes, to defend this inhuman, deadly border regime. As they had expected, the collapse of the border regime in the years 1988–1989 was the direct cause of the fall of communist rule in Poland and then in the whole of the Eastern Bloc.

78 Journal of Law, 1983, number 66, position 298.

79 Dariusz Stola op.cit. page 334, 487.

80 Journal of Law, 1988, number 40, position 317 and Dariusz Stola op.cit. page 335-336.