



The Communist New Man Versus the Bourgeois Individual: Family Enterprise in Poland and East Germany

Sławomir Kamosiński

A family company is like heritage – one must not reject it, nor sell it.
A. Blikle

I INTRODUCTION

When the Polish People's Republic (PPR) and the German Democratic Republic (GDR) fell under Soviet hegemony and departed from the democratic institutional order, the communist authorities saw it essential to shape a new man. He was expected to be aware of class affiliation and thus be detached from the tradition, customs, and culture that had shaped him since youth, leading to a collision between formal and informal institutions. Informal institutions create principles of social conduct. They are cultural norms created by shared religious rules, systems of values, customs, and symbolic gestures (Gruszevska 2012, 63–64). Informal

S. Kamosiński (✉)
Kazimierz Wielki University, Bydgoszcz, Poland
e-mail: slawomirkamosinski@ukw.edu.pl

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institutions evolve very slowly under the influence of historical factors. Informal institutions are the pillars on which the formal ones are established: the legal regulations and political institutions that create strategies for socio-economic development. These formal institutions are subject to rapid changes in time.

The new communist man was outright opposed to the liberal, 'bourgeois' individual populating the non-socialized sector of the centrally planned economy, in particular the family firms, which were subject to severe limitations. The institution of socialized ('nationalized') ownership was given absolute priority. The stability of legal rights to own and freely use property is of key importance for the everyday operation of small family businesses. Sometimes referred to as 'business marathon runners', family firms are organizations of long duration. They draw on past experience and form their individual ritual of cooperation with those around them, based on tradition, ethics, and the so-called 'principles of the founder'. In a free market economy, these organizations display a high level of resilience in crisis situations. A characteristic feature is their will to survive. In the socialist economy, which was plagued by a permanent crisis of shortages, private businesses, including family ones, made up some of the shortages of products on the market.

This chapter explains the institutional regulations that allowed the foundation and operation of family businesses, in an economic system that was based mainly on nationalized ownership of the means of production accompanied by central planning and administratively determined prices.

Research on the economic systems of the PPR and the GDR has focused mainly on the overall image of their economies (Kaliński 1995; Bałtowski 2009; Burant 1988). The course of nationalization of enterprises in the PPR and in the GDR was already described in the socialist period (Falk 1976; Jędruszczak 1967). The tradition of entrepreneurship and of the social and cultural capital of entrepreneurs has attracted the attention of several historians, sociologists, and economists (Kühn et al. 2020; Ochowski 2013; Trecker 2022; Pickel 1992). Genetic entrepreneurship has been researched by Bernat (2022). A considerable contribution to the analysis of the traditions of entrepreneurship is made by the memoirs and diaries of entrepreneurs (Zasiadczk and Krasicki 2016; Prywaciarczyk 2001). To understand the modernizing role of entrepreneurs, it is essential to study the regional asymmetry of innovativeness (Fritsch et al. 2022; Fritsch et al. 2021a; Fritsch et al. 2021b). Flade and Kamosiński (2021) compare the sizes of the non-socialized sectors in the PPR and the GDR.

Research on the phenomenon of family businesses aims to elucidate their role in the economy and to examine problems related to succession (May and Lewandowska 2019; Lewandowska and Tylczyński 2014; Sułkowski 2004). Within the scope of this research, attention is drawn to the tradition of family firms seen from the perspective of the founder's mentality (Zook and Allen 2017; Lewandowska 2020). There appear to be no studies explaining the impact of formal institutions, mainly legal regulations, on the functioning of family businesses in East Germany and the Polish People's Republic. It should be noted that the communist authorities treated the law as an instrument to destroy these economic organizations. This was a consequence of the influence of the Marxist–Leninist ideology on the provisions of the law. There is a lack of studies on the problems of founding and operating family firms in the PPR and the GDR, in particular the legal conditions regulating their operation. There exist some comparative studies of Polish and East German constitutional law, as well as the law on property rights and inheritance (Bużowicz 2016; Grzybowska 2011; Machnikowska 2010; Malicka 2021; Waligórski 1988). However, there is still a gap in research in relation to the legal conditions that effectively hampered succession in family firms or favored what was called silent succession, performed with the tacit permission of the authorities.

When attempting to develop this broad research field, one must pay attention to the constant presence of informal institutions in tradition and social mentality (including the internal culture of organizations, their identity, and brand image). Probably due to the fact that family businesses often escaped the formal control of the communist authorities, they were considered dangerous to the system—apart from the fact that they did not conform to the Marxist–Leninist ideology. Two concepts related to property require clarification: personal property and individual property. In East Germany and in the Polish People's Republic it was recognized that personal property might consist of a car, furniture, and books. Individual ownership applied to real estate, including workshops and means of production. Discussions concerning the right to dispose of these forms of property during life and after death were part of the reality of the GDR and PPR.

This chapter will focus on the aforementioned issues. The fragmentary character of the chapter means that it will leave many problems unanswered but will raise questions for further analysis.

2 INHERITANCE LAW AS A PILLAR FOR ESTABLISHING FAMILY BUSINESSES

When we speak of a family business or family company, we assume that it is at least 51% owned by the family. Another criterion in the definition of a family business relates to management: in such an organization it is the family that takes both major and everyday decisions. The third element in the definition of a family business is succession—the intention to preserve the continuity of the enterprise within the family. Peter May and Adrianna Lewandowska consider a family company to have three basic features: dominant ownership, family, a will to preserve the business through the generations (May and Lewandowska 2019, 34–37). If communist rulers wanted to get rid of this contradictory element in their system, they would attack all three basic features by means of legal regulations. Restrictions on the ownership of means of production and breaking of the continuity of family enterprise played a dominant role.

In the process of succession of a firm, apart from material goods, intangible values are also passed down, such as the culture of conducting business and the firm's past, perceived as its identity. The process of succession or inheritance is thus perceived in terms of material, social, and cultural capital, which makes it possible to connect the firm's past with its future in the present day. For this reason, the act of a firm's succession or inheritance destroyed the communist authorities' concept of a new man: the man who was to be released from the past. Consequently, in the Republic of Poland and the German Democratic Republic it was not acceptable to preserve the right of individual ownership of means of production, as that type of ownership was supposed to disappear as socialism grew. It should be mentioned that family businesses, as they belonged mainly to the sector of small and medium-sized enterprises, were not subject to the provisions of the law on forced nationalization (in Poland, the Act of January 3, 1946). For this reason, the authorities of the GDR and PPR took other legal measures to liquidate them.

The findings presented here lead to the conclusion that the political restrictions imposed by the communist authorities on the private sector of the economy were reflected in legal regulations that determined the principles of inheritance of individual ownership and rights to own and freely use property. Relevant provisions were included both in the constitution and in the general legislation to which it referred.

2.1 *The East German Case*

The first constitution of the German Democratic Republic was adopted in 1949. It was not a typical constitution of a communist state, as it contained numerous provisions that were characteristic of the Western democratic systems. Researchers have stated that it could serve well the formation of a socialist system but could also be an example of the fundamental law of a democratic state (Burant 1988, 165; Malicka 2021, 318). It included a catalogue of personal rights and freedoms, supplemented with a catalogue of collective and social rights. The provisions contained in the catalogue of personal rights and freedoms were limited by detailed statutory regulations (Malicka 2021, 318). This legal maneuver was enabled by the inclusion of the words “unless an act stipulates otherwise” or “state authority may restrict or withdraw these rights based on the generally binding laws” (Malicka 2021, 318). Because the application of fundamental rights (guaranteed in the constitution of 1949) was made dependent on general acts, the provisions that granted equality of all citizens before the law, equality between men and women, a guarantee of personal liberty, inviolability of the dwelling, confidentiality of correspondence, freedom of expression, or freedom of organization could be limited at the level of legislative acts. Collective rights guaranteed citizens of the German Democratic Republic the right to work, the provision of necessary conditions of life, and rights to rest and leisure, to holiday, and to social care based on the social insurance system.

The economic system of the German Democratic Republic was supposed to guarantee its citizens prosperity and ensure fulfillment of their needs. It is noteworthy that the constitution of 1949 guaranteed an individual entity freedom of economic activity and the development of individual initiative, with support and expansion of social mutual aid and on the basis of suitable economic plans. In the fundamental act, the rights of individual and personal ownership and their inheritance were guaranteed. However, this was subject to the restrictions that execution of the guaranteed rights depended on the fulfillment of an individual’s social duties to the community and that the state had a share in succession. The constitution of 1949 introduced the institution of expropriation, providing a guarantee of compensation and a right of appeal to a court for a person who

felt unjustly treated. Considering that expropriation was related to the aim of socialization (nationalization) of the economy, the process was usually carried out with no compensation. With reference to the operation of individual businesses, the constitution stated that such a form of ownership was transitional, on the way toward an economy based on completely socialized ownership (Malicka 2021, 320). Article 20 of this constitution stipulated that farmers, merchants, and artisans should be supported in developing their private initiative. The constitution of 1949, which did not provide for an independent constitutional judiciary, was in practice ineffective, as was proved many times when the authorities of the German Democratic Republic ignored or breached its provisions (Burant 1988, 165).

The second constitution of the German Democratic Republic was adopted by the People's Chamber (Volkskammer) on March 26, 1968. This was the constitution of a socialist state. It laid down that leadership of the country was in the hands of the working class and its Marxist–Leninist Party (Burant 1988, p. 166). The government wanted to subjugate the economy, so that it would serve the political and economic aims of the workers' leadership. Such provisions precluded the operation of family firms as relics of the past, because individual ownership of means of production was disappearing along with the strengthening of socialism. Thus, the existence of such individual ownership was undermined. In the fundamental act of 1968 it was stated that the national economy was based on socialist ownership of means of production (Burant 1988, 166). In laying down a catalogue of fundamental rights, the constitution made their application dependent on the fulfillment by citizens of certain duties. That meant that the rights granted to an individual were in fact significantly limited. Fundamental rights promoted the formation of a “new, socialist awareness of citizens and identification of their interests with the interest of the state as social community”. They had the character of collective, not individual, rights (Malicka 2021, 325–326). The constitution's apologists would claim: “Socialist rights are original rights with their objective roots in socialist relationships. There is no continuity or convergence between the bourgeois and socialist fundamental rights” (Buchner-Uhder 1969, p. 8). The last sentence perfectly reflects the radical institutional change that had taken place in the German Democratic Republic.

Similar to the constitution of 1949, that of 1968 gave the state the right to bring up children.¹ It was stated that children would be brought up in the spirit of the constitution, to become independently thinking and responsibly acting people who would be able to adapt to life in the community. The role of parents was performed through the operation of parents' councils. Thereby, the social and cultural capital of a citizen of the German Democratic Republic was built, shaping an entity with socialist awareness (Malicka 2021, 324).

Both constitutions established a Supreme Court. The key difference in the provisions relating to this institution was that in the 1949 constitution, the judiciary was independent in accordance with the letter of the law, but under the provisions of the 1968 constitution it was subject to the control of parliament or the Council of State.

It is interesting to note that in the legal regulations in force (we doubt that they were in fact implemented) the provisions concerning inheritance in the German Democratic Republic until January 1, 1976, were based on the Civil Code that had been published in 1896 and entered into force on January 1, 1900. This code remained in force in East Germany until January 1, 1976, the year when the new *Zivilgesetzbuch der DDR* came into force. In the 1976 code, it was stated that socialist property and its growth and protection were the basis for the development of personal property. The source of personal property was the work done for society. It served to meet the material needs of citizens. Personal property included, in particular, income from work and savings, home and household equipment, personal items, items acquired for vocational training, further education, and recreation, as well as land and buildings used to meet the living and recreational needs of a citizen and his family. The chapter on inheritance, although some provisions differed from those of the former Civil Code, did not radically break continuity with the regulations of 1896. This was undoubtedly a success of the legislators of that time. Citizens of the GDR could own personal property, and it could be inherited (e.g., by testament). An important fact was that under the 1976 regulations it was forbidden to own private industrial firms. Thus, the rights of citizens to

¹Article 37 of the 1949 constitution stated: "The school educates the youth in the spirit of the constitution to think independently, act responsibly, to be able and willing to integrate themselves into the life of the community. As a mediator of culture, the school has the task of educating young people to true humanity in the spirit of peaceful and friendly coexistence between peoples and genuine democracy. Parents are involved in the education of their children through parent councils".

own and dispose of property were limited. That provision in practice made it impossible to build family businesses. The agricultural management system in the GDR was complicated. There was individual ownership of land, which was under the common management of cooperatives (there were three types of farm ownership in the GDR²). Land ownership remained with the individual farmer, implying only minor property rights (*usus fructus*). Inheritance concerned only land ownership.

In accordance with the articles of the still binding inheritance law of 1896, probate proceedings were carried out by national notary offices. A decision of such an office was legally binding without any right of appeal (Grzybowska, p. 306).

The repressions applied by the authorities of the German Democratic Republic against the individual sector of the economy were very sophisticated. Small craft enterprises were repressed by the provisions of the tax law and faced difficulties in accessing production materials. The non-socialized sector of the economy, deprived since the 1950s of access to bank credit for conducting business activity, was given an unexpected and—as it turned out from everyday practice—a very tricky offer. The state, as an institution, offered financial support to the non-socialized sector. The institution of the socialist state, when providing such support to a business from the non-socialized sector, proposed to the owner the establishment of a company with state capital. Thus, the socialist state took on the role of an external investor in the individual enterprise operating in the non-socialized sector. Private firms became limited partnerships, where the individual owner was the general partner and the state was the limited partner. Management and succession were thus regulated. These partnerships, along with most other fully private companies, were nationalized in 1971. A clear advantage of this was that state institutions took control over economic entities in which they had invested some capital (Flade and Kamosiński 2021, p. 168). The German Democratic Republic finally cracked down on the non-socialized sector on December 16–17, 1971, during the fourth congress of the Central Committee of the Socialist Unity Party. The state's share in the industrial sector was increased in

²Farms in the German Democratic Republic were of three types. The first and second types were considered transitional and were to disappear in time as socialism grew. In the first type of collective farms the farmers used only the land jointly, while the buildings were under individual ownership. In the second type the land was again shared, but each member of the farmers' families could use a small, private plot. The third type consisted of entirely collectivized farms (Burant 1988, p. 139).

1972 from 88.9% to 99.9%. Minor service firms, such as food services or artisan workshops, remained in private ownership (Flade and Kamosiński 2021, p. 168). These included tailoring and shoemaking services, firms repairing household appliances, as well as small bakeries. In this way, citizens' access to the service sector was broadened.

2.2 *The Polish Case*

The Constitution of the Polish People's Republic of July 22, 1952, legalized the deprivation of individual ownership and did not provide a guarantee of legal protection for such form of ownership. It was laid down that the Republic, based on binding regulations, acknowledged and protected individual ownership and the right to inherit land, premises, and other means of production belonging to farmers, craftsmen, and homeworkers. However, the provisions omitted small entrepreneurs, merchants, and owners of food services. Consequently, the individual owners of firms other than those mentioned in the act were not granted any rights (Machnikowska 2010, p. 555). This allowed the Polish authorities to reserve the right to liquidate individual facilities that at a given moment were considered redundant or threatening to socialist property relations. Through the whole period of the People's Republic, the law continued to be interpreted on the basis that the existence of a non-socialized sector in the economy was only temporary. The sector was gradually to disappear as socialism strengthened. In other articles of the constitution of July 22, 1952, it was laid down that the personal property of citizens and the right to inherit it were protected by the state. That provision was in line with the communist concept that the only form of ownership was personal ownership. The provisions of the fundamental act did not determine forms of succession (statutory or testamentary) and no limitations were placed on the value of inherited property (Grzybowska 2011, p. 311). In this way, the authorities reserved themselves the right to interfere in matters of succession by implementing limitations and restrictions in legislation. What is more, following from the constitutional provision, "From each according to his abilities, to each according to his needs", it was concluded that the "law of succession must be formed in such a way that acquisition of property, if not based on work, would only be possible in case of the existence of other sufficient prerequisites" (Grzybowska 2011, p. 311). The possibility of freedom to testate was also taken into consideration.

The authorities of the Polish People's Republic, following Marxist–Leninist ideology, strongly criticized the decree on the law of succession issued on November 8, 1946. The decree remained in force until 1964. Its provisions, according to the communist authorities, were rooted in bourgeois mentality. The provision stating that inheritance covered all of the property rights and duties of the deceased was questioned as inconsistent with Marxism–Leninism. Only personal and individual property was to be inherited. Forms of succession (statutory or by will) were then laid down (Grzybowska 2011, p. 311). In spite of the questioning of the decree of 1946, the Civil Code adopted in 1964 maintained in force most of its provisions concerning inheritance. Here, a similar contradiction existed as in the German Democratic Republic due to the application of the Civil Code of 1896. As these legislative measures show, in both the Polish People's Republic and the German Democratic Republic, the continuity of European legal thought was preserved with reference to succession and inheritance. Legislators of past centuries understood the law of succession and inheritance as fundamental rights granted to every human. Human attachment to individual property or ownership grew from the principles of an informal institution, recognized as a tradition.

The concept was aptly summed up in 1946 by Stanisław Cylkowski, president of the Chamber of Industry and Commerce in Bydgoszcz. He urged “doctrinal theoreticians to refrain from detaching their programs from the specific reality and basis on which all social and economic reforms may be executed” (APB, Chamber of Industry and Commerce).

Similar to the German Democratic Republic, the authorities in the Polish People's Republic faced difficulties in establishing principles of succession for individual farms. Importantly, the legislative measures adopted in Poland allowed the establishment of family farms, and that process continued. The principle that individual ownership of land as a means of production was only a temporary right was thus suspended. By the Act of June 29, 1963, on the limitation of division of farms in the Polish People's Republic, specific provisions were introduced on succession with regard to farms. The regulations aimed to prevent divisions of individual farms into smaller ones and the placing of excessive burden on successors due to a requirement to pay back other members of the family. Moreover, the act laid down mandatory qualifications for the successor to a farm, and regulations on the inheritance of land by the State Treasury were expanded. According to one commentator on the act: “The strictly determined qualifications of successors not only conditioned the allocation of a farm as

inheritance, but also conditioned the very fact of inheritance. In case of lack of qualifications, the successor did not inherit the farm, even though he/she was appointed as heir. That was quite a new solution in the Polish law of inheritance. The farm was taken over by the State Treasury” (Grzybowska 2011, p. 312). The legal provisions discussed above are a typical example of state intervention in individual economic activity. Importantly, they were characteristic of both capitalist (democratic) and socialist (communist) states. The state as an institution protected by law the indivisibility of agricultural land on farms and expected specific professional qualifications from the future farmer. In view of the repressive policy of the PPR’s authorities toward the private sector, these regulations could be regarded by society as another form of repression aimed at individual property. State intervention here was based on rational grounds.

The relevance of the act of June 29, 1963, went beyond the letter of law; it was of highly symbolic value. The communist authorities in Poland, in permitting the legal succession of individual farms, allowed the creation of family farms. Together with the capital embodied in the family farm, the successor inherited intangible assets and values, including the tradition of management, ethical principles of work, and the brand of the individual farmer. The act restored principles of market management within a centrally planned and managed economy. On the sidelines of the official workers’ leadership, there emerged a class of individual farmers who followed different ethical and moral rules. Such a break from the socialist economy proved the error in its construction. The weakness of the socialist economy was the firm belief of its ideologists that socialized ownership was superior to individual ownership of means of production.

In the context of statutory provisions in force in the Polish People’s Republic in the 1970s concerning the conduct of economic activity in the non-socialized sector,³ the permission granted to a natural person to conduct economic activity in the non-agricultural sector took the form of an administrative decision, such as registration, permit, or license. The provisions determined two ways of registering a private firm. One of them was confirmation of registration of the business, and the other consisted of

³These regulations consisted of: the Act of June 8, 1972, on implementation and organization of craft; the Act of July 18, 1974, on the performance of trade and other types of activity by entities of the non-socialized economy; the Act of July 6, 1982, on rules on the conduct of economic activity in the Polish People’s Republic in the form of small craft by foreign natural and legal persons; and the Act of February 26, 1982, on entitlement to perform foreign trade.

permission to conduct the business. In the first case, if the enumerated conditions were fulfilled, the authority could not refuse issuance of the confirmation of registration. The conditions to be met were as follows: provision of services for people and agriculture, manufacture of minor consumer goods to supply the market and goods of local or regional character (souvenirs, art) in person or with the aid of family members residing in the same household. In the second case, permission was granted to one or several persons who intended to conduct business jointly. The permit provided the right to employ workers (mostly six, but in the case of a construction firm, eight), and these limits could be increased if certain prerequisites were met. The act stipulated, however, that permission would not be granted if it was considered contrary to the social interest. This was a statement of very broad scope and was thus convenient for the authority issuing permits. The administrative decisions granting permission to conduct individual economic activity were addressed to people who acted outside the state economic order. They were granted to specified persons and were non-transferable. This meant that, in case of the death of a person authorized to conduct individual economic activity, an administrative body could refuse to grant permission to continue the activity to the children and grandchildren of the deceased (Waligórski 1988, p. 95). In this way the authorities prevented uncontrolled succession and the accumulation of individual property in family hands. Thus, individual economic activity in craft, trade, and services could be conducted only in one's own name and on one's own account. If a company was established, it had to be a partnership as defined in civil law, which meant that all partners were obliged to participate in the economic activity. It was impermissible to join the partnership only by contributing capital (Waligórski 1988, p. 86). The law determined the method of personal management of a craft, trade, or service firm. According to commentators, the administrative decision issued in the form of a permit protected the interests of an individual economic activity, as it gave the authorized entity the legal right to develop its business within the scope and according to the rules laid down in the permit itself and in the relevant legal regulations (Waligórski 1988, p. 98).

It should be emphasized here that the communist authorities in the Polish People's Republic did everything they could to ensure that small craft workshops were not inherited. Thus, the creation of family firms was prevented. As mentioned above, in case of the death of a person entitled to conduct activity in craft, trade, or services in the non-socialized sector, the administrative law of the Polish People's Republic did not provide for

extension of the relevant decision to their immediate family. As a result, the firm ceased to exist. On the other hand, the act did not specify any sanctions in the event that heirs continued to conduct economic activity on their account without the prior permission of the competent body (Waligórski 1988, p. 95). The lack of adequate regulations revealed another inconsistency in the legislation. This inconsistency, however, provided an opportunity for citizens to disregard or bypass the binding regulations. Bad legislation, detached from the traditional, real needs of society, was rebuffed by the Poles.

As a result of the legal provisions discussed above, the individual concession granted to a craftsman for conducting business activity, along with a number of additional difficulties related to the repressions resulting from the provisions of tax law and the practice of the tax administration with regard to the so-called tax surcharges, was used by the authorities of the Polish People's Republic to build an atmosphere of uncertainty around the private sector. As a result of this uncertainty, craftsmen did not make long-term investments. They ran a business that met only its current needs. They could not view or plan the future of their firm. It should be emphasized that the communist authorities' policy on the so-called temporary activity of the private sector should be regarded as one of the effective repressions against private entrepreneurs, who gave up trying to create family businesses.

The Act of June 8, 1972, on social insurance of craftsmen, imposed a duty of insurance on craftsmen and people working with them. Social insurance covered medical services, pension, invalidity allowance, family allowance, pension supplement, and funeral allowance. These were paid from a fund of contributions paid by craftsmen and administered by the Social Insurance Institution. That was the first of the acts in the Polish People's Republic which enabled owners of private production firms to retire and opened the way to the so-called tacit succession. In everyday practice, usually with the tacit permission of the authorities, owners of production firms ignored the regulations limiting succession and conducted the succession process by way of administrative procedures. The senior craftsman retired, shut down the business, and obtained a pension from the Social Insurance Institution. At the same time, a qualified junior craftsman (heir), based on an individually granted permit to conduct new economic activity in the non-socialized sector, started his or her own business. This method of succession enabled the avoidance of problems with claiming property rights by inheritance.

The difficult issue of the use of premises by craftsmen constituted a certain limitation on the effective use of individual property in the area of production. The authorities refused to grant permission for the sale of premises to natural persons (Machnikowska, pp. 566–567). They were allowed only to rent. At the same time, craftsmen's rights to build their own premises were limited, even if they wished to use them for the purposes of their own economic activity. This was a deliberate decision on the part of the communist authorities. They did not want the individual owners of means of production to become owners of commercial facilities, because that went against the principle of elimination of the class of capital owners.

The growing economic and political crisis in the Polish People's Republic in the 1980s, related to the erosion of the ruling communist party (the Polish United Workers' Party), the rise of anti-communist sentiments in society, the Solidarity movement, and the strengthening of the anti-communist opposition despite the repression carried out by the authorities, had an impact on the growth of entrepreneurial attitudes in society. The communist authorities, wanting to mitigate the adverse effects of the economic crisis such as shortages of basic consumer goods, softened its political stance toward the private sector. The Act of September 16, 1982, amending the Act on the organization of crafts, gave a new status to the non-socialized sector of the economy. The preamble to this act stated that craftsmanship was a permanent element of the socialist economy. Thus, it was confirmed that in the Polish People's Republic three sectors of ownership could develop on equal terms: state, cooperative, and private. It was declared that the independence and self-government of craft organizations was to be strengthened, and it was stipulated that craft workshops could employ up to 15 persons. As a result of this regulation, the private sector was released from the rigors of central planning (Bałtowski 2009, p. 274).

The regulation of January 31, 1985, on small manufacturing was another instrument through which the authorities of the Polish People's Republic declared the private sector a permanent component of the socialist economy. This assurance, included in the preamble of the legislation, was intended to give the entrepreneurs of the time, pejoratively known as private traders, a guarantee of the safety of their invested capital and accumulated assets. This step was justified by the fact that the authorities wanted to increase the efficiency and effectiveness of the economy. Therefore, the rights relating to the conduct of business activity in small

manufacturing were made equal, regardless of the ownership sector. In an economic system that privileged the state and cooperative sectors of ownership, this was a significant qualitative change. With this move, the authorities of the Polish People's Republic, in the face of increasing shortages on the internal market, resulting from the crisis of the planned economic system, undermined the doctrinal foundations of that system, which had been stubbornly constructed after the end of World War II. Despite many changes that were favorable to the private (non-socialized) sector, the new law retained separate income taxation for the socialized and non-socialized sectors (Konopska-Struś and Muszkiewicz 2010, p. 458). The Act of January 28, 1987, on counteracting monopolistic practices in the national economy completed the changes that loosened the doctrinal framework of the socialist economy.

The Act of December 23, 1988, on economic activity, untypically adopted by the Sejm of the Polish People's Republic, disrupted the existing economic order that was dogmatically defended by the communist authorities. The adoption of that act should be regarded as the first step taken by the then political regime toward changing Poland's economic system. The new law represented a powerful modernizing force, giving entrepreneurs the right to run a business on an equal footing with state-owned enterprises. The three ownership sectors—state, cooperative, and private—were made equal in law. Entrepreneurs were given the freedom to choose the legal form of self-employed business activity. The law stipulated that starting and running a business was free and allowed to everyone on equal terms. For fear of social reaction to the act, the concept of entrepreneur was not included in its wording. In the Polish People's Republic, the communist authorities ensured that the term “entrepreneur” was given the pejorative connotation of entrepreneur-privateer. Hence, in the Act of December 23, 1988, a less controversial term, ‘economic entity’, was used. The economic entity, as a concept, encompassed both natural and legal persons. An important change compared with the previous legal order was the granting to economic entities on equal terms, regardless of the form of ownership, of the right to have an unlimited number of employees, as well as access to bank loans and the supply of means of production.

The 1980s, perceived as a time of deepening collapse of the centrally planned economy in the Polish People's Republic, paradoxically turned out to be a period conducive to the development of the non-socialized sector. The private sector—flexible, innovative, economically effective,

according to Schumpeter's principle that a crisis is an opportunity for daring entrepreneurs—won out in the competition with the sluggish, inflexible behemoths of socialist industrialization. In 1981, there were approximately 357,100 business entities registered for non-agricultural economic activity. They employed around 654,100 workers (about 1.8 employees per firm on average). During the 1980s, the Polish government approved the development of private initiative, one result being that the average employment rate per private firm had increased to 2.2 employees by 1987. It should be noted that in 1986 more than one million people were employed in the private sector, and the number of firms was growing at a very fast pace. In 1987 the number of firms was 530,400, an increase of 173,000 over 1981. Maciej Bałtowski explains this abrupt increase in the number of private enterprises by, among other factors, the “atmosphere of growing negative attitude towards the socialized economy” (Bałtowski 2009, p. 274).

Although the political stance toward private initiative eased from the 1970s and 1980s, very few craftsmen-entrepreneurs—negatively referred to as “private dodgers”—dreamt of preparing successors to take over their businesses. The profits that could be earned from economic activity conducted on one's own account were huge. The majority of craftsmen did not assume that, in the legal conditions of the Polish People's Republic, their operations would be transferred to their heirs. For this reason, they limited their investments. Many firms in those times operated in a one-room flat, a basement or cellar of a tenement house, or a garage. The profit generated was exchanged for Western currency or gold, or simply consumed.

3 THE CONCEPT OF FAMILY COMPANY BRAND

In the society of the German Democratic Republic, as a result of the persistent propaganda against entrepreneurs that had been carried on since the end of World War II and ended with the nationalization of enterprises, there was no space for the restoration of so-called historic brands, often associated with family businesses. It was considered that these had been discredited during the war. Moreover, the restoration of traditional brands in the Federal Republic of Germany gave the authorities of the German Democratic Republic new arguments for intensive actions aimed at breaking with the past and forming a new socialist state. Most of the renowned brands, recognized mostly in local environments and existing in small craft

sectors, were eliminated. These were brands which customers used to associate with family companies, providing bread, groceries, or small services, and were mostly based on their owners' names.⁴

Historic brands existing in the economy of the Polish People's Republic, as in the GDR, were associated with family businesses. In the PPR they were usually synonyms for luxury and good taste and confirmed the link between family businesses and the history of the place in which they operated. They included such brands as Ludwisarnia Felczyńscy (a bell foundry), founded in 1808; A. Blikle (confectionery), from 1869; Pracownia Obuwia Jan Kielman (a footwear factory), from 1883; Szajek Przetwórstwo Mięsa (meat processing), from 1905; Foto Garzyński (a photography firm), opened in Cracow in 1918; and Cukiernia Zakryś (confectionery), founded in 1919 in Tuchola. The historic brands preserved in collective social memory, and the uninterrupted operation of family firms that were not disturbed by the communist persecution of the private sector, were uncharacteristic phenomena for the socialist bloc. To explain them, one may quote the words of Jean-Paul Sartre, who, on visiting Poland in 1960, referred to "the country detached from its own past by communist forces, but so strongly attached to the past that it rebuilds the ruined capital city based on Canaletto's paintings" (Davies 1991, p. 766). Norman Davies, a renowned historian, observed that a characteristic feature of the Polish people was that "most Poles are just by disposition 'against'" (Davies 1991, p. 766).

4 TIME OF ESTABLISHMENT OF FAMILY BUSINESSES OPERATING IN POLAND IN 2019

Of the family businesses operating in Poland in 2019, 30.4% were established between 1951 and 1990, in the era of the Polish People's Republic. This period can be divided into two subperiods: 1951–1980, in which 7.4% of family firms operating in 2019 were established; and 1981–1990, accounting for 23% (see Table 7.1).

⁴Daron Acemoglu and James A. Robinson write: "Each community functions according to a set of economic and political rules implemented jointly by the state and society" and the adopted "economic institutions determine economic stimuli encouraging to study, save and invest, implement innovations, apply new technology, etc. Each radical institutional change may severely hamper the institutional order created throughout the years" (Acemoglu and Robinson 2014, p. 54).

Table 7.1 Percentages of family firms operating in Poland in 2019 by age (based on research conducted by the Polish edition of *Forbes* in 2019)

<i>Date of establishment</i>	<i>Percentage of firms</i>
1921–1930	1.5
1931–1940	3.0
1951–1960	3.0
1961–1970	2.2
1971–1980	2.2
1981–1990	23.0
1991–2000	41.5
2001–2010	17.0
2011–2019	6.6

Source: “Special report: Family businesses in Poland. State, opportunities, challenges”, *Forbes*, January (2020, p. 100)

In the period 1951–1980 in the Polish People’s Republic a group of determined persons appeared who, contrary to the intentions of the then communist authorities, undertook economic activity and built solid foundations for their company. They never perceived their “private business” as a temporary adventure. Their vision was motivated by the demand of the market for the creation of brands, whose advantage would be anchored in values associated with the family firm. The entrepreneurs of those times introduced their own original production technologies and searched for previously unknown design solutions. These firms included, among others: Grycan–Lody od Pokoleń (ice-cream factory), founded in 1946 in Wrocław; and Cukiernia i Piekarnia Adam Sowa (pastry/bakery), which was set up in Bydgoszcz in 1946 and underwent a succession process in 1982. In 1972 another food manufacturing firm was founded—Roleski (Kamosiński 2021, pp. 85–86).

The few (as shown by statistical data) family businesses that survived during the three difficult decades of 1951–1980 lasted on the internal market of the communist state only thanks to the determination and consistent management of their owners. Despite the obstacles posed by the law, they survived. Favorable changes came in the 1970s, when the growing economic crisis, combined with the country’s growing foreign debt and the deteriorating public mood, made it easier for craftsmen to make decisions about the continuation of their businesses. They were the beneficiaries of the shortage economy, being practically guaranteed unlimited sales of their products. The 1970s, known as the decade of Edward Gierek,

opened access to social insurance and pensions for craftsmen. This was a breakthrough in the social policy of the Polish communist state, considering that at the same time in the GDR the communist authorities were doing the opposite, having decided to liquidate the private sector of the economy.

The family businesses built up in the Polish People's Republic in the 1980s operated in a period of frequent and unsuccessful reforms of the socialist order implemented by successive governments (Grala 2005). These firms included MB Pneumatyka, founded in 1984 by engineer Andrzej Bieniaszewski, a constructor of joints for pneumatic breakage systems; Laboratorium Kosmetyczne dr Irena Eris (cosmetics laboratory), founded by Irena Eris in 1983; and Bandi Wytwarzanie Artykułów Kosmetycznych (cosmetics manufacture), set up in 1986 by Bogda Draniak. Sociologists' research on the attitudes of Polish society toward private economic activity in the 1980s leaves no illusions. Mirosława Marody noted that in that decade there was a phenomenon which she described as the appreciation of self-employment. As a result, "business centered around one's own interests with the use of a complex network of connections and arrangements requiring constant maintenance" was observed (Marody and Lewicki 2010, p. 107). Winicjusz Narojek pointed to the birth of what he called 'little individualism', which initiated "the process of constructing individual strategies of action, disregarding the rules and norms that were to organize the cooperation of the communist society, and thus also identification with the institutional order established by it" (Marody and Lewicki 2010, p. 107). This state of awareness provides a convincing explanation of the fact that as many as 23% of family businesses operating in 2019 were founded in the years 1981–1990.

The family firms that were set up in the Polish People's Republic, against the intentions of the communist authorities, constituted a vehicle for the social and cultural capital that shaped their owners and successors, under the influence of past experiences and awareness of the successes and failures of their predecessors. Those firms worked out their own solutions for cooperation with other people and organizations, creating networks of connections and business relations. Their existence despite the unfavorable political conditions, where individual ownership of means of production was considered transient as socialism strengthened, gave them power and enabled them to continue their operations after the institutional watershed of 1989.

5 SUMMARY

A family business is a specific type of economic organization where the legacy of the past forms the future. It cannot be detached from its identity. It grows on its founder's", often shaped throughout the decades. The continuity of family management and growth in the material and non-material resources of these firms were nevertheless contrary to the principles implemented in 'people's democracy' concerning the formation of a new socialist man brought up on the basis of Marxism–Leninism. For the communist authorities in Poland and East Germany, family firms were enemies to be tackled. Considering that these firms usually belonged to the sector of small and medium-sized enterprises, their liquidation required a wide range of new legal regulations, including in the sphere of inheritance and succession.

An interesting phenomenon observed in the Polish People's Republic and the German Democratic Republic was that the law of inheritance was not inwardly separated from the European legal tradition, reaching back to Roman law and the Napoleonic Code. This applies both to the Civil Code of 1896 that remained in effect in the German Democratic Republic and to the decree on inheritance law enacted in 1946 in the Polish People's Republic. The measures adopted were criticized by advocates of communism as going against Marxist–Leninist doctrines, but they were nevertheless applied. The constitutions in effect in the Polish People's Republic and the German Democratic Republic must be analyzed differently. The fundamental acts of both states were drawn up under the tight control of communist politicians, particularly in the case of two of them: the Constitution of the Polish People's Republic of 1952 and that of the German Democratic Republic adopted in 1968. The Constitution of the German Democratic Republic of 1949 was referred to as a temporary, transitional act, and many of its provisions were regarded as inconsistent with the principles of the new order. In the case of both the Polish constitution of 1952 and the 1968 Constitution of the German Democratic Republic, a similar observation can be made: both acts were treated as instruments by the authorities. Their legislative impact was insignificant, due to the lack of a constitutional judiciary. It should also be noted that in these two countries there was no administrative law and no administrative courts were established. A citizen could not sue the state if he or she felt unjustly treated by decisions made by state institutions.

In both states, another point requiring deeper analysis was observed, namely the incompatibility of formal and informal institutions in case of institutional change. Observing the pace of the changes introduced by the communists in the space of formal institutions, one observes the phenomenon of historical acceleration (Staniek 2017, p. 91). Changes to the formal rules operating in political and economic life, imposed by way of legal regulation, but displaying a lack of conformity with the informal rules adopted by society, naturally led to a collision. As a result, the deepening conflict between the formal and informal institutions led to a situation where the letter of the law was bypassed or ignored in everyday life. In the German Democratic Republic there was a visible problem with regulation of the inheritance of individual land ownership in a system that included three types of cooperatives. In the Polish People's Republic the law in force allowed the creation of family farms, but at the same time hampered the succession of family firms in the manufacturing and service sectors. It seems that the communist authorities found it most challenging to tackle the long-established institutions, such as tradition and custom, and the rules of conduct of individuals and families based on those values. In the German Democratic Republic the authorities attempted to destroy these values by imposing a greater degree of control than in Poland over the family and children's upbringing. Probably a significant factor in the Polish People's Republic was the Catholic religious tradition. Disobedience to formal institutions, which was weaker in the German Democratic Republic, remained very strong in Poland. It was in the Polish People's Republic that in 1980 the Solidarity revolution started, later gaining the momentum that would produce a snowball effect across the states of 'people's democracy'.

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