Ph. D Piotr Konrad Fiedorczyk

SUMMARY OF PROFESSIONAL ACCOMPLISHMENTS

1. Piotr Konrad Fiedorczyk

2. Doctor of Legal Science , Faculty of Law, University in Bialystok, 1999. Paper entitled: *Special Committee to Fight Corruption and Economic Plague – Białystok Branch*

Master of Law, Faculty of Law and Administration, Warsaw University, 1990, under supervision of Prof. Stanisław Russocki

3. Information about previous employment in scientific units

1999 – till now – assistant professor at Faculty of Law, University in Bialystok

1991 – 1999 – assistant at Faculty of Law at Warsaw University, Branch in Bialystok (University in Bialystok since 1997).

1999-2011 – assistant professor in Wyższa Szkoła Ekonomiczna w Białymstoku

4. Scientific achievement pursuant to Article 16 (subparagraph 2) of the Act on university degrees and university title and on degrees and title in arts : monograph: *Unification and codification of Family Law in Poland (1945 – 1964),* Wydawnictwo Uniwersytetu w Białymstoku, Białystok 2014, p. 800.

The subject of the monograph is the process and results of unification (1945 – 46) and codification (1947 – 64) of family law in People's Republic Poland. The choice of the subject aimed at completing the gap that existed in historic - legal publications on genesis of the existing civil codes in 1964. The distinction of the family law is legitimized by the fact, that, however family law now indisputably belongs to civil law, at the time of People's Republic of Poland family law was regarded to be a separate branch of law. As the result of such an attitude Family Code in 1950 and present Family and Guardianship Code came into existence.

The monograph is a result of my multiannual research, which results have been regularly published since 2002. The presented work includes those results and complements them in some places. The larger part of the book presents completely new findings that have not been presented yet.

The work consists of an introduction and three parts, which correspond to particular stages of work on family law in chronological order, and a summary.

The presented twenty-year-long history of family law was a part of a huge change in civil law, which took place in People's Republic Poland.

The first stage of those changes belonged to a unification of civil law in 1945-46. At the time family law was regarded as a part of civil law, though part of the doctrine, both in the mid-war period as after the II World War, drew attention to the specifics of that branch of law in civil law. Not only did the authors of the unification: Seweryn Szer, Jan Wasilkowski and Aleksander Wolter accept the thesis that family law belongs to civil law, but, what is more, did not declare any doubts in that issue. Such an attitude was expressed in the order in which the unification decrees were dealt with. First, the regulations connected with widely understood personal law were compiled, then – the regulations on property, too.

A question, if presenting the history of family law only was substantially justified arose. I am convinced that the work proves that assumption right, as the family law was separated into a family code, which happened in 1950. Further evolution of the family law successfully completed by creating the Family and Guardianship Code in 1964. It is also worth stressing that the creation of separate family codes, regardless of the discussion on connections of family law with civil law, increased the range of the family law in the legislation in People's Republic of Poland.

The specifics of family law lies in regulating a very delicate matter of how a family functions. It was justly noticed that in family law the humanistic thought is stronger that in 'classic' civil law, directly connected with property and ownership rights. Therefore another question about the ideological background of the works on family law unification arises.

It was one of the manifestations of European (and even world-wide) tendency towards socialization of private law, which had its background in the 19th century. The Minister of Justice, Henryk Swiątkowski, an activist of pre-war PPS (Polish Socialist Party), in the first issue of an official periodical magazine of the Ministry wrote that: 'the new Polish law is a social law. It formulates political, social and economic changes into strict legal formulas, protects the new social orderliness against attacks of destructors of democratic order'. The social aspect of the unified law was often the main motive of his speeches, but they did not contribute to the understanding the heart of the issue. Declarations of Wacław Barcikowski, then the first chairman of the Supreme Court, have a better cognitive value. He wrote: 'socialized life widens the level of the approach to the society. Married life and obligations resulting from marriage concern the community, in which a person lives, the most. (…) Marriage is a social relation, constituting a family, which is the basis for the society, nation and country. As such, marriage has to have a legal form and legal structure. The law should define creating, operating and breakdown of the relation;

the law should define, protecting the interests of the whole nation and the state, some rights and obligations of spouses in their relationship. Summing up – the law has to normalize civil effects of marriage, not interfering with the emotional and private life, with their feelings, believes and religious issues'. This statement meant that the legislator intends to interfere in family relations on a large scale, justifying it by social needs.

Seweryn Szer, then a chief of Civil Law Division in the Department of Legislation, directly engaged in the unification of law, is an author of an extensive study on ideological assumptions for the new law. In his article *Social moments in unified law*, basic one to understand the intentions of the legislator, he explained that social, economic and political changes of the first half of the 20th century led to outdating the Roman division into private and public law. 'Socialization of public law, which started after that war, caused that now, due to great social and political changes, the whole problem seems unreal, as the social and public moment infiltrates every domain of law, justifies its existence, sense and purposefulness'. Further S. Szer was proving that work and communal interest make the socialistic basis for after-war reality. With regards to an issue of property, which was essential for private law, Szer stated that property law is not a notion rising above the legal order (which means that it is not a natural law), but it has to be treated as a workshop, a work place which serves economic, common and national needs. Property imposes some social obligations. The author was aware that such a concept of the role of law may lead to 'totalitarianism'. He strongly rejected such a possibility by explaining that 'socialization of public law, which is in progress, stands in complete contradiction to any form of totalitarianism in this area. On the contrary, the aim is to remove this social inequality or injustice as well as those outdated, reactionary means, which cannot be held on the background of transformations and in connection with our new democratic order'.

Presented opinions of S. Szer meant that, the unification of family law that he was working on was to be based on a complete change of the existing law, which was derived from codifications of 19th century. The postulate of socialization had a very wide scope as the author negated the legitimacy of Ulpianian division of law.

Both social and political theses and Explanatory Memorandum of projects, as well as solutions of some unification of decrees themselves prove the thesis of socialization of family law. *Political theses for matrimonial law* had a very laconic content, in some parts resembling pre-war project of Karol Lutostański. As far as the discussed issue of the state's influence on marriage *Theses* stressed the importance of matrimonial law for functioning of the state. Referring to the concept of sovereignty as the basic attribute of a state it was stated that 'sovereignty does not bear

any power, having its source beyond a state, to compete with its own attributes'. This thesis led to a conclusion about the necessity of implementing unification of matrimonial law, based on a laic model of this law, eliminating ecclesial regulations. Exclusiveness of the state entitlement to regulate matrimonial law was to correspond with taking the whole jurisdiction in marriage issues over state courts. *Theses* stressed introducing obligatory civil marriages. They also pointed that the intention of legislator is to ordain a possibility to dissolve a marriage in divorce.

The amplification of the above ideas was presented in the substantiation of the project prepared by the Ministry. It was stressed that marriage is a social institution and as such belongs to the scope of interest of the state and the law constituted by the state. Attention was drawn to the importance of adapting social institutions, including marriage, to the needs of the state. 'Inconsistency of regulations, which rule social formations, with the constitutional and state law, in consequences weakens the state, therefore, its interest, which is the highest good in society, demands any social relation to be subordinate to the leading principles, on which the state structure is based' – said the substantiation. Then, initiators of the project stated that marriage should play an important role in performing tasks which are obliged by the state upon its citizens, who 'have to render the duty of work and blood (…) Furthermore, marriage has to be a tool in the hands of the state to educate citizens properly'. The authors of this project also said, basing it on the above assumptions, that the leading principle of the new law is the one on persistence of marriage, treated not like a contract, but like a social institution. At the same time the religious concept of inseparability of marriage was excluded by stating that it leads to negative social effects. In connection with the above it was said that 'a divorce is necessary evil, which in some cases has to be dissolved'. The previous declarations were confirmed by an obligatory laic form of contracting a marriage that was included in the decree on matrimonial personal law (art.11). Although art. 37 stated that 'the regulations of present law do not deprive parties of the possibility of fulfilling the ceremonies which follow their religious groups membership', but it has to be reminded that the laic form of contracting a marriage came as a revolutionary change in a catholic country. It is also worth mentioning, that the new law did not order, as it used to be under Prussian partition, to contract a civil marriage before a religious one. Based on eugenics, the decree prohibited marriages of persons suffering from venereal disease (art. 7 p. 6) and introduced obligatory pre-marriage medical examination (art. 10 § 1 p. 3). The principle of equality of rights, although not stated *expressis verbis* in the decree, was reflected in chapter III, which equally defined the rights and obligations of both spouses.

The regulations on divorce were the most controversial. It was the intention of the legislator to introduce possibility of divorce, and ipso facto depart from the catholic principle of indissolubility of marriage. It should be also noticed, that getting a divorce was not easy. A divorce was to be possible only 'in special cases, which proved that matrimonial community was no longer capable of fulfilling its social obligations'. First of all, the new law introduced a negative divorce premise: 'the welfare of juvenile children' (art. 24). It was a very important declaration of the legislator, which showed that the proper upbringing of a child in a family was their priority. Furthermore, in order to procure a divorce it was necessary to claim fault of one partner or both spouses (art. 27 §1). The principle of inseparability of marriage was to find its reflection in other regulations, material as well as procedural. Conciliation proceedings, possibility of suspending divorce proceedings, compensation for the innocent party and punitive damages (art. 29) were to protect from too much freedom in obtaining a divorce.

The exceptions from the principle of inseparability of marriage were included in a decree *regulations introducing matrimonial law*, which was published together with *matrimonial law.* Art. XII of this decree allowed dissolution of marriage by a divorce, if one of the spouses signed on a German national list during Nazi occupation. It was one, and the only one divorce premise, and in such cases the welfare of children was irrelevant. *Ratio legis* of this regulation was based on the thesis of social harm of marriages with persons of German nationality. A much more important exception was formulated in art. XIII of introductory regulations. According to its content it was possible to dissolve any marriage with three-year-long marriage period, without stating fault. It was law with exceptional character, because it was valid only for three years after the decree came into force. However, its existence should be treated as a huge social experiment, because it allowed to dissolve any marriage that had been contracted before, practically without any restrictions. The legislator explained, that the aim of the regulation is to dissolve marriages which in fact did not exist and ordering the civil condition of the society, whereas maintaining fiction is inconsistent with social aims of a family.

Thesis II from *Political and social theses* seems to be of the main importance in the works on the decree on family law. It contains a programme declaration regarding the relation between a family and the state. According to it parental authority should serve ' in the best interest of a child in order to bring them up into a citizen, who is aware of their responsibilities towards the nation and democracy'. The state was to control the execution of this power, whereas parents' responsibility was to 'carry out the parental authority as it is required by children's welfare and

interest of the society'. The intention declared by the legislator as to widen the scope of the state intervention into the family relations corresponded to the solutions included in *matrimonial law*. 'Nowadays the state has far too important and significant interest in educating future generations of its citizens not to reserve the right to interfere in an internal life of a family' – stated *Theses*. One of the forms of this interference was to equip *guardianship state authority* with the law to issue orders in case of establishing failure to fulfill parental powers. The authors of the decree tried to form guardianship authority entitlements so as to provide it with 'wide freedom in the choice of remedies'. Article 20 § 3 of the decree was of basic importance in the process of socialization of law. It stated, that it is parental obligation to carry out their parental authority for the welfare of children and interest of the society. In the consequence of the regulation came rules on a possible limitation, suspension or deprivation of parental authority by a statement issued by a state guardianship authority. Therefore, it became important to define statutory conditions for the court decision in this area. Suspension would be then, when a parent had experienced a longer break in fulfilling their authority (art. 41), whereas deprivation – when parents were not capable of fulfilling it or 'committed such abuses or negligence, which do not allow to leave parental authority in their hands, or when the party performing parental authority entered a new marriage, and there are special circumstances that require deprivation of parental authority' (art. 42). Some circumstances for limiting parental authority were listed in art. 45, and regarded e.g. faulty administration of a child's property. Regulations dealing with parental authority might have been withdrawn by a guardianship authority if the reasons of their issuing ceased to apply. It meant that the decree did not take into consideration a possibility of permanent deprivation of parental authority.

Then, in the theses for the decree on guardianship law, providing childcare was considered to be a civil obligation, while guardianship authority was to decide about the choice of a guardian according to its sole discretion (thesis IV). It was based on an assumption that members of a family should not be privileged, which however did not exclude relatives from being charged with guardian functions. It was stressed, that he welfare of a juvenile alongside with the interest of the society should be the decisive factor (thesis VI). Executing the function of a guardian should have been under strict control by the guardianship authority, through surveillance over their actions, or through direct intervention in more important decisions about child's person or property (thesis VII). A specific reflection of socialization was creating family boards. They had existed in previous law in central voivodships (Civil Code of Kingdom of Poland) and were provided for in a novella of ABGB (the Civil Code of Austria) in a form of civil guardianship boards. The Theses

suggested the guardianship board to compose of two family members of the child and the representatives of the society, from a list set by a local national board. Such a make-up of the board was to harmonize the interests of the family and society, with the assumption of a superior welfare of the child. The board's competences were to include advice in cases on establishing or relieving a guardian and expressing opinion about the reports lied by a guardian. However, the boards had never been established (by a protest of Council of Ministers) and their functions were passed over to guardianship authority (court). Socialization transformed into 'nationalization' of care.

Elements of socialization of family law can be also found in a decree from 1946 on matrimonial property law. Statutory matrimonial regime, which was applied there, in the form of separate marital property system, which was a compromise between a separate property system and a community of property system, strongly supported by women organizations. There was an opinion expressed in the literature on the subject, that the accepted system was only an expression of a formal equality between a wife and a husband, and did not counteract an inequality especially in the case when one of the spouses (usually a wife) did not earn the living. Therefore, this solution may surprise as it does not fully realize an important principle of equality of spouses.

The analysis of the concept of socialization in regards to the norms of the unified matrimonial law may lead to an assumption, that the concept was connected with a tendency of the state interfering with functioning of a family, that had been evaluating since the end of the 19th century. It was connected with limiting parental authority of patriarchal form by subjecting it to state or court control. It was reflected in the unified law in the decrees on guardianship law and family law. However, here it did not take the form of a wider participation of a social element (guardianship boards), but was limited to creating legal borders which enabled the state and its bodies to have an influence on family relations. The need of such an influence was explained by the basic role of a family in functioning of the state – it was in the interest of authorities to protect this social unit. The importance of the social role of a family also justified the necessity of modernizing law, by creating homogenous legal norms, separated from religion, realizing the principle of the state sovereignty. It should be acknowledged that laicization of the matrimonial law was a part of this phenomenon. In this context, it is of fundamental importance that the principle of marriage indissolubility was replaced by the principle of marriage stability, which resulted in, however limited, possibility of dissolving a marriage in divorce.

In this context a question of the background of the above regulations in family law arises. The answer seems to be simple – the regulations of unified law are based on the projects prepared

by pre-war Codifying Committee. It may be assumed, with some simplification, that in the area of our interest the authors of the projects were Karol Lutostański (personal and property matrimonial law) and Stanislaw Gołąb (parents – children relations law, i.e family law). The basis for their projects created opinions about the necessity of the state interference in family relations. K. Lutostański wrote: ‘ a marriage belongs to a category of teams, in which individual interest has to be submitted to a collective interest, not being absorbed by it, as long as a spontaneous social interest does not require that’. In the Explanatory Memorandum of another project the author derived, that the role of a modern legislator is to organize proper relations between a family interest and the one of the society: ‘ in case of a conflict between a family interest with the interest of a third party, the family interest should come first. This priority has to be kept in the limits acceptable by a general social interest, which, threatened by a danger of collapse of harmony of interests, on which it is based, does not allow to limit one of those interests too much’. This aspect of Lutostański’s opinions is stressed by contemporary civil lawyers and historians of law. It is worth to pay more attention to the need of harmonizing the social and individual interests, that was so stressed by him. It was especially visible in the project of matrimonial law. In this context it is worth to consider, if the withdrawal, which took place in the post-war works on the unification of law, from an optional form of contracting a marriage and separation, proposed by Lutostański, was truly justified by a social interest. The question is legitimate because in the first post-war years catholic Polish society did not contract a marriage before a registrar, only taking church weddings. It led to chaos in marital status, and its consequences are visible till present e.g in succession and pension cases.

The opinions of S. Gołąb in the issue of the state interference in the family relations seem to be more radical. ‘Modern family should not be neither patriarchal nor individual, but individual-social, i.e. joining both elements by eliminating antagonisms between an individual or a family and a state, and by understanding higher state and social tasks’ – he wrote in his main work, referring to views of Leon Duguit, Bertrand Russell and others.

It has to be stated, that ideological assumptions of post-war works on unification of family law were identical as to those on the basis of Codifying Committee projects. Neither deeper radicalism of *matrimonial law* nor ineffective attempts to refer to soviet solutions prove this thesis wrong. As for the soviet family law, the attempts failed due to the fact that it was completely separate and as such not adequate for reception. It reminded attempts to interbreed species which interbreed could not be. It is even more typical, as Polish communists in post-war publicity

propagandized soviet was of functioning of a family, subordinated to workers' collective. Those concepts found no reflection in the unified law.

It should be assumed that normalizations of four decrees which were unifying family law were a useful tool in the hands of the state, providing influence on shaping family relations. There is one more important element – general provisions that were included in the decrees, of which juridical interpretation might have led to completely different results. The problem became essential in regards to 20th century civil law, and concerned unified family law. General provisions: social interest, welfare of a child, welfare of a family were supposed to gain real content due to case law. It is worth noticing that on a large area of Poland state jurisdiction in family cases was a novelty. Therefore, there was a danger, that courts would not be able to apply the new law properly. It is not a coincidence that, together with the unifying decrees entering into force, an article by Antoni Peretiatkowicz, an outstanding theoretician of law, entitled *A question of social interpretation of law* was published. The author, referring to authorities of western law, including Leon Dugiut and François Gény, was proving, that even in case of lack of legal norm a judge 'should define the norm due to the social needs the most appropriate, taking into consideration present legislator's position *(moderna ratio iuris*) and social legal sense'.

The ideological bounds between the projects of Codifying Committee and unification decrees on civil law, including family law, bring up a question about the range in which the Committee acquis was used in the works on decrees. This issue is of high importance on the evaluation of the work of post-war authors of unification and allows to verify post-war opinions about alleged indifferent results of legislative effort of the Committee. It has to be noticed, that post-war authorities marginalized the influence of the Codifying Committee's decrees on the content of the unified law, and over time that influence was completely denied.

As for matrimonial personal law, it has to be noticed, that in the Explanatory Memorandum of the I version of the project said directly, that the starting point for it was the Codifying Committee project. It is quite obvious as its format was copied from the pre-war project. In later versions there were some changes introduced, though, which resulted from a decision to separate introductory regulations. However, it does not change the fact, that even the final format of the decree is similar to the pre-war project. Still much more important is its substantive content. Here, the main difference deals with the form of contracting a marriage. The possibility of contracting a marriage at the registry office or as a religious celebration, provided for in the Codifying Committee project, was consistently overruled. However, the decree project took most of the solutions regarding civil marriage form the project by K. Lutostański. The similarities of

obligations to submit documents and the wedding ceremony draw our attention. The decree neglected banns and did not regulate the necessity to obtain parents' consent to a marriage of a minor.

It may seem that as important difference appears in the issue of divorce. The Codifying Committee project regulated the institution of cessation (separation), making a divorce a following step after a separation. Even here, though, some essential similarities can be found – premises for a separation, which are listed in the Committee project are simply repeated as premises for a divorce in the decree. The difference in both institutions is fundamental, yet it is without any doubt that the authors of the decree used the catalogue of premises of their predecessors.

Both texts regulate an institution of engagement in the same way. The regulation on compensation for fault at divorce and marriage restrictions in both projects are very similar, which proves that the regulation presented above also has pre-war background.

The above circumstances show, that the decree *matrimonial law* is just a modified version of the project by K. Lutostański. It is also worth mentioning, that the similarity grew bigger with time, as the authors were withdrawing from previous alien solutions. Rejecting them means, that the unified matrimonial law should be regarded as, in spite of essential differences, creative elaboration of the pre-war codifiers' work.

Pre-war project by S. Gołąb was also used in works on the decree on family law. Comparative analysis of both documents is very easy as, during works on the *family law*, a very scrupulous and meticulous justification for every single article of the decree had been made. On its basis not only the connections with the Codifying Committee project can be analyzed, but genesis of particular solutions can be also found, including some borrowings from Swiss Civil Code of 1907, German and Austrian civil codes as well.

This justification states, in the introductory remarks, that the project of the decree was based on the project of Codifying Committee by S. Gołąb. 'In every case when the decree varies from the Codifying Committee project it is justified in detail; they result mainly from changed political and social conditions, especially from the changes and transformations resulting from the last war' – wrote the authors of the Explanatory Memorandum. It has to be noticed that two important parts of the project were not included in the decree: title I on legal capacity and chapter VI from title II on family property. The first one was moved (with important modifications) to a separate decree *personal law*, whereas regulations on family property were not used at all. *Explanatory Memorandum* explained, that the reason for not including those regulations was the change of

social and economic situation after the II World War and fear of introducing innovatory solutions. It is worth stressing, that this part of S. Gołąb's project was the most original solution of *parents-children relations law.*

The authors of the decree used a different scheme for the matter. Regulations dealing with family relationships and affinity were placed at the beginning (art 1-4) which was only of technical importance, providing better transparency. Transferring regulations on entitlement, acknowledgment and equality to a chapter dealing with illegitimate children was substantively justified. It was explained, that the mentioned institutions concern this group of children, due to them the children obtain a legal position of children born in a marriage, which is not equal with the concept of legitimate children.

Substantive changes did not concern all the chapters of the decree, some of them were only cosmetic in nature. An important modification was of a legal position of a wife in a family. The decree introduced a full equality with a husband in this range by deleting article 47 § 1 of the project, which gave a husband a decisive voice in administrating child's property. As the consequence of equality came also deleting art. 65-66 of the project, which dealt with an institution of a counsellor appointed by a guardianship authority for a single mother.

Some of the modifications aimed at improving the situation of illegitimate children, which was also an explanation for deleting a short three-year-long time to bring action to prove paternity. The changed text of art. 46 of the decree did not introduce any time limits, which meant that the action, in this case as family status case, can have been taken even after the death of a father. Improvement of situation of illegitimate children also involved the right to obtain a father's name, even against his will in case of a judicial acknowledgement of paternity (art. 52 § 2). The opposite direction was taken in the changes of the results of judicial acknowledgement of paternity. The Codifying Committee project stated in art. 76, that in case of a judicial acknowledgement of paternity a child obtains the rights resulting from family relationships. The decree did not include this regulation, and its deletion was explained by the need to protect legal family.

There was also a change of great importance concerning annulment of paternity acknowledgment, if such acknowledgment might lead to child's harm. The project by S. Gołąb included such a possibility, whereas the decree did not. The explanation said that the change had been done due to a critical position of the Consultative Committee. It was the only case when the opinion of this board had been taken into consideration.

In the final text of the decree regulations on so called equation were also changed. The intention of the authors was in this case to improve the situation of children born in cohabitation.

It has already been mentioned that during works on the *matrimonial law* it was proposed, as in the soviet regulations, to create a possibility of legalizing such relationships with a five-year-long intercourse as a sufficient condition. Finally this idea was abandoned, but there was a possibility of equate the rights of children from those relationships was included in the *family law*. A permission of a father was not required, and equation was stated by guardianship authority on request of a mother or child. The Codifying Committee project understood the equation conditions differently, bonding them with the fact of engagement of parents and the death of a father.

Especially important changes concerned adoption, which lowered the age of an adoptive parent and eliminating the condition of not having their own descendants.

Modifications of the Codifying Committee project which were in the decree cannot cover the fact that both documents are of homogenous character. A simple analysis of the text shows, that the post-war legislator took more than 90% of S. Gołąb's work. The changes were limited, did not violate the basic solutions of the Codifying Committee project. It has to be acknowledged, that the concept of family law itself is identical to the pre-war project and based on identical doctrinal principles. In this context, I believe that *family law* is this decree among other decrees unifying civil law which made use of the Codifying Committee works in the widest range. Changes in the decree had only improved the pre-war project, with an exception of ill-considered construction of equation.

The decree on matrimonial law was also based on the final Codifying Committee project by Karol Lutostański. The system of property division, which was then adopted, however complicated, was a compromise with women's organisations. In the post-war exile literature, Aleksander W. Rudzinski wrote about the victory of Lutostański 'via Moscow'.

Unification of civil law came to its end in the last months of 1946, and since 1 January 1947 only the law unified with the decrees from 1945 to 1946 was to be in force. The decrees, which were then published, alongside with the code of obligations that came into being in 1933, covered the whole scope of substantive civil law. This action was perceived as a huge success of 'people's' authority, which, as it had been stressed, managed to complete what the II Republic of Poland and the Codifying Committee was were not capable of completing for 20 years. There were celebrations organized to celebrate completion of the unification works and the results were presented abroad. However, it was not said, that the unification took longer that till June 1945, the date set by the Council of Ministers. It took 17 months, not 9, and due to that delay, the Council of Ministers, by its resolution of 18 July 1946, extended the period of works on unification till 31st December. In the official declarations of the government members it was marginalized, that such a

short time of unification works was possible only because the Codifying Committee had developed projects of nearly all branches of civil law (except guardianship law) before 1939, and post-war authors used them in a wide range. It is interesting, that the fact of using the Codifying Committee projects was not hidden in the internal correspondence in the ministry. A document of June 1946 enumerates 26 decrees unifying substantive and procedural civil law and some aspects linking civil law with administrative law (Registry Office Records Act, provision implementing registry Office Records Act and name and surname change decree). Among which **only ten** – as it was claimed – were based on the Committee projects. These were: matrimonial law, introductory provisions implementing matrimonial law, family law, matrimonial property law, property law, land and mortgage register law, non-litigious proceedings code, law of succession, Registry Office Records Act, introductory provisions implementing registry Office Records Act. Other decrees came into being 'completely unaided'. All the decrees had 1592 articles in total, 6300 articles of codes and other acts grouped in 274 legal regulations were repealed. The idea of works on civil law in 1945-46 was fundamentally different from the projects of pre-was Codifying Committee, which did not intend to separate the unification phase as an introduction to a complex codification. The committee restrained form introducing partial solutions and presented final projects of the new Polish law, which were parts of codification. It was justly noticed in the post-war literature, that in spite of its wide range, the civil law reform in 1945-46 did not have character of codification. The latest requires both compact, harmonious formal legal system, which can be provided only by legislative act, and basing this system on some consequently realized general principles.

An attempt to codify civil law in 1947 – 49 was to finalize the act of the reform undertaken in 1945. It is especially noticeable, that the way of work on civil law changed. A Civil Law Codifying Committee was established and the scope of its work was defined by the order of the Minister of Justice. The Committee itself drew up its Rules of Procedure, endorsed by the Minister. Procedures of work were formalized much more than it was at the time of unification of the law, and was partially similar to those of Codifying Committee. At the same time there were some attempts taken to avoid unreasonable formalization and not to repeat pre-war mistakes. During codification work, family law was without any doubt regarded to be a part of civil law. Finally it was decided to include it in Book II of the Code, together with the guardianship law. The analysis of projects of particular chapters of family law allows to assume that the authors of codification were trying to fulfill the guidelines of improving and systematizing the applicable law (*codex repetitae praelectionis*) technically. Practice proved that a lot of proposed solutions went

beyond technical and systematical change. New regulations concerning divorce, modification of statutory matrimonial property regime or aspiration to eliminate a separate status of illegitimate children may serve here as an example.

The evaluation of family law regulations in the civil code project should take into consideration that the project had never been completed. The work of Codifying Committee was aborted after the first reading. One of its members stated that they did not go beyond an initial phase. At the beginning of 1949 a decision to abandon the work altogether was made. It was due to a transformation of a political situation and accelerated Stalinisation of the country after, the so called, the reveal right-nationalist deviation in the second half of 1948. It was declared that the direction of the work did not match the needs of construction of socialist system. ' Because of a constant rapid revolutionary social transformation towards socialism – it soon appeared that the objective of codifying work had been defined incorrectly and due to that fact, the code lied down according to the scheme from 1947 would already be an anachronism at the moment of its publication'. – this is how Jan Wasilkowski, the main project creator, evaluated the work effects. In consequence, this 'bourgeois' civil law should not have been ossified and upgrade it to a codified law. It was rightly noticed that this opinion was also a kind of self-criticism.

In this respect, it should be noted that, the evaluation of this unfinished work is hindered.

The Codifying Committee members established a family law project building on the guidelines issued by the Ministry of Justice, based on unifying decrees and changing their solutions in a small range. It is worth stressing that it was basically the same group of lawyers, who previously worked on civil law unification. The introduced changes prove though, that as a result of the first reading a project of a legislative act, an exceptional improvement of the existing regulations was created. A proposal of further improvement of a legal position of illegitimate children concerning succession and simplifying establishing paternity especially draws attention. Clearly marked evolution of regulations indicate a desire to a complete elimination of any differences in a legal status, regardless of being a legitimate or illegitimate child. It is worth noticing, that the already unified law was progressive in comparison to modern western models, and the project continued this direction. It might be perceived as a forecast of a soon equation of children's status, which took place in Family Code in 1950 – regardless of ideological conditions of this 'socialist' codification. Also modification of adoption regulations and a proposal of introducing a full adoption (which finally was not placed in the project) also deserve a high rating. An attempt to settle property relations between parents and children is equally important.

One should not forget about the accomplishments of the authors of codification concerning

care for technical side of the project, for its consistence and systematic transparency. Updating legal language was also of great importance, as the terminology that was then elaborated is still being used in legislative regulations currently in force.

Political conditions, hasty Stalinisation, made it impossible to complete the process of Polish law codification based on unification decrees. The new code – even if it had been created – would be a crowning of pre-war Codifying Committee works, which were continued by, *toutes proportions gardee*, multi-manning Committee which was set up in 1947. The results of its work on family law prove that. Interestingly enough, the importance of works on the code was first noticed by Jan Wasilkowski, who, in 1956, on the first session of the Substantive Civil Law team of the newly created Codifying Committee declared, that in the works on the new civil code 'in the first version, one should not totally disclose oneself'. It was still another twist in professor's opinions, who just a few years earlier was self-critical about 'inappropriate' direction of codifying work.

On the other hand, the evaluation of how the work concerning Family Code was proceeding and its results was much more difficult. The work was accompanied by an atmosphere of secretiveness and mystery, and general atmosphere of 'intensified class struggle', in other words terror of the Stalinist times and 'construction of the socialism basis'. The question on the reasons why Poland and Czechoslovakia chose family law as a field of a joint legislative experiment is of the primary importance. Was it to follow the steps of the Soviet Union, where family code was the first code of Bolshevik power? It seems that Z. Radwański gave the best, from the Marxist point of view, answer: ' Family law presents a wide independence towards economic base. Democratic and socialist ideas may be realized in the family law norm quite quickly – without fear that such a legislative system would interfere with a development of productive forces and socialist production relations. Those circumstances explain why, in all people's democracy countries, and previously in the USSR, family law was deeply transformed and reached the state relevant to the socialist ideology postulates. The same regularity can be noticed also on the example of a Polish family legislation'. Developing the thought – family law as an element of a Marxist superstructure could be easier and quicker transformed than, for example commercial law, which required longer transformations. It was therefore the issue of 'ruling people's souls'. This way of thinking did not take into consideration a possible social resistance, when a family as 'an island in the ocean of totalitarianism' might prove to be impervious to the state attempts to subordinate it to the totalitarian power. It seems justified to say

that family law was the most adequate as an area of a legislative experiment as it was easier to regulate than law connected with economy transformation, which required longer preparations.

Governing the work on Family Code, which was presented in the book, confirms that a joint code was created very quickly, and the political order (if not command) excluded longer doctrine disputes between the parties. Soviet solutions served as a model. It has to be admitted, that the Czechoslovakian party was much more consistent (and probably better prepared ideologically) in enforcing soviet solutions that Polish one. Negotiations were a chain of Polish concessions leading to a complete giving in to a Soviet model of family law. However, where there was no clear position of the soviet law, disputes started. They often ended in keeping divergent positions. The effect was fatal – only general, basic regulations were agreed on, which resulted in gaps in the code. Additionally, both Polish and Czechoslovakian parties were forced to issue acts in connection with the code, including separate regulations. They comprised a specific discrepancy protocol and became a source of family law together with the Code. It should be added that the Czechoslovakian party did not use the term 'code' with regards to a common legislative act.

Circumstances and governing the work on the family code clearly show that it was a result of a political decisions of two countries of 'people's democracy'. It was an institutionalized cooperation between ministries of justice of those two countries. Therefore, the opinion of J. Wasilkowski, expressed 12 years later, that the cooperation had only a 'friendly' character was wrong. I do not know what was being tried to be hidden. If I was asked to find a name for those circumstances and governing the cooperation, I would rather call it a thriller, which plot was to destroy a domestic legal culture.

The above statement requires to point out which Code regulations clearly have a soviet origin. A key issue was to separate family law from the future civil code. 'That way the Family Code realizes the idea, according to which entire family relations should be separated into an individual branch of law. In this light, the future civil code will cover only property law issues, which are: law on obligations, property and succession laws. This concept has been realized in the soviet republics legislation for a long time' – wrote S. Szer. I do not intend to widen the deduction on the opinions on the branch distinctness of family law – I would refer those who are interested to my text – it cannot be denied though, that creating a separate family code was a formal reception of soviet models. An attempt of a doctrinal separation of family law from the civil law system, which was made after the Family Code came into being, was in fact a try to erase differences between public and private law, which was mentioned by S. Szer in 1946.

If we accept that the following can be included in Soviet family law principles: secularity, monogamy, equality of spouses and illegitimate children, statutory matrimonial joint property, all of them were included in the Polish-Czechoslovakian Family Code. There are far more references to soviet regulations to be pointed out; here are some of them.

Family Code disregarded defects in consent as conditions for marriage annulment. References to a soviet doctrine, which stressed that accepting defects in consent as a condition for marriage allotment would introduce alien contract elements into a legal action, such as contracting a marriage, was seen there.

One of the examples of applying soviet models was eliminating the right for an innocent spouse to demand compensation for damage caused by divorce and by an action which was the basis for the divorce. Compensation for moral harm was also deleted. Instead, there was only alimony obligation, in a narrowed scope (it was stressed that it cannot become a compensation pension). It was explained, that the damage caused by divorce is as a rule damage resulting from depriving a spouse of any benefits based on property relations of spouses. The new regulation of those relations in Family Code, similarly to regulation of property relations in a soviet family, in practice excluded – as it was claimed – any possibility of such damage, which might have occurred in capitalistic families. On the other hand, not introducing the right for claim for compensation for damage caused by an action, which was the reason of divorce (e.g. exposing a spouse to a veneric disease) was explained by the fact that, in this regards delictual regulations of family code were sufficient. At the same time the claim for compensation for a moral harm was rejected: 'Soviet law does not recognize a financial compensation for property damage. The court cannot adjudge an amount of money to a victim as a compensation for physical or moral harm' – wrote Soviet prof. M.M. Agarkow. It is specific, that the possibility of obtaining a compensation for moral harm caused by breaking a promise of marriage by a child's father was also rejected.

As in the Soviet model, the Code almost entirely excluded freedom of matrimonial property contracts. Although the Code, in art 28 § 1, ruled that 'spouses can accept a wider or narrower than statutory joint property by contract. They can also regulate the management of matrimonial property in other form than it is provided by joint ownership', however, the doctrine excluded the freedom of contracts. It was accepted, that the boarders of possible changes in the scope of matrimonial property had to be defined with regards to the principles of Family Code. A conclusion can be therefore drawn, that limiting the range of matrimonial property could not lead to erasing the principles of statutory system, making joint ownership illusionary and practically creating separate property system. The same reasons led to excluding the possibility of contractual

division of property system, which was in force since October 1950 as a statutory one: ‘matrimonial property contract would be unacceptable, limiting statutory joint ownership to property co-ownership in case of death, because such solution (although it had been in force at the time matrimonial property law of 1946), completely separated from the aims that joint ownership should serve and, in fact, is an institution of succession law, not of family law’. Ipso facto, it was being cut off from a native, modern legal output. S. Szer depreciated the importance of those contracts even more emphatically: ’It is characteristic, that Soviet doctrine does not deal with the issue of those contracts, neither did Soviet judicial system. Mentioned contracts belong, in a socialist system, to an institution dammed to a complete decay, (…) working spouses interests, interests of a family working in a socialist society are provided for by statutory joint property system’. One can only agree with this explanation, as there was not even a single court decision dealing with matrimonial property contracts.

Statutory joint property system had a character of regulations *iuris cogentis*. What is more, according to art 25 § 2 both spouses had equal shares in the property, which was under statutory joint ownership. This firm regulation was justified by a position of some republican Soviet codes (but not the USSR code) and the doctrine. Establishing a rule, that participation of a spouse in matrimonial property depends on the value of work put into creating it was said to be ‘impossible and contrary to the essence of marriage’. A famous socialist principle ‘for each according to their work’ was rejected here. At the same time it was stressed, that art 27 of Family code, providing a possibility of establishing uneven shares at a divorce, was exceptional. However, an essential problem arose here: facing an ambiguous regulation in the code, is a salary, as a basic element of a Polish worker property, also an element of matrimonial property? Judicial system gave a negative answer to this question. This example shows, that the reception of Soviet models in Poland went along winding and bumpy roads. If the Supreme Court decided that salary does not belong to a matrimonial joint property, in the conditions of socialist poverty, it meant that the most important element was excluded form joint ownership. So, what remained? It was validly asked, if matrimonial joint property system in the family code had any sense at all?

It is impossible not to notice, that referring to Soviet models was not a complete, thoughtless reception of those regulations. Judicial presumption of paternity, deleted from Soviet law in 1944. Polish-Czechoslovakian family code included a regulation in art 43, which maintained judicial presumption of paternity. The literature concerning the code was silent in this extremely important difference, not even noticing it. It was for the benefit of Polish authors of the code, who had rejected inhumane Soviet solution. Another inhumane regulation was also not

accepted, the one which allowed recognizing a child only in case of contracting a registered marriage by its parents (art 28 – 29 of the Soviet code 1926, after its novelization in 1944). Polish regulations allowed for recognizing an unborn child, it had been conceives (art. 45 of Family code), and did not mention the Soviet condition of parents being married. What is more, part of the doctrine claimed, that judicial presumption of paternity is also possible in case of *nasciturus.*

Polish Family Code also contained some contrary regulations concerning spouses' surname. However, it was agreed with the Czechoslovakian party, that the concerned rule will include the Soviet regulation (art. 7 of 1926: 'Spouses may make a statement if they are willing to bear the surname of a husband or of a wife, or if they want to abide by their pre-marriage surnames, when registering a marriage'), however, Polish party departed from mutual arrangements. In the commentary, the change was explained as follows: 'Despite undisputed rightfulness, from the social development point of view, of such a solution our Family Code did not take that road, as implementing the above principles would undoubtedly lead in Poland to – as it is aptly stressed by Wasilkowski (*Legal relationships between spouses in socialist law* - PiP 1950, No 4, p. 121) essential difficulties in the sphere of administrative relations, therefore, the previously designed reform would be – as it seems – premature'. Now we know, that behind this euphemistic statement on 'essential difficulties' a strong objection of the Public Security Ministry was hidden, as they feared that 'people's enemies' might hide under the surnames of their wives. Soviet principle of spouses equality did not reach that far, to obstruct actions of our Security Office. In this case, the deviation from Soviet regulation was – as it can be guessed – totally justified. To strengthen argumentation, a short-term Czechoslovakian practice was used, where at the first year of the obligatory family law, only 0.5% of spouses chose wife's surname, 2.5% abode by their own surnames, and in 97 % of cases a wife took the husband's surname. The postulate of freedom to choose as surname by spouses was returned to in the works on family and guardianship code, expressing hope that the 'administrative obstacles' had disappeared. However, they did not, as conservative resistance of the Codifying Committee members was supported by a Sejm's commission considering the project. The freedom of choosing the surname by a husband was opposed to, because 'it would in some way undermine stability of male half of the society record'.

One of the Soviet family law characterization was an extremely wide inference of administrative bodies into family-legal relations. Polish Family Code was also based on the principle of state's interference in those relations. It has to be kept in mind, that in Poland the cases of family relations were always heard by court (guardianship or 'normal'), not by an

administrative body. It may be that at that time it did not make much difference – as it was hard to say that the jurisdiction was (as constitution of 1952 stated) 'independent'. Neither under the family code, nor later were the appearing ideas of creating the appointing administrative bodies in family cases realized. I acknowledge it to be an important difference between Polish and Soviet family law.

Polish literature was trying to prove, that normalizing a divorce in family code was based on Soviet regulations and practice. The analysis of equivalent provisions of the USSR's family code of 1926 (with the changes of the 30s and 40s) and the attached guidelines for jurisdiction does not prove this thesis right. In the Family code regulations concerning a divorce, a connection to a unifying decree regulations, civil code project of 1948 and the Supreme Court cases of 1945, can be mostly found. This stand is supported by keeping conditions for a divorce: standing (previously called permanent) marital breakdown and welfare of mutual minors. Family code resigned form listing (an exemplary) causes for a divorce, but simultaneously it stated in art 29 § 1 that a marital breakdown had to be based on 'vital reasons'. Additionally, at the time of the matrimonial decree being in force the judicial system led to creating a principle of recrimination, refusing a spouse guilty of the marital breakdown a divorce. The family code project limited divorce causes from eleven down to five, besides, it proposed regulating the recrimination principle (art. 185) providing that the divorce might have been ruled only if the spouses had been living separately for at least five years, and the circumstances excluded a possibility of restoring matrimonial cohabitation. However, a spouse bearing a total responsibility for separation could not claim the divorce unless the other spouse rejected returning to cohabitation and the reason of separation deteriorated. If we compare the project with regulations of the Family code in art. 30 § 2, which defined an exception from the principle of recrimination in the following way: ' however, besides a lack of agreement (for a divorce – PF), the court, taking into account social interest, may rule a divorce in exceptional cases, if spouses are in a long separation', then it may be concluded, that regulating a divorce in family code is mainly a result of improving previous Polish regulations and projects, and not a reception of doubtful (*de facto* not well developed, meaning non-existing) Soviet models. An example of Soviet divorce rules, where not a legislative act but legislative practice and a doctrine were to be a model for Poland and Czechoslovakia, illustrates one more distinct feature of polish family law: even if the content was similar, the form was completely different. In comparison to a Soviet legislative technique, Polish code seemed to be an unparalleled ideal. It was noticed even by J. Wasilkowski, who wrote that Polish family law in its content is similar to Soviet law, but different in its form.

It cannot be left unnoticed, that a part of Code regulations deserves a high note. It mainly concerns stressing a condition of a child's welfare, which caused that the code was called 'a child's code'. It was a merit of Polish party, which was consequently defending that condition, even when a divorce regulations were being negotiated on. A new shape of regulations concerning adoption is also connected with the child's welfare condition, with the policy statement in art. 65, that only a minor and only for the welfare of them can a person be adopted. Deviation from a contractual form of adoption, though modeled on Soviet regulations also deserves approval, thought there was some lack of consequence in leaving contractual form of terminating it. It does not change the fact that family code provided such a protection of as adopted person, which was not recognized as a necessary until European Convention on the Adoption of Children of 24th April 1967. Also consequent respect of women's equality in family relationships deserves approval (with the exception of the previously mentioned problem of a wife's surname). Family code, for example, stated that mother's agreement is needed to recognize a child. This rule was not included in family law from 1946. The code provided equal rights to create legal situation of a child for both: a mother and a father.

Witold Czachórski, one of the most outstanding post-war civil law experts was, as an employee at Ministry of Justice, a supporting participant and a witness of this stage of legislative works. When evaluating their results, in retrospect, he wrote: 'Further experience proved that even using the same statutory formulas led in practice of both countries to essential discrepancies under different organizational structure of administration of justice, norms of legal proceedings, traditions and differences in social relationships. It proves how illusory can exaggerated tendencies towards unification of legislation internationally'. The quoted opinion is absolutely right. As it turned out, under the same law, the Czechoslovakian judicial system made extremely different decisions, heading towards the same socialist (Soviet) orthodoxy. What is more, novelization of family law, which took place at the same time as in Poland, proceeded under slogans of a wider use of socialist achievements, that it was in family law of 1949 (which is in the Polish-Czechoslovakian law). For example, new Czechoslovakian family law did not allow any deviation from the principle of equal shares of spouses in joint property. In a concurring opinion of Czech civil law experts and law historians, Czechoslovakian family law of 1963 is considered to be a step backwards in comparison to the Polish-Czechoslovakian solutions of 1949-50. This example shows how political system forces to relativize opinions – law, which in Poland is regarded to be the peak of Stalinism and victory of politics over law, in Czechoslovakia has an opinion of 'liberal' in comparison to the following legislative act in this matter.

Family Code of 1950 was and still is commonly criticized for conciseness of regulations in the basic issues regarding family relationships (e.g.: relations between parents and children). It is difficult to argue with this opinion, especially facing the presented interference in the code regulations. However, this situation cannot be compared (as it happened) to alleged parallel to *common law*. Judicial system filled the gaps in law, and sometimes was forced to solve cases *contra legem*. It led to a unique possibility to create the content of Polish family law, without a bill – a possibility no longer existing. It is worth mentioning here, that flexibility (or lack of it) of legal standards is not always a disadvantage, and family-legal relationships may serve as the best example for that. Therefore, I cannot see any proves of devastating respect to the act, which were allegedly appearing on the basis of case law to the family law. I can notice, though, that the Family Code did not regulate many issues. It was due to an urgent procedure of negotiating the text, but also to being forced to compromise, which was Soviet law (in the act, or – very often – in a revealed as the only truth, book). I will agree with an opinion, that never before and never after judiciary had such a huge impact on family law. Generally speaking the decisions, which are described in my work, do not speak poorly of Stalinist members of the Supreme Court. A common saying 'law is wiser than a legislator' proves to be true under the interpretation of certain provisions of the family code, which gave some faulty regulations a reasonable form. Of course, not all decisions deserve such a note. However, after the October breakthrough, judges of Supreme Court consequently opted for including family law in the civil code. This position had been then ignored (1961). What is more – I must admit – I cannot consider as appropriate present objections to include family law in the future civil law. Virtually all judges of the Supreme Court's civil Division (except J. Jodłowski) were in favor of this. Present twist of family law lawyers I perceive as an expression of breaking historical continuity between pre-war lawyers and present juridical staff, who fear higher juridical burden and therefore deprecate from including family law in the civil code. In my opinion, there is nothing more here than reservation of the juridical sphere which separates family law judges from other civil cases. It proves only one – decline of Polish civil jurisdiction and fear resulting from the lack of qualifications to decide in other civil cases. This is, unfortunately, a shameful heritage of People's Republic of Poland.

Circumstances and content of the remaining regulations of family and guardianship code arise the most ambivalent opinions and situations. Codifying Committee, which was appointed by the decree of the President of the Council of Ministers, Józef Cyrankiewicz, referred to the pre-war Codifying Committee, both in its tasks scope and work organization. It did not have, though, the same range of autonomy as its predecessor. It is worth stressing, that the position of the

Committee was much better that practically technical team of the Civil Law Codifying Committee form 1947. Similarities in work organization can be also found among the three previously mentioned bodies. Lower range of the Committee form 1956 resulted also from its legal status, as it was regulated by a decree not an act. It should also be taken into consideration, that the Committee was placed at the Minister of Justice, who could have influenced the directions of its work. Substantive Civil Law Team's work on family law show, that the Minister's delegate Witold Bendetson did not impose either directions of work nor his opinions. The only preserved W. Bendetson's report of March 1958 includes only a relation on the work results. After his death in 1960 the Minister did not appoint a new delegate.

When evaluating the work of the Codifying Committee on family law, one should take into consideration the fact of the Committee's statute change in 1959. Its declared aim was to accelerate work pace, in fact it was to widen the control over particular divisions by Committee's Bureau. Placing the Codifying Committee there had of course its consequences for the further works over the project. It was handed over to the minister in 1961, where it was subjected to subsequent detailed examination at the Ministry of Justice, including a discussed option of rejecting it and accepting a novelization of the existing Family Code. It has to be admitted that works at Ministry led to important changes in the project, therefore employees of the Ministry's Legislative Department are *de facto* co-authors of the code.

The biggest issue connected with the Codifying Committee work on family law was a public discussion on it. It was wide and its relatively unfettered course (except church issues) revealed a conservative picture of Polish society on family issues. Sadly, this social discussion was not accompanied by sociological study of a family, which might have improve the project. It was noticed by J. Wasilkowski, still during the work, when in 1963 he mentioned it on the forum of a Sejm's Commission of Justice.

Here a question about the politics influence on the Codifying Committee works arises. It is especially significant in the situation, when – sharing the opinion of Adam Lityński – I acknowledge that family code was a victory of politics over law. Codifying Committee work on family law, described in the book, proves that politics was constantly present in those works. From its very beginning it was stressed, that the new law was to be a socialist law – defining a border which the authors could not cross. It was obvious, that the scope of political freedom had been changing (shrinking) as the works proceeded. An initial bold decision from 1956 – 57 to include family law of civil law (based on 'bourgeois' codes) was cancelled in 1960 due to political pressure. A preliminary concept of regulating two basic matrimonial regimes, which was to make

spouses choose one of them, did not survive. This concept, however original, was quickly rejected as a 'bourgeois' one. What is more, the range of regulations concerning contractual marriage regimes was also limited, as socialist family law should not have property rules. Desperate attempt to save regulations on contractual matrimonial property separation was explained by relations in the country, where due to multisectorality of rural economy, separated matrimonial property regime in some cases might have been useful. The problem lied in the fact, that also W. Gomułka's team was aiming at eliminating private ownership in the country – of which some authors of codification became aware too late. The final shape of art. 47 § 1 of Family and Guardianship Code concerning contractual change of matrimonial co-ownership, which might have been 'widened, limited or eliminated' on the basis of a contract, was by itself a huge change in comparison with Family Code. However, if we compare this rule with the first proposal it becomes obvious, that it is closer to the regulation of family code than to the concept presented at the beginning of works on family law. There was a certain regularity to be noticed, the atmosphere was getting worse when more daring initiatives were overthrown. It was followed, in 1958, by a letter of J. Wasilkowski to the deputy Minister of Justice, where the author expressed his doubts regarding further codifying works – due to the direction of the authorities policy, reluctant to novelties proposed by the body with 'thawed' origin, as the Codifying Committee was.

Politics also played an important role in the last phase of government's works on the project of the code. As it occurred later, both minister Marian Rybicki and Prime Minister Józef Cyrankiewicz spoke strongly against liberation of the divorce regulations, rejecting the project of a divorce based on a mutual motion of parties in case there were no minors. It may be assumed, that they wanted to avoid tightening the conflict with the Church, being afraid of a propaganda defeat on the field of fight for people's conscience.

One may ask here, why did the Family and Guardianship Code came into existence at all? I reckon, that its genesis was the work of good luck. The analysis of jurisdiction on the ground of family code regulations did not prove the hypothesis of the necessity to replace the family code with a new legislative act. Quite on the contrary, the code had some gaps, which were eliminated by the case law, which by the way was an important contribution to a new code. A novelization of the legal act in force was enough. At the beginning of the Committee's works, on the wave of the October 'thaw' it was easy to pass a 'working' resolution about including family law in the civil code as the book IV. Only S. Szer voted against it, widely – from Marxist position – justifying his opinion. There was some kind of compromise reached by deciding that a referent would lay down a project of the book based on the family code in force. The Family Code was then a synonym for

Stalinism in Polish law and probably that is why, the main author, Jan Wasilkowski, was not interested in keeping it. The work direction was such, that both the referent's (Aleksander Wolter) project and the project's content adopted in the first reading went far beyond *adiuvare* and covered also *corrigere* and *supplere*. So, a project of civil code including family and guardianship law (a return to the first concept of 1947) was created. It was based on the family code, though widely expanded. As a result of the development of the political situation it soon became obvious that the inclusion of family law in the civil code is impossible to be held. The existence of a separate legislative act in the family law was regarded – as I assume – to be more spectacular expression of following Soviet steps and therefore the concept of one civil code could not have been maintained. The majority of the team's members were convinced to exclude family law from the code by using a false argument about an increased role and distinction of a family law when it is excluded into an individual legislative act of a code rank. The aim was achieved – a new project of a new legislative act was created, not a project of novelization of the code in force. When Jerzy Jodłowski controverted the sense of works on the new code and proposed to return to the novelization of the existing one, and the proposal was initially supported by the Legislative Department at the Ministry of Justice – it was noticed that the novelization of the family code would require creating and publicizing a consolidated text, with new numeration of articles. This argument, repetitively mentioned by J. Wasilkowski, probably saved the Codifying Committee's project. The paradox consists in the fact that the creation of the family and guardianship code was made possible due to a decision of 1956/57 about including family law in the civil code and presenting a project of a book with family law. If that decision had not been made, novelization of the existing code would have been satisfactory enough.

What is interesting, how easily, in December 1960, the decision of excluding family law from the code and creating a separate legislative act (later called 'a family and guardianship code') out of book IV of the project was made. There was no reflection on the relations between the projects, and the exclusion did not result in adding even a single rule to it. What is more, during the whole time of further works there were attempt for both legislative acts (civil code and family and guardianship code) to be put in force simultaneously. It should be assumed that the political decision regarding excluding family law, for members of the team, was of 'bookbinding' character, as they considered family law to be a part of civil law, and the family and guardianship code as a part of civil codification. A present researcher adds that Family and Guardianship Code is a part of Pandectists' structure of civil codification. He also notices that Family and

Guardianship Code is a s autonomous as the book IV with the succession law. Maybe it was not worth to fight for civil law unity?

There was one more aspect of politics which influenced the works on family law and was especially visible during works on family and guardianship code. It was conflict with the Catholic Church. It is worth reminding, that in 1958, during Codifying committee's works, without consulting it, so called Bismarck's paragraph was introduced to Polish law. It said that a priest is not allowed to bless the marriage before the ceremony at the register office, and the one who would break that rule was charged with an offence. Those rules were placed in a novelized Law of Civil Status Records, which meant – not in the code. The Codifying Committee continuously realized the principle, that the new law has to be secular. This secularity was understood in a specific way: the new law not only could not include any concessions for Catholics (e.g. an optional form of contracting a marriage) but it could not include any solutions, which might have been similar to corresponding institutions of canonic law. Hence objections to including rules on separation in the code (proposed by Stanisław Stomma), hence reluctance to regulate (limit negative effects) of factual separations. It did not meet the real social needs. The problem was notices under family code. The explanation, that the state is not interested in keeping *de facto* not existing marriages was only part of truth. The other part it was a dogmatic aversion to institutions associated with canonic law. Canonic institution of banns serves as another example. However, art 4 of family and guardianship code establishes a one-month-long period of waiting to contract a marriage, but they dissented from announcing the will to contract a marriage by a register. In this way, the aim to show that the main reason was to prevent reckless marriages and not to find canonic obstacles for marriage was reached. Besides, the term 'obstacle'(*impedimenta matrimonii)* was rarely used, the same as the term 'banns'. A specific form of breaking away from canonic law was depreciation of regulations on annulment of marriage, both in Family Code and Family and Guardianship Code. It reflected itself in a statement that the effects of possible faults in matrimonial consensus can be solved by a divorce, without the need to use annulment. It is one of the most important defects of the code, aptly proved in our doctrine. It resulted not only from worrying about the reception of canonic law solutions, but mostly from the fact that the Soviet law vulgarizes the institution of marriage annulment.

There is no doubt that family and guardianship code makes progress in relation to regulations in the Family Code. Adam Zieliński notices that 91 articles of the Family Code was replaced by 184 articles in Family and Guardianship Code. In comparison to the former, the content also changed, as it covered all the guardianship issues, including guardianship for the

complete legal incapacitated and legal guardianship. As a result, the following articles were included in the code: 9 § 2 i 3, 10 § 2 i 3, and 28 – 34 general provisions of civil law of 1950, which till then had regulated those issues. Besides, due to the postulate of a completeness of the code, many regulations, which till 1950 were scattered among various legislative acts (these were non-negotiated regulations – as I have written – a swept under the carpet protocol of discrepancy) , were included there. Therefore the following was accepted:1 provision from general provisions on civil law, 3 provisions from Law of Civil Status Records of 1955, 1 provision from the code of obligations, 15 provisions from the act of 1950 on non-contentious proceedings in family cases and cases concerning legal guardianship as well as 3 provisions from the civil proceedings code. It meant, that 34 provisions from other legislative acts were ,with some changes, accepted. Additional 11 provisions were taken from guardianship law of 1946, which at that time was not in force, which means that the scope of the changes was not that big. The remaining 'surplus' of circa 50 provisions was a result of filling gaps in the code, intercepting some of the opinions of practice and introducing completely new provisions. Adam Zieliński noticed that the new layout is much more transparent, the same can be said about the wording of particular provisions, which are 'more precise, clear and communicative'. The quoted sentence proves once again how imperfect the family code was. Completely new provisions made up – as it can be seen in the specification – less than 1/3 of the code. A historian of law will easily spot similarities between the situation being described and the background of the civil code of the Kingdom of Poland in 1825, which was an alteration and completion of the Napoleon's code, covering similar problems, by the way.

In connection with a double increase of the provisions number in the family and guardianship code, there was a plea, that excessive conciseness of the family code was replaced by excessive casuistry of the Family and Guardianship Code. It is especially visible in the provisions in the chapter concerning the origin of a child. It was noticed by J. Wasilkowski; it may be assumed that the conciseness of the family code itself led to expansion of the new code provisions. In spite of casuistry, clear provisions in determining maternity were lacking in the chapter, and far too easy way of determining paternity came from too weak regulations, including allegation of *plurium concumbentium*.

However, the drawbacks of the code cannot obscure its advantage. Its regulations were generally positively perceived by the doctrine.

Among new solutions, the attention should be drawn to those, which improved the existing legal situation. To the foreground come provisions concerning property relations between spouses. Including salary to the property of spouses is one of the highest importance. Due to this provision

the statutory joint ownership gained a real meaning, which at that time was a basic issue for material livelihood of a family. It was also essential to introduce the principle of surrogacy. I also find the change widening the possibility to conclude a property agreement, as an essential one. It is worth mentioning, that the new law excluded the possibility of regulating administration of the joint property otherwise than it was stated at the statutory joint ownership (art. 28 § 1 sentence 2 of Family Code provided for such a possibility whereas art. 47 § 1 of Family and Guardianship Code – did not). A legal possibility to cease co-ownership backdating it and a possibility to claim uneven shares in the matrimonial property (art. 43 § 2) were to play an important role in the future. As you see, socialist family and guardianship code could not free itself from elaborated regulation of matrimonial property relations. Also provisions concerning property relations between parents and children, and between children and guardians, were extended. I also find a small change of a divorce regulations right, especially eliminating 'important reasons' as a circumstance for marriage annulment. Also a simplified version of the principle of recrimination (art. 56 § 3) should be highly rated, similarly to the new alimony obligation between spouses by widening its scope, in case when one spouse was guilty of the breakdown of the marriage. What is more, the code introduced a possibility to lengthen the obligation of alimony for an innocent spouse. New provisions concerning adoption and introducing as a principle a full adoption were especially good. Also an anonymous adoption (art. 118 § 2) met social needs.

It cannot be left unnoticed, though, that some changes were clearly conservative in their character. The most significant example of which is, rising the age of a man allowing him to marry to 21 years. This solution was approved of by the society in consultations – and the obligation to serve fin the army first came as the main argument. Conservatism reflected itself in the issue of lack of full freedom in deciding on the surname by a prospective spouse (there was no option for a husband to take a wife's surname or to add it to his own). There was a serious change regarding a child's surname - art. 88 § 1 of Family and Guardianship Code decided that a child who is presumed to be of the mother's husband will carry the surname of a husband. However, art. 36 § 1 of family code stated that a child will carry the father's surname. Andrzej Gulczyński rightly noticed that in connection with that change, a marriage and a surname of the head of the family again became the most important institution. Another conservative decision was to reject radical changes in the provisions on a divorce. The Codifying committee opposed them, and an attempt of liberalizing the provisions, taken at Sejm, was obstructed by the Prime Minister. The provisions concerning alimonies, which were mentioned before, also had a conservative aspect, adding an alimony obligation between relatives through marriage (stepfather, stepmother –

stepchildren), regulated in art. 144 of Family and Guardianship Code. Generally speaking, it can be stated, that those provisions served well the principle of marriage constancy and strengthening a family. These were probably the reasons why the proposal of a legal regulation of cohabitation (factual relations), presented in the first half of the 50s and repeated during Codifying Committee works, were rejected.

At the time of family and guardianship code coming into being, in the year of a 20th anniversary of People's Republic of Poland, a following opinion was expressed: 'at the end of a 20-year-long period of family law development in People's Republic of Poland, our country receives a new code steeped in socialistic ideas'. It was, though, a reception that did not have a character of a communistic orthodoxy, skillfully linking a postulate of a family autonomy with the principle of a state's control over family relations. In this context, one should agree with a statement of an emigration lawyer, that principles and general solutions of the code were doubtfully Marxist. On the other hand, though, and it does not contradict itself, in the Marxist frames 'legal crafts is without any doubt Polish, and creativity of a Polish lawyer is obvious'. It can be assumed, that when working on the family and guardianship code, the authors had perfectly used the margin of freedom that they had. In hindsight, an outstanding Polish expert on civil law, Zbigniew Radwański considered, that 'family and guardianship code became a glorious follower of progressive thoughts of the first Polish codifiers, at the beginning outrunning the evolution of family rules of western Europe countries. Polish codification did not accept a model of a communist ideology of family, that other countries of a real socialism did'. A Czechoslovakian codification of 1963 may serve here as an example. One of their ideas was a postulate of a wider participation of social organizations in the functioning of a family.

Against Z. Radwański's opinions here comes a question of a continuity (or lack of it) in the history of family law and in works on it in People's republic of Poland. I have been trying to prove, that between Codifying Committee's project and unification decrees there is a visible connection. Was the creation of Family code breaking that connection in the development of law? Let us start with an opinion of one of outstanding lawyers F. Longchamps: 'there are a few milestones between codification of an Enlightenment age and a Civil Code of 1964, but no gaps'. I believe, that this opinion cannot be applied to the history of works on family law in People's Republic of Poland. Although it was the Polish project of 1948 (II book of the civil code project) that made was a starting point for works of a Polish-Czechoslovakian commission, but it quickly turned out that its usefulness for creating a socialist family code was none. The created family code reflected a completely different ideology, therefore it opened a completely new history of

family law. A symbolic, though with severe implications, breaking the continuity was art. XVIII of provisions implementing Family Code, which made it obligatory to use the code's provisions of a matrimonial joint property to properties of all marriages – since they were contracted. In this way, provision of Family Code concerning matrimonial property regime had a retroactive effect. This solution was revolutionary indeed, not used by a Nazi occupier when ordering Germans – Polish citizens to adapt German law. It should be recognized that implementing the family code opened a completely new chapter in the history of Polish family law. The problem, though, was that, in the public opinion, creating Family Code did not change much, and a real turning point was in 1946, when an obligatory civil marriages and a wide scope of a courts' interference in family issues were introduced. Some elements of reference to old solutions appeared in works after 1956 (e.g. guardianship law), but – as I have pointed out – Family and Guardianship Code appeared to be a more of a continuation of a previous code than a new work. In this context, the attempts to return to the solutions form pre-war and those of 1945-1948 projects and legislative acts (e.g. optional form of contracting a marriage, matrimonial property regime) that were taking place after 1989 are quite distinctive. It is impossible not to mention a project concerning provisions on a separation, which was submitted in 1963 by an MP Stanisław Stomma. It seems as if we were dealing with the first version of the provisions presently in force.

People who were creating Polish family law after the war are a symbol of continuity. The first place takes here Jan Wasilkowski, who had started had started his work as a legislator in pre-war Codifying Committee, and after war participated in all stages of works on family law. He should be regarded as the main creator of the Family Code and one of three main co-creators of the Family and Guardianship Code. The works show that J. Wasilkowski had a great knowledge on civil law, also in the comparative aspect. He was an unquestionable authority among other authors of codification. He always behaved adequately to the political situation , therefore it is difficult – facing his cunctative attitude – to establish what his real views were. Juliusz Bardach's opinion should be remembered: ' Along with stiffening of political opinions of Gomułka's staff, on the wave of so called revisionism, a view presented by the most influential figures – Stefan Rozmaryn and Jan Wasilkowski won, that there is no continuity in legal sciences, because socialist law system is completely different, even contrary to legal systems of previous formations. According to them, it occurred that in a scientific work a socialist lawyer does not have to reach to the past to understand and scientifically acknowledge the law of their time'. This quote explains a lot and seems to correspond with an opinion of prof. Stefan Grzybowski about J. Wasilkowski as a 'communistic boss of Polish law'. I think, though, that it mainly his consequence led to creating

the new family and guardianship code, due to which a legislative act being in force till present day came into being.

A figure of Seweryn Szer is ambiguous. Pre-was solicitor, till the second half of 1948 had been presenting opinions which showed that he was a supporter of a sociological trend in civil law. Even at the beginning of the cooperation with Czechoslovakia he skillfully pointed out incoherence of Soviet ideas on family law. The twist took place in 1949, since when S. Szer had become the most consistent propagator of Soviet family and civil law sciences. For example, he strongly approved of separation of family law. Deep knowledge on family law in European countries accompanied those views, and his books concerning family law, especially those form the 60s, provided a valuable comparative material. Taking over, after the death of Jerzy Marowski, the function of the president of Substantive Civil Law Team, coincided with a decision on separating family law into a separate legislative act. One should admit that the team's meetings were led by him efficiently.

The third participant of the works, Aleksander Wolter, was clearly connected with a classical civil law thought. He was the author of guardianship law of 1946, a legislative act which has had a great impact on the shape of this branch of law till today. First of all, he created a family law project, which created ground for Family and Guardianship Code. He was not as convincing as J. Wasilkowski and partially S. Szer. A change of his position enabled to gain majority in voting in December 1960 on separating family law from the civil code.

A few words have to be said about a role of an extremely active participant of works of the Property Civil Law Team at Codifying Committee – prof Jan Gwiazdomorski. This wonderful erudite and expert on civil law not too successfully – in my opinion – accomplished his tasks of a codifier, being under strong influence of casuistry. It might have resulted from the fact, that J. Gwiazdomorski as a rule fought in defense of classical institutions of civil law over the Soviet models. In order to do that he looked for any possible contradictions, trying to prove that his solutions are the only right ones. This opinion did not make him popular, hence his final influence on the final form of the code was smaller than in might have been expected..

Also a creative contribution of Kazimierz Przybyłowski and Witold Czachórski in the works on family of Codifying Committee is worth mentioning.

The review of 20-year-long time of transformations and works concerning family law in People's Republic of Poland is definitely positive. It is worth to refer to an opinion expressed by an outstanding expert on the subject Tadeusz Smyczyński: 'Polish family law neither in a normative form was filled with communist ideology, nor in its interpretation and application by

courts (except some occasional cases) served communist government as a weapon to fight to <<create new society>>. Both family (parents) and courts adjudicating in family cases maintained a lot of freedom, which was definitely due to the support of such an attitude from the Catholic Church, which was the main bastion of the family autonomy defense'. My work was trying to present the 'lack of filling it with communist ideology', which does not mean that there were no attempts of doing so.

5. Description of attainment and scientific achievements other than monograph pointed in point 4

a/ after obtaining doctor's degree I continued research on Special Committee to Fight Corruption and Economic Plague. The most important result of it is the monograph: *Komisja Specjalna do Walki z Nadużyciami i Szkodnictwem Gospodarczym. Studium historycznoprawne*, wyd. Temida2, Białystok 2002, p. 349. This book has broadened my research in comparison to the doctor's paper, placing it in the nation's perspective, not only from the local perspective.

The basic thesis of the book, that the Special Committee was the most drastic example of changes in done by the communists in Polish penal law has been commonly accepted in Polish legal science. The monograph got positive reviews:

Rev.: Anna Machnikowska, in: „Czasopismo Prawno – Historyczne" 2004, vol. LVI, z. 1, p. 387-391.

Rev.: Roman P. Smolorz, in: „Jahrbücher für Geschichte Osteuropas" 2004, vol. 52, z. 4, p. 631-632.

Rev.: Tomasz Danilecki, in: *Studia i materiały do dziejów najnowszych ziem północno – wschodnich Polski (1939-1989)*, ed. J. J. Milewski, Białystok 2004, p. 211-213.

I also published additional publications on Special Committee:

1. *Komisja Specjalna do Walki z Nadużyciami i Szkodnictwem Gospodarczym jako próba przełomu w prawie karnym i wymiarze sprawiedliwości*, in: *Przełomy wieków*, ed. M. Szyszkowska, Białystok 2000, p. 154-174.
2. *System kar stosowanych przez Komisję Specjalną do Walki z Nadużyciami i Szkodnictwem Gospodarczym*, in: *Przez tysiąclecia: państwo – prawo – jednostka. Materiały ogólnopolskiej konferencji historyków prawa. Ustroń 17-20 września 2000 r.*, vol. II, ed. A. Lityński, M. Mikołajczyk, Katowice 2001, p. 208-220.
3. *Adwokaci w postępowaniu przed Komisją Specjalną do Walki z Nadużyciami i Szkodnictwem Gospodarczym*, „Palestra" 2001, no 3-4, p. 80-90.

4. *Organizacja i obsada kadrowa delegatur Komisji Specjalnej do Walki z Nadużyciami i Szkodnictwem Gospodarczym,* „Kwartalnik Prawa Publicznego" 2004, no 3, p. 81-107.
5. *Struktura organizacyjna i pracownicy białostockiej Delegatury Komisji Specjalnej do Walki z Nadużyciami i Szkodnictwem Gospodarczym (1945-1954),* in: *Polska północno-wschodnia w okresie stalinizmu – spojrzenie z perspektywy półwiecza*, ed. K. Sychowicz, E. Świętochowska-Bobowik, W. F. Wilczewski, Białystok-Warszawa 2009, p. 43-66.
6. *O metodach i kierunkach najnowszych badań nad Komisją Specjalną. Uwagi w związku z książką*: Ludwik Stanisław Szuba, Komisja Specjalna do Walki z Nadużyciami i Szkodnictwem Gospodarczym i jej delegatura bydgoska (1945-1954), wyd. A. Marszałek, Toruń 2009, s. 413, „Czasopismo Prawno-Historyczne" 2010, vol. LXII, z. 2, p. 437-445.

b/ My important research achievement is monograph, written together with Przemysław Kowalski: *Izba Adwokacka w Białymstoku 1951-2011* (wspólnie z Przemysławem Kowalskim), Warszawa 2011, ss. 163. The book has been written for the 60 years' jubilee of Białystok Chamber of Advocates. It describes also the history of advocates in Białystok voivodship (in short form) in the pre-war period. The paper is connected with my wider interests about legal history of Białystok region. I published several papers on this topic:

1. *Prawo rodzinne ziem wschodnich II Rzeczypospolitej*, w: *Wielokulturowość polskiego pogranicza. Ludzie – idee – prawo,* ed. A. Lityński i P. Fiedorczyk, Białystok 2003, p. 509-520.
2. *O sądownictwie na Podlasiu na przestrzeni dziejów uwag kilka,* w: *XX rocznica działalności Sądu Apelacyjnego w Białymstoku,* Białystok 2010, p. 21-33.
3. *O podziałach administracyjnych w województwie białostockim w okresie międzywojennym*, in: *Z zagadnień prawa rolnego, cywilnego i samorządu terytorialnego. Księga jubileuszowa Profesora Stanisława Prutisa*, ed. J. Bieluk, T. Mróz, A. Doliwa, A. Malarewicz-Jakubów, Białystok 2012, p. 711-725.
4. *Echa projektów unifikacji osobowego prawa małżeńskiego w II RP na terenie województwa białostockiego,* in: *Regnare, gubernare, administrare. Prawo i władza na przestrzeni wieków. Prace dedykowane profesorowi Jerzemu Malcowi z okazji 40-lecia pracy naukowej,* ed. S. Grodziski i A. Dziadzio, Kraków 2012, p. 269-277.
5. *Sądownictwo powszechne na terenie woj. białostockiego w II RP* (wspólnie z P. Kowalskim), „Miscellanea Historico-Iuridica" 2012, vol. XI, p. 275-299.

6. *Dzieje budynku Wydziału Prawa,* „Biuletyn Wydziału Prawa Uniwersytetu w Białymstoku" 2008, no. 10, s. 10-13.

c/ My scientific attainment after obtaining the doctor's degree covers also research on contemporary Polish family law. I treat this research as a continuity of research on history of Polish family law. They show the development of the Family and Guardianship Code, the history of which was my main topic of research. The enlisted papers try to show the present development of Polish family law in the historical perspective:

1. *Nowelizacje prawa rodzinnego w Polsce po 1989 r. ze szczególnym uwzględnieniem stosunków majątkowych między małżonkami,* in: *Małżeństwo – etyka – ekonomia*, ed. E. Ozorowski, R. Cz. Horodeński, Białystok 2007, p. 271-283. English version of the text: *Revisions of Family Law in Poland after 1989 with Particular Focus on Property Relations Between Spouses,* in: *Marriage and Quasi-Marital Relationships in Central and Eastern Europe,* red. L. D. Wardle i A. Scott Loveless, Provo 2008, p. 143-153.
2. *Dyskusja na temat miejsca prawa rodzinnego w systemie prawa Polski Ludowej*, „Miscellanea Historico-Iuridica" 2009, vol. VII, p. 153-173.
3. *The Catholic Church and the Reform of Family Law in the 20th Century Poland,* w*: Essays in Honour of Penelope Agallopoulou,* Athens 2011, vol. I, p. 519-539.
4. *Attempts at Redefining the Family in Contemporary Polish Law*, „International Journal of the Jurisprudence of the Family" 2012, vol. 3, p. 357-371.
5. *Polish Family Law and Family Life Before the European Court of Human Rights*, „Pravni život" 2013, nr 12, s.

d/ Important part of my research is dedicated to the administrative law and administrative courts in Polish Second Republic. They correspond with my earlier research, dating from the pre-doctoral period:

1. *Uwagi o zasadach prowadzenia działalności gospodarczej w prawie II Rzeczypospolitej,* in: *Ekonomiczne aspekty państwa demokratycznego,* ed. S. Oliwniak, Białystok 2007, p. 29-44.
2. *Administracyjna regulacja działalności gospodarczej*, in: *Synteza prawa polskiego 1918-1939,* ed. T. Guz, J. Głuchowski, M. R. Pałubska, Warszawa 2013, p. 752-783.

3. *Nieznane dokumenty dotyczące organizacji Najwyższego Trybunału Administracyjnego w II RP*, „Zeszyty Naukowe Sądownictwa Administracyjnego" 2008, no. 1, p. 75-82 (part. I); no. 2, p. 74-92 (p. II).

6. **Presentations on scientific international and domestic conferences**
   a. *Przez tysiąclecia: państwo – prawo – jednostka.* Ogólnopolski Zjazd Katedr Historycznoprawnych, Ustroń 17-20 Sept. 2000 (presentation: *System kar stosowanych przez Komisję Specjalną do Walki z Nadużyciami i Szkodnictwem Gospodarczym*, publication).
   b. *Wielokulturowość polskiego pogranicza: ludzie – idee – prawo.* Ogólnopolski Zjazd Katedr Historycznoprawnych, Augustów 15-18 Sept. 2002 (presentation: *Prawo rodzinne ziem wschodnich II Rzeczypospolitej*, publication).
   c. *Korzenie i tradycje współczesnego prawa cywilnego w zjednoczonej Europie.* Konferencja naukowa Towarzystwa Biblioteki Słuchaczów Prawa Uniwersytetu Jagiellońskiego, Kraków 6-7 May 2004 (presentation: *Wykorzystanie dorobku Komisji Kodyfikacyjnej Drugiej Rzeczypospolitej w pracach nad unifikacją osobowego prawa małżeńskiego w 1945 roku.*, publication).
   d. *200 lat kodyfikacji napoleońskich.* Conference organized by the Faculty of Law and Administration of the Jagiellonian UniversityKonferencja zorganizowana przez Wydział Prawa i Administracji Uniwersytetu Jagiellońskiego, Kraków 15-16 października 2004 r. (głos w dyskusji).
   e. *Podstawy materialne państwa do XX w.* Ogólnopolski Zjazd Katedr Historycznoprawnych, Szczecin 23-26 Sept. 2004 (presentation: *Z badań nad małżeńskimi ustrojami majątkowymi w powojennym ustawodawstwie polskim*, publication).
   f. *La famiglia e la societa di ieri e di oggi. Rodzina i społeczeństwo wczoraj i dziś.* Polish – Italian conference, organized by the Faculty of Law, University of Bialystok, Białystok 27 Nov. 2004 (presentation: *Z dziejów prawa rodzinnego w Polsce XX wieku*, publication).
   g. *Family Law – Balancing Interests and Pursuing Priorities.* XII World Congress of International Society of Family Law (ISFL), Salt Lake City 19-23 Jul. 2005

(presentation: *Family Law in 20th Century Poland: between Soviet Patterns and European Legal Tradition*, publication).

h. *Semja i prawo (k 10 – letiju prinjatija semiejnogo kodieksa Rossijskoj Fiedieracji),* conference organized by Duma, Moscow, Russia, 5-6 Dec 2005 (presentation: *Istorija razvitija siemiejnogo prava Polszi w XX w.*, publication).

i. *36. Deutscher Rechtshistorikertag*, Halle (Germany) 10-14 Sept. 2006 (presentation: *Reconciliation with the Communist Past: the Polish Way*, publication).

j. *Cuius regio, eius religio?* Ogólnopolski Zjazd Katedr Historycznoprawnych, Lublin 20-23 Sept. 2006 (presentation: *Unifikacja i kodyfikacja prawa rodzinnego w Polsce Ludowej na tle stosunków Państwa z Kościołem katolickim 1944-1964*, publication).

k. *Developments in Marriage and Marital Law in Central and Eastern Europe: Reports, Prospects and Analysis* – conference organized by the Doha International Institute for Family Studies and Development, J. Reuben Clark Law School (part of Brigham Young University, Provo, Utah, USA) and Facultas Iuridicum of the University of Vienna, Austria), Vienna 6-7 Oct. 2006 (presentation: *Revisions of Family Law in Poland after 1989 with Particular Focus on Property Relations Between Spouses,* w: *Marriage and Quasi-Marital Relationships in Central and Eastern Europe*, publication).

l. *Polska północno-wschodnia w okresie stalinizmu – spojrzenie z perspektywy półwiecza.* Conference organized by the Institute of National Rememberence (IPN w Białymstoku), Białystok 23-24 Oct. 2006 (presentation: *Struktura organizacyjna i pracownicy białostockiej Delegatury Komisji Specjalnej do Walki z Nadużyciami i Szkodnictwem Gospodarczym 1945-1954*, publication).

m. *Prawo blisko człowieka – z dziejów prawa spadkowego i rodzinnego.* Conference organized by Towarzystwo Biblioteki Słuchaczów Prawa UJ, Kraków 7-8 March 2007 (presentation: *Radzieckie prawo rodzinne jako przedmiot recepcji*).

n. *Family Finances.* 13th World Conference of the International Society of Family Law, Vienna 16-20 Sept. 2008 (presentation: *Matrimonial property regimes in Poland*).

o. *Family Law in a Multicultural Environment: Civil and Religious Law in Family Matters.* ISFL Regional Conference in Israel, Tel Aviv 7-9 June 2009 (presentation: *The Catholic Church and the Reform of Family Law in the 20th Century Poland*, publication outside conference papers).

p. *Sbližování a rozcházení českeho, slovenského a polského rodinného práva*, Brno, 18-19 listopada 2009, presentation: *Polsko-czechosłowacka współpraca w dziedzinie prawa rodzinnego 1948-1950*.

Read the report from the conference: Z. Králíčková, *Zpráva z mezinárodní konferencje „Sbližování a rozcházení českeho, slovenského a polského rodinného práva"*, „Pravník" 2010, nr 3.

q. *Prawo na przełomie epok. XXII Zjazd Historyków Państwa i Prawa*, Zegrze 17-19 Sept. 2010 r. (presentation: *Polski kodeks rodzinny z 1950 r. Czy przełom?*, publication).

r. *Polskie interpretacje autorytaryzmu i totalitaryzmu*, Karpacz 7-9 Dec 2010, conference organized by the Chair of Political and Legal Doctrines, Faculty of Law, Administration and Economics, Wrocław University, (presentation: *Polscy prawnicy emigracyjni o sowietyzacji prawa cywilnego*, publication).

s. *Parents and Children – an Evolving Relationship*, Reggio Emilia (Italy) 27-28 Apr. 2012, presentation: *The 2012 Changes in the Adoption Proceedings in Poland* (to be published).

t. *Symposium on the Jurisprudence of Extended Families, Extending Families and Intergenerational Solidarity*, Doha (Katar), 30 Apr. – 1 May 2012, presentation: *The Consequences of the Attempts to Re-define the Notion of Family in Polish Law* (printed in the USA).

u. *The Jurisprudence of Family Relations: Privacy, Autonomy and Whether States Should Regulate Family Relations*, Benjamin Cardozo School of Law, Yeshiva University, New York City, 10-11 czerwca 2013, wystąpienie: *Should Poland Ratify the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence?* (chair of the session, publication planned).

v. *Sympozjum Historyków Prawa Polskiego, „Ewolucja Prawa" UŚ,* Katowice 18-20 Sept 2013 presentation: *Ewolucja prawa rodzinnego w Polsce Ludowej*.

w. Conference *Związki pozamałżeńskie na przestrzeni dziejów*, Faculty of Law, University of Bialystok, 22-23 Oct. 2013, presentation: *Status dzieci pozamałżeńskich w prawie rodzinnym początków Polski Ludowej* – publication planned in "Miscellanea Historico-Iuridica", vol. XIV.

x. Conference *Pravo i dostojanstvo.* 26 edition of the conference *Skola prirodnogo prava* in Mount Kopaonik, Serbia, 13-17 Dec. 2013 r., presentation: *Polish Family Law and Family Life before the European Court of Human Rights*, published in: *„Pravni život"* 2013, nr 12.

7. **International and domestic research programs**

1. I realized my own research program, granted by the Ministry of Science and Higher Education: *Prace nad unifikacją i kodyfikacją polskiego prawa rodzinnego (1944-1964)*. The results were accepted by the Ministry and grant was ended in 2008.
2. I am National Reporter in program: The Common Core of the European Private Law, in section: Duties of Care and Duties of Cash in Family Law.
3. I am National Reporter (together with dr hab. Katarzyna Bagan-Kurluta) in program: Simplification of Debt Collection in the EU – program is leaded by the Faculty of Law, University of Maribor, Slovenia. In 2014 the book presenting the results of program will be published.
4. I am National Reporter (together with z prof. K. Bagan-Kurlutą) in program: Dimensions of Evidence in European Civil Procedure (Faculty of Law, University of Maribor, Slovenia). This is program of the European Commission (Civil Justice Program): DEECP JUST/2011-2012/JCIV/AG/3434, participation of Faculty of Law, University of Białystok amounts to 5000 EUR.