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Social and Legal Aspects of Alcohol Abuse in Poland *

Spoleczne i prawne aspekty nadużywania alkoholu w Polsce

I

The alcohol abuse is one of the most serious social problems in Poland. Among the phenomena included in the pathological sphere, it is certainly the most important one. There is no doubt that it is a greater social danger than crime is. In Poland the alcohol abuse shows many characteristic features which make it different from — quite distinctly — the analogous phenomenon in other countries. Because of these features, we can speak of specifically Polish "model" of alcohol abuse. So if we wish to speak of alcohol abuse control by law in Poland, we first must know the specific features of the phenomenon itself, and to this problem we devote the first part of this study.

One of the fundamental elements of the alcohol abuse is the model of its consumption. Let us then begin with the presentation of the Polish model of alcohol consumption. It is generally assumed that this model includes the dimension and dynamics of alcohol consumption, its structure and concentration, the money spent by private persons to buy alcohol and the customary habits of drinking accepted by society.¹

* The paper presented at the Xth International Congress of Criminology in Hamburg in 1988.

¹ The statements concerning that subject are numerous. See, i.a. J. K. Falewicz: *Spoleczne uwarunkowania alkoholizmu w Polsce* [in:] *Zagadnienia patologii społecznej*, ed. A. Podgórecki, Warszawa 1976, pp. 347–362; J. K. Falewicz, J. Jasiński, A. Raźniewski: *Niektóre zjawiska patologii społecznej w Polsce w perspektywie do 1990 roku*, [in:] *Przesłanki perspektywicznej polityki społecznej, Część II, „Polska 2000”* 1977, No 2, pp. 288–291; J. K. Falewicz, J. Jasiński, A. Raźniewski: *Alkoholizm (Ekspertyza)*, [in:] *Elementy zjawisk patologii społecznej w Polsce, „Polska 2000”* 1980, p. 77 and so; S. Szelhaus, D. Wójcik: *Rozmiary, dynamika, determinaty i skutki spożycia alkoholu*, [in:] *Zagadnienia nieprzystosowania społecznego i przestępczości w Polsce*, ed. J. Jasiński, Ossolineum, Wrocław-Warszawa-Kraków 1978, pp. 188–196; J. Jasiński: *Spoleczno-prawna problematyka nadużywania alkoholu w Polsce*, Warszawa 1986 — paper delivered at the conference organized by the Institute of the State and the Law of the Polish Academy of Sciences „The Role of the Penal Law in Counteracting and Controlling Alcohol and Drug Abuse”.

As far as the dimensions and dynamics of alcohol consumption go, before World War II this consumption did not exceed 2 l of pure alcohol per citizen of Poland (e.g., in 1938 it was 1.5 l). However, in the postwar period its consumption has grown systematically and seriously. As a result, in the 1950's the alcohol consumption varied around 3 l, in the next decade between 4 and 5 l. In the 1970's the increase was the greatest since it then reached 6–8 l. In the early 1980's, as a result of the worsening of economic crisis, periodical shortages of alcohol on the market and rationing of alcoholic beverages between September 1981 and March 1983, in 1981–1983 the consumption decreased to 6.4–6.2², to increase again to 6.8 and 6.9 l in 1985–1986³, and to decrease to 6.3 l in 1987⁴.

It should be explained that the numbers given above refer only to the officially registered consumption (determined from the data on the sales of alcohol beverages in the nationalized commerce and catering). Therefore they do not reflect the real size of the consumption, since they do not include the illegally produced alcohol (moonshine) and the legal one (wine), the alcohol stolen in the course of the production, processing and transport, and also the alcohol contained in other goods (e.g., methylated spirit, chemical goods), consumed as substitutes of true alcoholic beverages.⁵

In view of this, it is believed that the fall in the registered consumption in the 1980's as shown earlier with respect to the previous years was by no means accompanied by a real decrease in the consumption. Namely, in the period of the lack of alcohol on the market, its short-term rationing and increased prices, in Poland there came a so far unseen in terms of scale increase in the production of moonshine. Namely, as until the 1970's the unregistered consumption had been estimated at 5–10% of the registered consumption⁶, in the next years it accounted 35–40%⁷. Without risking an error, it can be assumed that in the last six years the real alcohol consumption was certainly not lower than in the previous decade.

The fact that the drop in the alcohol consumption in the 1980's with respect to the previous decade was mainly "statistical" can be indicated in addition by the number of persons who entered for the first time hospitals with the diagnosis of

² A. Świącicki: *Alkohol, zagadnienia polityki społecznej*, Warszawa 1977, II ed., p. 22, Table 1; *Spożycie napojów alkoholowych w latach 1970–1983*, Warszawa 1984, II ed., p. 15, Table 2. 1.

³ J. Małec: *Nasilenie alkoholizmu w Polsce i główne metody przeciwdziałania temu zjawisku*, „Problemy Praworządności” 1988, No 1, p. 8.

⁴ J. Pilczyński: *Potyczki z patologią*, „Gazeta Prawnicza” 1988, No 12.

⁵ *Spożycie napojów...*, pp. 24–26.

⁶ J. Małec: *Nielegalna produkcja napojów alkoholowych w opinii wyższego personelu lecznictwa odwykowego*, „Problemy Alkoholizmu” [further referred to as PA] 1982, No 7–8, p. 4; *Spożycie napojów...*, p. 25.

⁷ S. Akoliński: *Liczy nie kłamiq... liczby prawdę mówią*, PA 1985, No 9, p. 7.

alcohol-based psychoses, which, as the experts thought⁸, are also treated as the measure of intensification of the alcohol consumption in the society. The number of such persons, which was about 1600–2000 in the early 1970's and about 3500⁹ in the late 1970's, reached in 1985–1986 the level of 3900–4200¹⁰, that is higher than the one in the previous decade.

Another fact showing that the drop in the registered consumption is compensated for by the consumption derived from its illegal consumption is the number of persons detained by the police as drunk. The number has over the recent decade been on a similar level, totalling about 420,000–450,000 persons per year.¹¹

Another specific feature of the Polish model of alcohol consumption is its structure. Namely, most alcohol is drunk in the form of vodka, leading to the quick and strong intoxication of the organism. Known already in the period between the World Wars and maintained in the 1950's when vodka was close to 80% of beverages, this phenomenon was slightly improved in the first half of the 1960's when the percentage fell to about 60%. However, from 1965 it began to grow systematically, to gain a level close to 70%¹² at which it has remained until the present moment¹³. In reality, this level is certainly higher if we take into account the fact that the unregistered consumption mentioned above includes almost exclusively the strongest beverages, that is moonshine. Many authors believe that this is largely the effect of the wrongly introduced raises of prices for alcoholic beverages in Poland, which though relatively frequent never involved price preferences for beverages with less alcohol, fixing in this way the harmful structure of the consumption.¹⁴ This structure is also essentially affected by the fact that the supply of vodka on the market is fully sufficient, whereas the demand for weaker drinks (wine and beer) remains always unsatisfied. The current state of the national economy, because of the smaller imports of grape wines, does not promise any rapid improvement in the structure of the consumption.

⁸ Z. Jaroszewski: *Psychozy alkoholowe jako wskaźnik alkoholizmu*, PA 1978, No 8–9, p. 6; S. Akoliński: *Spożywanie napojów alkoholowych jako źródło zjawisk patologii społecznej w Polsce*, [in:] *Zagrożenia społeczne i warunki oraz środki ich przewyżyczenia, Część II*, „Polska 2000” 1986, No 2, p. 6 and on.

⁹ I. Wald, T. Kulisiewicz, J. Morawski, A. Bogusławski: *Raport o problemach polityki w zakresie alkoholu*, Warszawa 1981, p. 34, Table 14.

¹⁰ Małec: *Nasilenie alkoholizmu...*, p. 9, Table 1.

¹¹ Wald, Kulisiewicz, Morawski, Bogusławski: *op. cit.*, p. 21, Table 6; *Informacja o działalności izb wytrzeźwień w 1986 roku*, Warszawa 1986 [Report on the Activities of the Sobering-up Stations in 1986, published by the Ministry of Health and Social Welfare], p. 2.

¹² Święcicki: *op. cit.*, p. 24; Wald, Kulisiewicz, Morawski, Bogusławski: *op. cit.*, pp. 13–15, Table 4; *Spożycie napojów...*, pp. 22–23, Tables 2 and 7.

¹³ S. Akoliński: *Utrzymuje się niekorzystna struktura spożycia*, PA 1987, No 9, p. 5.

¹⁴ Wald, Kulisiewicz, Morawski, Bogusławski: *op. cit.*, p. 28.

Comparing these data with the situation in other countries it can be said that although Poland is among the countries with medium alcohol consumption per person, the rate of the consumption increase and the average vodka consumption put it among the countries leading in this case in the world.

Another characteristic feature of the Polish consumption model is the money spent for alcoholic beverages, indicating to what extent they are highly socially demanded goods. It is significant that this money has systematically grown in the last decade, not only as the standard of living increased (the 1970's) but also as it distinctly fell (the 1980's). The percentage proportion of the money for alcohol among the total of the expenses of the population for goods was as follows: 1970 — 12.1%, 1975 — 14.4%, 1980 — 15.2%, 1985 — 13.6%, 1986 — 14.1%.¹⁵ In 75–80% the money was spent on buying vodka. Therefore it can be said that in the last quarter of the century, almost every sixth zloty of the average Pole's income has been spent on alcohol, roughly every third zloty spent on food. Understandably, the State income from the production and sale of alcohol is very large, as estimated at about 21% of the budget revenue.¹⁶

The above data are not full yet, since the Polish citizens buy in Poland also the alcohol for foreign currency (in the so-called internal export — in the Pewex shops). As an example it can be said that in 1982 — 77.2 mln US dollars was spent on alcohol, in 1983 — 82.2 mln, in 1985 — 113.7 mln and already 131.7 mln in 1986.¹⁷

Characterizing the concentration of the alcohol consumption, which is another element of the consumption model analyzed, we should refer to the results of questionnaire studies which were carried out three times (in 1961–1962, 1968 and 1980).¹⁸ Our further remarks will involve above all the presentation of some results of the most recent of the studies mentioned above, which as can be believed — are still current today, compared with the results of the earliest studies. Looking for the answer to the question what part of the consumers of particular alcoholic beverages drinks about half the total amount of the consumed vodka, these studies show that 52% of the total amount of the vodka consumed was drunk by only 9% of the consumers. Moreover, they drank more than 40 l of vodka, and every third of them 90 l per year, i.e., about 2 l per week. In turn about 45% of wine was drunk by only 3.5% of the consumers of this beverage, and 46% of beer just by 10% of the drinkers of this beverage.¹⁹ If, on

¹⁵ *Spożycie napojów...*, pp. 38–42; Jasiński: *op. cit.*, pp. 7–8; Akoliński: *Utrzymuje się...*, p. 5; Malec: *Nasilenie...*, p. 11.

¹⁶ Akoliński: *Liczy...*, p. 9.

¹⁷ Akoliński: *Utrzymuje się...*, p. 5.

¹⁸ A. Świecicki: *Spożycie napojów alkoholowych w Polsce w świetle badań ankietowych*, „Archiwum Kryminologii” 1964, vol. II, p. 293 and on; J. K. Falewicz: *Spożycie alkoholu w Polsce i jego uwarunkowania*, Warszawa 1972; J. Jasiński: *Spożycie napojów alkoholowych w Polsce w 1980 roku*, „Archiwum Kryminologii” 1984, vol. XI, p. 7 and on.

¹⁹ Jasiński: *Spożycie napojów...*, p. 27.

the other hand, still regarding the concentration of the consumption, an attempt was made to answer the question what part of alcohol, no matter in what form, was consumed by the interviewees, it turned out that 2/3 of alcohol was consumed by just 17% of drinkers whose consumption exceeded 12 l of pure alcohol per year, whereas two thirds of the drinkers did not consume more than 4 l of pure alcohol per year.²⁰

It is interesting to note that as compared with the results of the studies in the early 1960's, the most recent research in 1980 showed that there came a change in the proportion of those who drank most which increased. Namely, those who drank more than 16 l of pure alcohol per year were 5.4% in 1961 and they drank 43.8% of the total alcohol consumed, in 1980 the proportion of such persons grew almost twice as much (10.5%), drinking already 58.1% of the total alcohol consumption.²¹ In this period, the proportion of nondrinkers did not essentially change. Namely, in 1961 the teetotallers were 15.7% and 16.7% in 1980. Neither did the proportion of those who drink least (namely less than 4 l of pure alcohol per year), since the percentage of such consumers — who are at any rate the majority of the drinkers — was 55.7% in 1961 and showed almost the same level (55.2%) in 1980.²²

Therefore it can be said that the doubling of the fraction of the intensive drinkers and the distinct increase in the consumption by this category of consumers must have effected the deepening of the social and health problems caused by the alcohol consumption in Poland.²³

Just as in other countries, most alcohol abusers in Poland are men, although the proportion of women who systematically drink has seriously increased. As a rule, they are young people, aged 21–29, thus, the persons who began their social lives, who learn, who begin their professional lives, form families and have children. A highly harmful tendency is moreover observed, since the age of those who drink most becomes lower, as a dozen or so years ago, they were still aged 30–39. As far as the young are concerned, the studies show that about half of children aged 14 drink alcohol from time to time, and in the age interval 15–18 years of age, calculated just for boys, this proportion grows to nearly 100%.²⁴ The problem becomes even more serious as the young people take over the customs of the drinking adults (more of which below).

The higher level of education is the lower single alcohol consumption. Therefore, in general the intensive drinkers come from among those with

²⁰ *Ibid.*, p. 28.

²¹ *Ibid.*, p. 29.

²² *Loc. cit.*

²³ J. Moskalewicz: *Obecne tendencje w zróżnicowaniu spożycia alkoholu w Polsce*, [in:] *Alkohol i związane z nim problemy społeczne i zdrowotne*, ed. I. Wald, Warszawa 1986, p. 91.

²⁴ Świącicki: *Alkohol...*, pp. 44–57; Wald, Kulisiewicz, Morawski, Bogusławski: *op. cit.*, pp. 18–19; Jasiński: *Spożycie...*, pp. 32–33.

primary education. As far as the socio-occupational structure related to the education goes, the studies indicate that the greatest consumption was characteristic in turn of unqualified workers, skilled workers and, finally, mental workers. No change in the consumption level was found to exist between the population of the towns and the countryside. Among the latter, private farmers drank less than those making up the collective farms and farming workers. On the other hand, the inhabitants of the countryside who work outside of agriculture drank most.²⁵

Finally, the last, distinct feature of the Polish model of alcohol consumption are the socially approved patterns of drinking. They consist in the single consumption of large amounts of alcohol (mainly vodka, often complemented with beer and wine), over a short time, without appropriate food. This always leads to the rapid and deep intoxication of the organism.²⁶

Using the legal criterion, namely the "intoxication level" (at least 0.5 promille of alcohol in blood), it was estimated in the second half of the 1970's that every day more than 800,000 citizens in Poland exceeded the "intoxication level", i.e., more generally speaking, were intoxicated.²⁷

Estimations show that now in Poland there are about 4 mln excessive drinkers and about 1 mln alcohol-dependent persons. In general, it means that this 5-million group includes: every seventh Pole no matter of what age and sex, every fifth adult (over 18 years of age).²⁸

Estimations also show that the closest environment of the excessive drinker or alcohol-dependent is 4 persons on average for whom he or she makes life difficult. It can readily be calculated that about 20 mln persons, i.e., more than half of the Polish society, are involved in some way in the matters related to alcohol abuse.²⁹

Moreover, we should point out in brief the reasons for the formation of the alcohol consumption model in Poland included in the scientific literature, with the qualification that their interpretations are not always uniform. Namely it turns out that it is made up of the traditions of the noblemen's Commonwealth of many countries, from which the Pole's predilection to drunkenness is supposed to derive, and, in particular the gentry's privilege in the 17th–19th centuries of the monopoly for the production and sale of alcohol in their own lands (the so-called taproom privilege), permitting them to gain economic revenues at the expense of the serfs. In the latter period, strong emphasis is put on the purposive policy of the Hitlerist invaders aimed at intoxication of the Polish people. Many authors

²⁵ Jasiński: *Spożycie...*, pp. 34–35.

²⁶ Falewicz, Jasiński, Raźniewski: *Niektóre zjawiska...*, p. 290; Szelhaus, Wójcik: *Rozmiary...*, p. 195; Jasiński: *Społeczno-prawna problematyka...*, p. 9.

²⁷ Falewicz, Jasiński, Raźniewski: *Niektóre zjawiska...*, p. 290.

²⁸ Akoliński: *Liczby...*, p. 8.

²⁹ Falewicz, Jasiński, Raźniewski: *Niektóre zjawiska...*, pp. 288–289.

believe that an essential role was also played by the industrialization, urbanization and mass migrations of the population in postwar Poland. Some even go as far as to accuse the authorities of the conscious pro-alcohol policy.³⁰

Without evaluating these views let us note in conclusion the fact that there is no consistent, integrated anti-alcohol policy, which would be dictated by something else than the fiscal interest of the State — as previously — and aimed at limiting the alcohol consumption, changing its structure and above all the patterns of drinking observed in society.³¹

So far no criminological research has been carried out in Poland which would demonstrate the existence of a causal relation between drunkenness and alcoholism and crime. Nevertheless the society feels and so do those who shape the legislative and penal policy that hypothetically, but treated as a certainty, there is such a relation. This conviction comes from the fact that in the light of police statistics a large part of the perpetrators of some identified crimes, especially involving physical or verbal aggression, were at the time of the crime intoxicated by alcohol. This may only show that these phenomena co-occur, but does not demonstrate that there is a causal relation between them. The perception of alcohol as one of the main crime-promoting factors leads in Poland to overestimation of the penal law in the control of drunkenness and alcoholism and to demands for more severe repression against intoxicated perpetrators.

As has been aptly said, this approach can also play another function, namely that of diverting the attention of the public opinion from "other, often more important causes of the social pathology", suggesting that it should "see their sources in the moral defects of an individual rather than the faults and shortages of the socio-political system".³²

Sociological studies show that in Poland there is, on the one hand, distinct tolerance of alcohol abusers, and on the other, a rigorous attitude to drunken behaviour. Moreover, the society condemns an alcoholic who is identified usually as the person who begins the antialcoholic treatment.³³ The stigmatization derives from the fact that he begins the treatment. For very many

³⁰ Wald, Kulisiewicz, Morawski, Bogusławski: *op. cit.*, p. 8 and on; J. Moskaiewicz, J. Sierosławski: *Alkohol i robotnicy, Spojrzenie z perspektywy struktury społecznej*, [in:] *Położenie klasy robotniczej*, t. IV, *Problemy patologii społecznej*, ed. P. Wójcik, Warszawa 1985, p. 257 and on; W. Kula: *Doświadczenia i nadzieje*, [in:] *Alkohol w kulturze i obyczaju*, ed. J. Górski, K. Moczarski, Warszawa 1972, p. 142 and on; A. Gieysztor: *Cavaent Consules*, [in:] *ibid.*, p. 163 and on.

³¹ Wald, Kulisiewicz, Morawski, Bogusławski: *op. cit.*, p. 8; Moskaiewicz, Sierosławski: *op. cit.*, p. 276.

³² Moskaiewicz, Sierosławski: *op. cit.*, p. 283.

³³ M. Jarosz: *Samozniszczenie, Samobójstwa, Alkoholizm, Narkomania, Ossolineum, Wrocław-Warszawa-Kraków*, 1980, pp. 107-194; Jasiński: *Spoleczno-prawna problematyka...*, pp. 9-10; M. Fillar: *Funkcje prawa*, [in:] *Alkohol oraz związane z nim problemy...*, pp. 285-286, as well as the bibliographical references included in those publications.

years the situation in the disintoxication treatment system has been seen as critical³⁴ and by no means improving. At present there are about 430 disintoxication advisory centres and about 3200 beds in in-patient disintoxication centres. The whole health system lacks doctors and specialist auxiliary personnel. Because of this many of the existing advisory centres are open 1-2 days in the week or even for a few hours. Altogether, in these centres about 125,000 are treated (out of about 1 mln of the alcohol-dependent).³⁵

Moreover, there are now 112 self-assistance clubs and 264 AA groups, which conduct rehabilitation work, whose number is also distinctly insufficient and nonuniformly distributed, since in many districts there is no such centre at all.³⁶

If against the background of these data on the anti-alcohol treatment system and the rehabilitation work, we remember that more than 400 000 persons are detained by the police in the drink tanks and police stations, and the scientific research shows that more than 70% of them are alcohol-dependent³⁷, it should be concluded that in Poland it is the police that works most often with alcoholics.

It is banal to say that the alcohol consumption level is related to the citizens free time, and especially the possibilities of spending it in an attractive and socially valuable way. In postwar Poland, the tourist and recreational and cultural infrastructure ensuring different ways of spending free time has not been well developed. When in 1981 a five-day week was introduced for the first time in Poland, the leisure time increased but, because of the economic crisis (and the related cuts on the expenses for recreation and culture), this was not accompanied by the development of this infrastructure. No wonder then that the increase in free time did not diminish the alcohol consumption.

Again, it is banal to say for a long time now both scientific and publicist studies see the possibility of cutting the alcohol consumption by offering a reasonable alternative to the potential alcohol purchaser. It is self-evident that when the market offers a large choice of attractive goods, in particular durables (first of all apartments and cars), available at moderate prices and on instalments. The problem is, however, that on the Polish market there is a shortage of these goods, at least they are insufficient in number, but vodka is invariably one of the goods that can always be bought. Moreover, the economic crisis must have intensified these disproportions (irrespective of the affluence of the society).

³⁴ Wald, Kulisiewicz, Morawski, Bogusławski: *op. cit.*..., p. 44.

³⁵ C. Godwod-Sikorska: *Postępowanie medyczne w zespole uzależnienia od alkoholu*, [in:] *Alkohol oraz związane z nim problemy*..., p. 295; Akoliński: *Utrzymuje się*..., p. 6; Malec: *Nasilenie alkoholizmu*..., pp. 21-22.

³⁶ Akoliński: *loc. cit.*; Malec: *loc. cit.*

³⁷ C. Godwod-Sikorska, M. Nykulan, Z. Ziółkowski: *Rozpowszechnienie alkoholizmu wśród osób przyjmowanych do warszawskiej izby wytrzeźwień* [in:] *Alkohol, alkoholizm, inne uzależnienia*, Warszawa 1977, vol. 2, p. 39.

II

In Poland, the legal provisions concerning the State control of alcoholism date almost 70 years back. Before the World War II the Act of April 23, 1920 on limitations of sale and consumption of alcoholic beverages³⁸ had been in force, further replaced with the Act of March 21, 1931 on limitations of sale, serving, and consumption of alcoholic beverages³⁹. Both — according to their titles — dealt with the bans and limitations of availability of alcohol. Those limitations concerned — at the beginning — liquors containing more than 2.5% of alcohol, as well as those containing more than 45%, and, later, more than 4.5%. The bans concerned the sale of such liquors to juveniles (up to the age of 21) and to the students of primary and secondary schools, as well as the sale near workplaces and the public buildings. The number of shops selling alcoholic beverages had been limited too.

In 1932, the public drunkenness⁴⁰ had been criminalized as a petty offence punishable by the detention up to one month and/or the fine, and — in case of reiterated commitment of that deed — by the detention up to three months.

Despite of that very punitive provision, both Acts had been neither too repressive, nor restrictive ones. They introduced some limitations but they did not exceed the limits of reasonable State control over the availability of alcoholic beverages. However, we have to bear in mind the fact that the abuse of alcohol had not been a really serious social problem at that time. Hence, the Polish alcohol regulations belonged — since the beginning of their existence — to the group of legislative acts of the controlling type. Those regulations have always limited the availability of alcoholic beverages and never introduced the prohibitory provisions.⁴¹ However, it was a control of the — so-called — direct type consisting of rather simple orders and bans concerning all the three spheres of alcohol consumption, i.e. the pre-consumption sphere, one connected with the consumption, and the post-consumption one. The Polish law did not use — on the broad scale — the methods of so-called indirect control, i.e. initiating of such mechanisms that could motivate the addressees of the norms to give up drinking owing to the benefits resulting from such decisions.⁴²

³⁸ Dziennik Ustaw [Journal of Law — further referred to as J. L.] No 37, item 210 (amendment: J. L. 1922, No 12, item 104).

³⁹ J. L. No 51, item 423.

⁴⁰ See: art. 1 item 3 the Act of January 27, 1922 on the amendment of the Act of April 25, 1920 (J. L. No 12, item 104).

⁴¹ The Acts of 1920 and 1931 permitted however to introduce prohibition within the commune following the referendum. But, owing to the extraordinary rigorous formal requirements (the referendum could be carried out on the motion in writing signed by one tenth of the residents of the commune over the age of 21, that measure had never been put into practice. There were no other possibilities of introducing a prohibition.

⁴² See: the classification of the anti-alcohol legislations prepared by Fil ar: *op. cit.*, p. 276 and on.

The regulations enacted before the War lasted basically up to the second half of the fifties.

However, in the meantime, the changes of intensity of alcohol consumption took place, as has been mentioned above; the consequences of alcohol abuse became more acute in the daily life of the society. Simultaneously, the State authorities have been dominated by the way of thinking that attached the excessively undue meaning to the role of the law in all spheres of social life with the particular stress put on the penal measures. The faith in the omnipotence of the law, especially the criminal one, had been more and more common. Consequently, facing the problem of continuously growing results of alcohol abuse that became more apparent and acute to the society, the repressive instruments had been introduced. The second stage of legal control had been initiated then; the penal measures became the dominant ones. The penalties for the "deeds connected with alcohol" had been developed and became more severe. Penalization (the typical treatment of symptoms) had been recognized at that time as the basic method of controlling the alcohol abuse. The evidence is that the restrictions of availability of alcoholic beverages were liberalized at the same time.⁴³ That liberalization concerned both the legal regulations, and the actual availability (the prices). It would be difficult to oppose the opinion voiced by one of the Polish scholars who stated that — since the early fifties — the strong alcoholic beverages (the expression stands just for the vodka in that case) became the commodity unrivaled from the economic point of view, for they were characterized by the three features uncomparable with any other commodity, namely: a) the low price, b) good quality, and c) the common availability.⁴⁴

It would be the general characteristics of the second stage during which the two "antialcoholic" Acts had been enacted. The first one was the Act of April 27, 1956 on combating alcoholism⁴⁵, the second one — Act of December 10 1959 headed by the same title⁴⁶. The titles of both Acts illustrate quite precisely the legislator's attitudes (in Polish, the word "combat" had been used, translated here as the "control"). Alcoholism (the disease) had been recognized as an evil that is to be "combated against".

The first of those Acts abolished the punishability of public drunkenness; that offence has been removed from the Polish law in 1956. However, it was not the prognostic of the liberal tendency. The contrary was the truth: both Acts penalized the different consequences of alcohol abuse — penal sanctions had been developed. At the same time, the two accompanied phenomena could be observed: firstly — the liberalization of the rules governing the availability of

⁴³ See also: A. Chećko: *Zarys podstaw prawnych polityki przeciwalkoholowej w latach 1959–1982*, Warszawa 1984, p. 29.

⁴⁴ L. Falandysz: *Rola prawa w ograniczaniu zjawiska alkoholizmu*, PA 1981, No 3, p. 6.

⁴⁵ J. L. No 12, item 62.

⁴⁶ J. L. No 69, item 434 and the further amendments.

alcoholic beverages mentioned above, and, secondly --- the legislators had been more focused on providing the possibilities of medical treatment of the alcohol dependents (or, according to the wording of the Act --- the "habitual alcohol addicts").

The basic law concerning the counteracting the alcohol abuse is the Act of October 26, 1982 on promotion of sobriety and control of alcoholism.⁴⁷ However, the Act together with the executory provisions to it does not cover the whole legislation in that field, which also includes:

1) the provisions concerning production of the alcoholic beverages including the extensive set of provisions on the penal responsibility for the illegal production⁴⁸;

2) the provisions of labour law and social insurance on regulating the responsibility of an employee for the use and/or abuse of the alcoholic beverages;

3) the provisions of civil law, including those concerning the property insurance, on the financial responsibility of persons who caused the damages or contributed to them while intoxicated;

4) the provisions of the family and guardianship law, and of the law on treatment of minors, as well as the provisions of penal law on the protection of family and minors against the consequences of the deeds committed by the intoxicated persons and --- in case of minors --- also against demoralization;

5) the provisions of penal law setting up the general principles of responsibility of the intoxicated persons, as well as establishing the penalties for different deeds committed after consumption of an alcoholic beverage of while intoxicated --- the particular meaning in that regard have the deeds violating the order and safety of the road traffic and transport.

The rigorous responsibility according to the law has been foreseen in all those fields. It would be enough to cite the example of the labour law.⁴⁹ According to the Labour code, turning out for work while intoxicated, or consumption of the alcoholic beverages during the work may be the reason of dissolution of the employment contract without notice (owing to the employee's fault). Such dissolution is followed by many disadvantageous consequences, i.e., restrictions connected with entering the new employment, loss of the right to the paid rest leave in the year of the dissolution, as well as the numerous disadvantageous financial consequences. All those facts constitute the extensive set of the cumulative afflictions that annul the achievements of the employee. Independently, the person who consumes alcoholic beverage during the work is liable to the penal responsibility for the petty offence. That severity results in the lack of the

⁴⁷ J. L. No 35, item 230 and the further amendments.

⁴⁸ See: the Act of April 22, 1959 on combating the illegal production of spirit (J.L. No 27, item 169).

⁴⁹ See: art. 52 § 1 kodeksu pracy [of the Labour Code] (Act of June 26, 1974 - J.L. No 24, item 141 and the further amendments).

employers reaction to the consumption of alcoholic beverages — the measures to be applied are too strict in their opinion.

Another example is the general principle of penal responsibility for the deeds committed in the state of drunkenness that actually exludes the guilt. The Polish Penal Code foresees in such cases the only one condition of the criminal responsibility — drunkenness has to result from the guilt, even unintentional one, of the perpetrator. And, the guilt attached to the very deed referred to in the Penal Code is not required. Hence, the deed is an objective condition of the responsibility.

The third example is the penal responsibility for driving "after consumption of an alcohol". According to the Polish law it stands for 0.2 per mil. of alcohol in blood. The perpetrator shall be punished by the detention up to three months or the fine — at least 10,000 zł., as well as the obligatory additional penalty of prohibition of operating motor driven vehicles is to be imposed for the term of at least six months and at most three years.

The fourth example is the criminal responsibility of a person who produces the alcoholic beverages illegally or makes preparations to that, and, even, who purchases the illegally produced liquor or keeps even its small quantity.

The fifth example — similar to the one quoted above — is the penal responsibility of the person who purchased the alcoholic liquor at the place where the sale was illegal.

All those examples show the degree of penalization of the diverse deeds "connected with the alcohol". There are so many punishable deeds that the offenders are rarely brought to criminal justice. That situation leads to the depreciation of the bans embodied in the criminal law.

The punitive and repressive trend within the Polish "anti-alcohol" legislation is still alive. The lack of reasonableness of that trend has been a subject of many critical remarks expressed by the scholars who proved that, firstly, the bans embodied in the penal law cannot be effective, and, secondly, that the severe responsibility in that regard is immoral, for the responsibility for the alcohol abuse is concerned, and that abuse results from the misguided policy of the State.

Fortunately, the penalization trend is not the sole one within the legislation. The Act of 1982 introduced — for the first time — the elements of indirect control. Such a control consists of the obligations imposed on the authorities to undertake actions aiming at the limitation of alcohol consumption, change of the structure of consumption, as well as change of the manners of drinking. The authorities have been also obliged to shape the social policy in the direction of creating conditions necessary to satisfy the needs whose realization gives motives for abstinence, to make the restrictions of availability (also by the proper policy of prices), as well as to create the proper structure of production of the alcoholic beverages.

The Minister of Health and Social Welfare, the Minister of National Educa-

tion, the Minister of Culture and Art, as well as some other ministers and authorities have been obliged to take into account the problems of sobriety and abstinence. The State authorities are obliged to promote the activities of social organizations, as well as to co-operate with the Catholic Church and other churches and religious associations in the field of control of alcoholism.

Such broad approach to the issue of the control of alcoholism regarded as a part of the State social policy is a novelty in the Polish "anti-alcohol" legislation; some of the solutions adopted may be easily seen as a realization of the postulates expressed previously, as well as the current ones resulting from the scientific knowledge about the alcohol problems.

A set of the provisions of the Act concerning prices may serve as an instance, namely: art. 2, sec. 1, item 4 orders the authorities to restrict the availability of alcoholic beverages; that plan is to be accommodated to the consumption of alcoholic beverages. Then, art. 10 embodies the provisions that the prices of alcoholic beverages should further limitation of the consumption of such beverages should rise faster than the growth of incomes (should be more and more expensive). Another provision on the same article states that the alcoholic beverages for off-premise consumption are to be sold at prices that cover the handling costs but must not exceed 25% of the retail price.

The set of provisions quoted above learn us that — for the first time — the norms have been introduced that are not only to limit the alcohol consumption but also to restrict the State income resulting from the production and sale of alcoholic beverages (even if just through the limitations of the production and sale of the most profitable strong liquors). It is worthy to mention the fact that those norms, "striking the fiscal interest of the State" have been introduced during the deep economic crisis which, as was predicted, will last for a long time. Hence, the introduction of the diverse types of the indirect control — previously absent — is to be regarded as a positive feature of the Act of 1982. The second element to be appreciated is the adoption of the plural principles of realization of the social policy towards the alcoholism through giving up the State monopoly within that scope and imposing on the State agencies the duty to promote and develop the diverse extra-State initiatives.

The principles of medical treatment of the alcohol abusers have also been developed by the Act of 1982. According to the Act such a treatment is voluntary and free of charge. The alcohol dependents may be assisted by the detoxication clinics, indoor relief homes and special workshops, as well as other establishments for the alcohol abusers. The obligatory medical treatment is an exception according to the Act. The committal to obligatory treatment in a detoxication clinic is to be ordered by the court in course of the civil proceedings. There are two prerequisites that must be fulfilled jointly to enable the compulsory treatment: the medical one is the medical expert opinion on the alcohol dependence. The second prerequisite is of the social character and consists in

causing a breakdown of the family life, or, depravation of the morals of minors, or, evading employment or disturbing persistently the peace or the public order. The obligatory treatment ordered by the court shall last as long as is made necessary by the purpose of the treatment, no longer however than for two years. The person undergoing the obligatory treatment may be subjected — by the court — to the supervision exercised by the probation officer. The Act does not contain any provision on coercive measures, nor sanctions for evading the treatment. The only one form of coercion is the coercive bringing a person concerned to the medical institution. However, the said institution shall have no power to keep the person under detention, nor to coerce into the medical intervention.

The present regulations concerning the alcohol, although evaluated by the scholars as the better ones in comparison with those enacted before 1982, raise however quite a few critical remarks. The excessive repressiveness has yet been mentioned above, hence, it would be enough to state the fact that the scholars interested in the criminal law for a long time have stressed that problem. Moreover, the criminal prosecution within the excessively repressive system must be very selective. That fact challenges the principle of equality before the law. The second general critical remark is that the provisions concerned are too developed and detailed, hence it is difficult to observe them. Consequently, they are frequently violated, and, as a result, they play the role contrary to one that was planned. Thirdly, those provisions that impose the numerous duties and bans on both the authorities and citizens, contain the substantive sanctions for violating them only with regard to the citizens. When the authorities are concerned, the provisions have often no sanctions (*leges imperfecta*). Carrying out the duties by the State agencies depends too often on their good will. If such a good will does not exist, the reasonable rules of the Act on control of alcoholism would lose their character of the rules of the law and would transform into the pure declarations. It should be mentioned that if we are talking about the sanctions to be imposed on the State agencies, the necessity of establishing the proper mechanisms that would allow to enforce those sanctions must be bearing in mind as well. Fourthly, the objections are voiced pointing to the fact that the admissibility of the compulsory medical treatment has been based on the indefinite and vague social premises that leave too much room for the court's discretionary powers.

STRESZCZENIE

Artykuł składa się z dwóch części. W pierwszej, poświęconej społecznym uwarunkowaniom nadużywania alkoholu w Polsce, przedstawiono — opierając się na danych statystycznych i wynikach badań empirycznych — tzw. model konsumpcji alkoholu rozpowszechniony w naszym kraju, na który składają się przede wszystkim rozmiary i struktura spożycia napojów alkoholowych oraz akceptowane przez społeczeństwo wzory picia. W części tej zamieszczono również informacje dotyczące charakterystyki osób nadmiernie pijących i uzależnionych, stanu lecznictwa przeciwalkoholowego oraz związków pomiędzy alkoholizowaniem się a przestępczością. Część druga poświęcona została prawnym aspektom zwalczania pijaństwa. Zawiera ona ogólne rozważania na temat roli prawa w przeciwdziałaniu temu zjawisku, przedstawia rozwój ustawodawstwa antyalkoholowego, poczynając od okresu międzywojennego, ze szczególnym uwzględnieniem obowiązującej ustawy z 26 X 1982 r. o wychowaniu w trzeźwości i przeciwdziałaniu alkoholizmowi, a także określa zakres i intensywność penalizacji przestępstw i wykroczeń „alkoholowych”. Na zakończenie krytycznie oceniono obowiązujące aktualnie rozwiązania legislacyjne w przedmiocie kontroli nadużywania alkoholu w Polsce, akcentując zwłaszcza nadmiernie represyjne nastawienie ustawodawcy.

