

LEGAL REGULATIONS IN THE FIELD OF CULTURAL HERITAGE PROTECTION IN POLAND IN THE YEARS 1944-1989 IN TERMS OF CULTURAL SECURITY OF THE COUNTRY

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Summary:

The article attempts to analyze the meaning of legal regulations developed in the field of cultural heritage protection in the years 1944-1989. It has been argued that these years were markedly different in terms of law in the sphere of cultural heritage protection than the period between 1918 and 1939 analyzed by the author in another article.

The author decided to refer to legal acts and literature in the form of elaborations and magazines in the field of monuments protection. The specificity of the chosen subject and problem required the choice of a scientific method in the form of legal acts analysis, supported by literature review.

The presented information shows that the period between 1944 and 1989 was characterized by a different approach of the Polish authorities towards the issue of cultural heritage protection in comparison to the years 1918-1939. The mentioned protection had an instrumental character and was one of the political-ideological tools influencing the society. Furthermore, the growth of legal protection of cultural assets in the age of the PRL took place in the conditions of centralized administration that adopted the idea of social distribution of many such assets, which led to devastation of numerous immovable monuments and sometimes also the antique furnishings. All the introduced legal regulations required a thorough change and redefinition of the legal status after the political-structural transformation of 1989.

Keywords:

People's Republic of Poland, cultural heritage, monument, legal protection, security

INTRODUCTION

Criminal-law protection of cultural heritage is one of the grounds for building and strengthening the cultural heritage protection. It is a part of the popularization of cultural protection, what was taken into consideration by authorities of many European countries creating the cultural heritage protection laws in the twentieth century. The need for protecting monuments and more broadly understood cultural heritage are a part of the cultural politics of a country, but they also constitute the justified need manifested by members of the society. They demand the legal protection of the cultural-civilizational heritage created throughout centuries in agiven nation. In this sense, a country responds to the society's needs and the cultural heritage protection law can be a result of the social discourse.

Reflections undertaken in the framework of this article are a continuation of the article previously written by the author about legal regulations in the field of cultural heritage protection in Poland in the years 1918-1939 and their influence on the cultural security of the Second Polish Republic. The author tries to close a certain cycle, aspiring to popularize the knowledge about the concerned field of activity of the Polish state in the twentieth century. The aim of the article is the attempt to present the key legal regulations in the field of cultural heritage protection in the period of the PRL in the broader context of the then cultural security.

Furthermore, it has been argued that the aforementioned legal regulations from the years 1944-1989 were characterized by distinct specifics on the basis of the legal regulations developed in the interwar period. The public authority gives the character to various spheres of current policy and activity conducted by the country and, therefore, it influences the form and character of legal regulations in such spheres. The character of the public authority in Poland in the years 1944-1989 was in turn completely distinct on the basis of the political system of the interwar period, what could impact created legal regulations in the aspect of cultural heritage protection and their influence on the society.

1. REASONS FOR THE LEGAL ANALYSIS OF CULTURAL HERITAGE PROTECTION IN POLAND IN THE YEARS 1945-1961

The creation of new state structures after the World War II was accompanied by organizing legal regulations in various fields of the state activity. One of those fields was the cultural heritage protection, which was directed at the criminal-law protection of monuments in the period of the Second Polish Republic. The PRL authorities faced the possibility of the redefinition of legal regulations created earlier on and the restitution of cultural heritage looted by the Third Reich turned out to be necessary. Even only until mid-1944 Poland lost the formidable cultural heritage in the form of various monuments and cultural works, which had been deported to the Hitler's Germany. These goods consisted of, among others, 22 mln book volumes, more than 1 mln documents, 1 mln and 815 thousand volumes, 13,652 copies of old books, 69,267 manuscripts, 53,505 copies of rare books, 459,229 pieces of museum exhibits, 150,500

works of art, 5,238 sculptures as well as unique weapons, liturgical vessels, raiment, medals, graphics, engravings, drawings or museum deposits¹.

In the WWII period also the Soviet Red Army often committed acts of vandalism. In turn, Soviet experts of monuments and works of art evaluation plundered valuable Polish cultural goods².

In the circumstances in question, the Polish authorities faced not only the problem of restitution of looted cultural works, but primarily faced the need to rebuild the *acquis communautaire* in the field of cultural heritage protection after 1945 in order to more efficiently prevent the crimes directed at these goods in the near future. A prelude to such reconstruction was the creation of the Ministry of Culture and Arts on September 15, 1944 by the Decree of Polish Committee of National Liberation (PKWN)³. The Art. 1 of the aforementioned Decree determined the range of activities of the Ministry that included exercising custody over creativity and reproductive art, promoting culture and art in the country, propaganda of the Polish culture and art abroad, taking care of museums, creating them and protection of monuments⁴ as well as running education in arts. The department of museums and preservation of monuments was supposed to operate within the Ministry of Culture and Arts, as a body specializing in the protection of widely understood monuments.

In the years 1944-1950, there were bodies of cultural and art protection in Poland of both the first and the second instance, located at the voivodeship and county offices. It was a consequence of the implementation of the executive regulation of October 5, 1944 to the aforementioned PKWN Decree⁵. Administrative dualism functioned in Poland even before the official establishment of the PRL. When it comes to monument protection, it resulted, on the one hand, from being conducted by the central authorities and, on the other hand, by local governments conducting specialized tasks in this

¹ *Dokumenty strat kultury polskiej pod okupacją niemiecką 1939-1944. Z archiwum Karola Estreichera*, red. K. Witek, Pałac Sztuki Towarzystwa Przyjaciół Sztuk Pięknych, Kraków 2003, pp. 11-12. As accurate as possible analysis of cultural goods losses to the Hitler's Germany in the years 1939-1944 was at disposal. This analysis turned out to be useful for the political authorities also in the period immediately following the end of WWII, in conditions of building the new Polish statehood.

² Seemore: W. Kowalski, *Restytucja dóbr kultury utraconych przez Polskę w okresie II wojny światowej jako element polskiej polityki zagranicznej realizowanej przez Ministerstwo Spraw Zagranicznych RP w latach 1999-2009*, Ministry of Foreign Affairs, Warszawa 2011, p. 14.

³ Decree by the Polish Committee of National Liberation of September 15, 1944 on the range of activities and the organization of the Ministry of Culture and National Heritage (Journal of Laws of 1944, No. 5, item 25).

⁴ It should be assumed that using the term „monument protection” was a reference to the interwar period. The PKWN gave up the opportunity to use the term “cultural good”, which came into law in Poland after 1945, officially only by the law from 1962. The adopted content of the PKWN's Decree can be however explained by the temporariness of proposed legal solutions, which to a large extent had an ad hoc character and were introduced still during WWII.

⁵ Decree by the Ministry of Culture and Arts introduced in agreement with the Chief of the Ministry of Public Administration of October 5, 1944 on the creation of culture and art bodies at the voivodeship and county offices (Journal of Laws of 1944, No. 7, item 37).

field. At the same time, at the central level, the General Directorate of Museums and Monuments was functioning within the framework of the Ministry of Culture and Arts, and the General Monuments Conservator and Central Inventory Bureau⁶ parallel to it.

It is worth adding that at the aforementioned time, the Regulation of the President of Poland of March 6, 1928 on the protection of monuments was in force⁷. It constituted the main legal act that sanctioned various problems related to the described protection and it was supplemented, above all, by the Decree of March 1, 1946, which sanctioned the registration requirement and the ban on the export of cultural goods beyond the borders of Poland⁸. Under Art. 1 of the aforementioned Decree, every citizen holding or possessing a work of fine art or an object of historical, artistic or cultural value was obliged to register such work or object⁹. Criminal penalties for evading this obligation were formulated in Art. 6 and 7. Providing false personal information or concealing it was punishable by imprisonment for up to 2 years or/and fines, with the possibility of the court forfeiture of an object belonging to the offender. In turn, the export of goods outside the borders of the Republic of Poland without a permit was punishable by imprisonment for up to 3 years and a fine with the obligatory court forfeiture of an object¹⁰. It can be seen that in the years 1944-1950 there was no fundamental reorientation of the main direction and character of the cultural goods protection in Poland in comparison to the years 1918-1939 and especially the period between 1928 and 1939.

In the literature of the subject it is noted, however, that the continuation of the former course of the cultural goods protection from 1918-1939 did not go without numerous contradictions. The law enforcement practice in this regard was deviating from the le-

⁶ K. Zalasńska, *Prawna ochrona zabytków nieruchomych w Polsce*, Wolters Kluwer Polska, Warszawa-Kraków 2010, pp. 41-43.

⁷ Decree by the President of Poland of March 6, 1928 on the monument protection (Journal of Laws of 1928, No. 29, item 265).

⁸ Decree of March 1, 1946 on the registration and on the export of cultural goods and objects of artistic, historical or cultural value (Journal of Laws of 1946, No. 14, item 99).

⁹ The detailed rules and procedure of registration were determined by the separate Decree of the Minister of Culture and Art, which was issued on January 14, 1947. See: Decree of the Minister of Culture and Arts of January 14, 1947 issued in agreement with the Minister of Public Administration and the Minister of Recovered Territories on the registration of works of fine art and objects of artistic, historical or cultural value (Journal of Laws of 1947, No. 34, item 155).

¹⁰ The characteristic feature of the criminal law in connection with crimes directed at cultural goods under the aforementioned Decree was greater severity compared to penal provisions for similar offenses, taking into account the provisions contained in the Decree of the President of Poland of March 6, 1928 on the monuments protection. For example, in the Art. 40 of the last act abolished on March 1, 1946, the export or attempt to export a monument outside Poland without permission of the authorities were threatened with imprisonment for up to 3 months or a fine of up to PLN 5,000, with the obvious possibility of confiscation of the monument by the authorities. In turn, the failure to notify the authorities about possession of the monument or an event having a negative impact on its condition and maintenance were penalized by a fine of up to PLN 300 (Art. 35). Such a comparison may be, above all, an indicator of directing the Polish criminal law at the cultural heritage protection after 1946 and towards the implementation of the repressive function.

gal norms, as, for example, many owners of antique real estate were kicked out and their property looted due to the implementation of the class struggle theory and the new agricultural reform in the spirit of socialist economy¹¹. It was about the effects of the entry into force of the Decree of the PKWN of September 6, 1944 on the agricultural reform¹². The decreed agricultural reform was rightly considered as a tool for expropriation of historic land properties including their furnishings, which led to “the eradication of cultural life in the countryside”¹³. It would be difficult not to mention that the provisions of the aforementioned Decree significantly differed from the provisions of Chapter V of the Head of State’s Decree of March, 6 1928 on the monuments protection, which dealt with the expropriation of monuments and their implementation strengthened the repressive influence of the public authority on the society.

As far as the monuments protection is concerned, towards the end of WWII, the authorities did not deal adequately with the settlement and compensation of possible losses in connection with the acquisition of monuments belonging to individuals. Instead, the focus was on the issue of keeping an accurate record of the entire cultural heritage in order to prepare a wide-ranging action for its social development¹⁴. In turn, the introduction of the Act on local bodies of unified state authority¹⁵ on March 20, 1950 led to the abolition of the generally favorable in terms of cultural heritage protection administrative duality of the years 1918-1939. In practice, this meant the transfer of this problem to the sphere of interest of the centralist and politicized state apparatus.

The first decade after the official proclamation of the PRL was the time of a gradual departure of the centralized authorities from the model of the cultural heritage protection in Poland developed during the Second Polish Republic. In spite of the 10 years since the end, the authorities continued to strive to finally eliminate the remnants of

¹¹ It should be added that the agrarian reform carried out on the PKWN Decree of September 6, 1944 was of great importance for the cultural heritage protection in Poland, which concerned the immobile monuments, but also numerous movable monuments in the form of furnishings of historical real estates. In practice, the state took over a number of previously private lands and monuments and as pointed out in the literature on the subject, the possession of acquired goods was often characterized by freedom and lack of sufficient organization, which contributed to the irrevocable destruction of many cultural goods. Lt. K. Burski, *Normatywne podstawy ochrony dóbr kultury w PRL. Studium historyczno-prawne*, [in:] *Prawo a ochrona dóbr kultury*, ed. M. Adamus, P. Dobosz, D. Sokołowska, Jagiellonian University, Kraków 2014, p. 84. It is difficult to disagree with criticism of the implemented agricultural reform in the context of its unfavorable impact on the state and level of the cultural heritage protection in Poland in the last period of WWII and in subsequent years after its end.

¹² Decree of the Polish Committee of National Liberation of September 6, 1944 on the implementation of the agricultural reform (Journal of Laws of 1944, No. 4, item 17).

¹³ S. Kowalska, *Zabytki i dzieła malarstwa w kalejdoskopie czasu oraz zmieniających się wartości*, [in:] *Kształcenie estetyczne w ujęciu historycznym i współczesnym*, ed. S. Kowalska, J. Wypych, Adam Mickiewicz University in Poznań, Poznań 2012, p. 102.

¹⁴ P. Dobosz, *Ochrona i konserwacja dóbr kultury w Polsce 1944–1989. Uwarunkowania polityczne i społeczne*, [in:] *Ochrona i konserwacja dóbr kultury w Polsce 1944-1989. Uwarunkowania polityczne i społeczne*, ed. A. Tomaszewski, The Association of Monument Conservators, Warszawa 1996, p. 36.

¹⁵ Act of March 20, 1950 on the organs of unified state authority (Journal of Laws of 1950, No. 14, item 130).

war damage in towns and settlements, as evidenced by Resolution No. 666 of the Government Bureau of August 20, 1955¹⁶. However, it should be stressed that the enforcement of the Resolution led to a number of deviations in the field of monuments protection. Incorrect interpretation of the regulations by the local authorities contributed to the illegal dismantling of many valuable architectural objects in cities, after classifying them as useless for promoting culture in a socialist spirit¹⁷.

The abandonment by the PRL authorities of the cultural heritage protection conducted in the Second Polish Republic is also reflected in the legal regulations contained in two key resolutions of the Council of Ministers, aimed in particular at reflecting the functional use of part of the state-owned historical properties at the expense of their cultural function. The idea of social management of a significant part of the monuments constituted a contradiction to the course of the legal protection of monuments in the period between 1918 and 1939. In the Resolution of the Council of Ministers adopted on March 21, 1957 the most important assumptions concerning the location of investments in the scope of historical real estates were formulated¹⁸. The resolution was issued in order to “preserve for future generations and donate to the public the cultural monuments of the Polish nation in the field of architectural monuments”¹⁹. It was supposed to be a model for the socialist economy, the postulate of socialization of another sphere of social life in the PRL, which the participation in culture and in the cultural heritage protection undoubtedly was.

As indicated in the above mentioned Resolution of the Council of Ministers, in the framework of the implementation of national economic plans, immobile monuments were to become the subject of utility investments, while provincial and urban monument conservators were obliged to do so in cooperation with the central authorities (§ 1). What is worth emphasizing, an investor could refuse to invest in an identified historical real estate only in the two, stated in the aforementioned resolution of the government, cases. The first one was the lack of technical conditions required for a given investment, if their addition could not be reconciled with the historic character of the facility itself. The second condition was to demonstrate and prove by an investor that the potential costs would far outweigh the construction of a new facility (§ 4)²⁰. In the

¹⁶ Resolution No. 666 of the Government Bureau of August 20, 1955 on the planned action to remove the remnants of war damage in towns and settlements (M.P. of 1955, No. 92, item 1189).

¹⁷ M. Pracuta, *Ochrona zabytków na terenie województwa łódzkiego w latach 1945-1975*, Dom Wydawniczy Księży Młyn, Łódź 2008, p. 11.

¹⁸ Resolution No. 102 of the Council of Ministers of March 21, 1957 on location of investments in historical real estates (M.P. of 1957, No. 27, item 182).

¹⁹ Ibidem.

²⁰ It should be interpreted that both indications were, in principle, out of focus and the scope of the resolution did not define, for example, what constitutes „significant” exceeding of the cost of new facility construction. In addition, it is worth noting that in the aforementioned Resolution of the Council of Ministers it was stated that while managing a monumental building of a particularly artistic design in the case of investment conducted, it was possible to “justify exceeding the cost estimates (according to the normative estimate) regarding the decorations (§ 5 (2)). The above created

aforementioned Resolution of the Council of Ministers, it was only formulated in a laconic way that the conservation authorities should supervise the compliance of the conducted investment with the main demands for the monuments care (§ 6(2)). However, no specific rules, procedures and conditions for such supervision were determined.

On December 8, 1960 the Council of Ministers adopted the Resolution regulating the use of historical objects for social functions²¹. Under § 1(1-2) of this Resolution voivodeship councils were obliged to submit to the President of the Planning Commission of the PRL lists of unused historical objects, which in the case of reconstruction or repair could serve utility purposes. The process of setting such targets also included entities of the socialized economy, operating in the social-cultural, administrative and residential construction sphere in the state. Prerogatives in this field were also held by the Ministry of Culture and Arts, acting in agreement with investors responsible for the reconstruction and renovation of immobile monuments for the purpose of their social management (§ 2-3).

It is emphasized in the literature of the subject that the implementation of the model of social management of immovable monuments under the two Resolutions of the Council of Ministers led in practice to the irreversible devastation of a part of cultural goods important for the national heritage. It particularly concerned noble manor houses, with their decor and furnishings, since they were not “worthy of maintenance valueless for the socialist culture”²². An unfavorable assessment in this field is not altered even by the creation of possibility – by the order of the Minister of Culture and Arts of 1954²³ – to appoint the so-called social protectors of monuments, which corresponded with the development of the idea of social care of cultural goods clearly initiated in the period of the Second Polish Republic. According to J. Pruszyński, such care most often had a political character, corresponding to the official party ideology, and constituted an additional facade of the policy pursued by ideologically entangled authorities²⁴.

2. THE CHARACTER OF THE LEGAL CULTURAL HERITAGE PROTECTION IN THE PRL AFTER 1962

On February 15, 1962 it was decided to finally redefine the shape of the Polish law in the field of monuments protection in comparison to the situation in the Second Polish Republic and the years following the end of World War II. At that time, the Act on the

additional opportunities as for investment execution and thus the enforcement of the requirement of the investor’s participation in the field of social management of historical real estates.

²¹ Resolution No. 318 of the Council of Ministers of December 8, 1960 on the rules of using historical objects for utility purposes (M.P. of 1961, No. 1, item 6).

²² K. Złasińska, *Prawna ochrona...*, op. cit., p. 46.

²³ Decree of the Minister of Culture and Arts of December 20, 1954 on the social protectors of monuments (M.P. of 1955, No. 18, item 189).

²⁴ J. Pruszyński, *Dziedzictwo kultury Polski - jego straty i ochrona prawna, t. II*, Zakamycze, Kraków 2001, p. 155-156.

cultural heritage protection and museums was adopted²⁵. What is characteristic, in this legal act for the first time in the Polish legislation of the twentieth century the normative notion of a cultural good appeared, the importance of which the authorities assessed as much higher than the concept of a monument. Such a solution was also a reference to the provisions of the Hague Convention of May 14, 1954²⁶. Despite this fact, the use of the term „monument” was not abandoned in the Act and both terms were used repeatedly in a convertible manner. Furthermore, it defined cultural good as: “any movable or immovable object, either ancient or modern, of importance for the heritage and cultural development due to its historical, scientific or artistic value”²⁷.

In comparison with the definition of a monument in the Regulation of the President of Poland on the monument preservation of 1928, it was maintained that a cultural good should stand out in terms of artistic, cultural and historical value, but the importance of archeological and paleontological value was undone. However, it was made possible to include in this catalog objects of scientific value. It was also stated for the first time that a cultural good was an object with importance to the cultural heritage²⁸. The possibility granted by the authorities to include modern objects in the cultural heritage also draws attention²⁹. As emphasized in the literature on the subject, it was important for the then rulers who, by arbitrary reference, could decide that a useful object for the promotion of the socialist culture could be classified as a cultural good. This was most often done at the expense of many monuments of the Polish-Lithuanian Commonwealth that were deprived of protection, which caused them to fall into ruin³⁰.

Unlike the pre-war Decree of the Head of State on the monuments protection, the 1962 Act on the cultural heritage protection and museums contained a clear exposi-

²⁵ The Act of February 15, 1962 on the cultural heritage protection and museums (Journal of Laws of 1962, No. 10, item 48).

²⁶ Convention on the cultural goods protection in the event of an armed conflict, together with the regulations of that Convention and the Protocol on the cultural heritage protection in the event of armed conflict of May 14, 1954 (Journal of Laws of 1957, No. 46, item 212).

²⁷ Art. 2 of the Act of February 15, 1962 on the cultural heritage protection and museums.

²⁸ Taking into account the political and social context that accompanied the introduction of the aforementioned law, it should be emphasized that that this cultural heritage was subordinated to the vision of socialist management of the economy and national culture. Certainly, the character of understanding of this concept was significantly different from the concept of cultural heritage and national heritage, which is used in many places by the Polish legislature in accordance with the current law of July 23, 2003 on the monuments protection and monuments care (consolidated text, Journal of Laws of 2014, item 1446).

²⁹ This definition of the cultural good was, in principle, based not so much on the importance of the provisions of the Hague Convention of 1954, but it was more of a reference to the detailed content of the Resolution of the Council of Ministers of the USSR of October 14, 1948 on the ways to improve the cultural heritage protection and the executive order associated with it. More about the Soviet legislature of the subject see: K. Malinowski, *Ustawa ZSRR o ochronie i wykorzystaniu zabytków historii i kultury*, "Ochrona Zabytków" 1978, vol. 31, p. 155. On the basis of such statements, it can be interpreted that the authorities of the PRL were modeled on the Soviet legislature, expressing their subordination to the political and ideological entanglement of cultural heritage protection after 1962.

³⁰ K. Burski, *Normatywne podstawy...*, op. cit., p. 87.

tion of the objectives for which the state must engage in such protection. This justification was intended not only to preserve, maintain and share the cultural heritage for scientific, educational and didactic purposes, but also to make it available to the public as well as an element of the development of national culture, which according to the Art. 3(1) of the aforementioned law constituted at that time a component of the socialist society's life. In the Art. 3 (2), in turn, the scope of protection was defined. It was supposed to protect the cultural heritage from destruction, devastation, damage, loss or export abroad, providing them with conditions for lasting existence, the possibility for restoration, maintenance and reconstruction, as well as the registration, record and scientific documentation of cultural goods. On the basis of the abovementioned statements, it is to be interpreted that the cultural heritage protection expressed in the law, however, was subordinate to the process of strengthening the foundations of socialist society, which the legislator literally referred to in the text of the Act. In other words, the cultural heritage protection after 1962 was clearly intended to be part of the objectives of the functioning socialist system in the state, and thereby not being free from party and ideological prejudices and limitations.

In Chapter XII of the 1962 Act, the issue of social care of monuments was introduced, which allowed for the first time in the history of the Polish legislation for such a clear inclusion of the Polish society in the commitment for the cultural heritage protection. The institution of the social protector of monuments was established and the position was to be occupied by a natural person, legal person or social organization. Such an entity could cooperate with the voivodeship monument conservator on the territory of a given voivodeship (Art. 70 of the Act). For the merits in the field of social care for cultural goods, the „For the Monuments Care” award was established (Art. 72 of the Act). In practice, however, social care for monuments came down to attempts to intensify indoctrination and control over the society by the PRL authorities, especially those who hold the property right to certain cultural goods. The authorities propagated a very convenient to them postulate that allowed to treat cultural goods in private ownership as, in a sense, collective property. The users of cultural goods acted as persons using the right to enjoy the cultural prosperity of the whole nation and, consequently, were obliged to creatively develop the socialist culture³¹.

In the criminal law field itself, the Act on the cultural heritage protection and museums was marked by greater severity of penalties for committing offenses against cultural works than the provisions of the 1928 Resolution of the president on the monuments protection and the Decree of March 1946 on the registration and ban on the export of art works and objects of artistic, historical and cultural value. Among the penal offenses and misdemeanors were the following:

³¹ Similarly, A. Jagielska-Burduk presented a critical stance on the issue. According to the author, the intention of the PRL authorities in applying the Act of 1962 was to equate private property with social property, which was to serve the useful purposes of promoting the socialist culture in conditions where the state could not fully guarantee the care for numerous cultural goods, which were possible to use for propaganda and ideological purposes. Cf. A. Jagielska-Burduk, *Wybrane zagadnienia własności zabytków i dzieł sztuki w prawie PRL-u*, „Zeszyty Prawnicze” 2011, vol. 11, No. 2, pp. 179-180.

- damage or destruction of the monument – punishable by imprisonment for up to 5 years and an additional fine, and in the case of unintentional action – respectively the imprisonment for up to 6 months or a fine of up to PLN 20,000 (Art. 73);
- export of a monument abroad without permission or lack of import of a monument to the country within a term issued on the permit – threatened with identical penalties as the crime of damaging or destructing a monument;
- obstructing or preventing the conservation services the access to monuments by providing false information or acting in another malicious manner – subject to a penalty of up to 1 year in prison and a fine of up to PLN 30.000 or one of the above mentioned penalties;
- selling or mediating the sale of a monument in the case of a probable export abroad – threatened with imprisonment for up to 2 years and a fine;
- carrying out conservation works or excavations without a permit, construction or earth works in the neighborhood of monuments without notifying the voivodeship monument conservator or failing to notify the authorities within 1 month or without having an archeological object or an excavation secured – threatened with imprisonment for up to 3 months or a fine of up to max. PLN 4,500;
- lack of protection of a monument from destruction, damage or devastation in the case of private possession as well as failure to notify the voivodeship monument conservator of various circumstances affecting the state of the monument – threatened with imprisonment for up to 3 months and a fine of up to PLN 4,500;
- carrying out the activities of a museum guide, monument guide or exhibition guide without the required permit – threatened with imprisonment for up to 3 months or a fine of up to PLN 4,500.

On the basis of the aforementioned catalog of penalties referred to actions against the cultural heritage protection, it should be noted that the penalties applied after 1962 were much more severe than in the case of analogous acts penalized under the legislation of the Second Polish Republic. It can be seen that for the commitment of any of the prohibited acts, the court was able to consider a penalty measure to deprive or restrict the offender's freedom and not just a fine itself, as it was for some similar offenses punishable under the 1928 Regulation of the President on the monuments protection. In comparison with the previously mentioned Regulation, the 1962 Act also punished a new type of forbidden acts involving conducting the activities of a museum, exhibition or monument guide if the person did not have a required permit. It could be concluded that the tendency to emphasize the greater repression of the law on the protection of cultural heritage initiated after 1946 was clearly developed by the Polish authorities after the entry of the 1962 Act into force.

Enforcement of the new law in the PRL in the field of cultural heritage protection and accompanying museum protection was an attempt initiated in 1954 to extend social care for various such goods. Under the Order of the Head of the Ministry of Culture and Arts of January 26, 1963³², the system of social care for monuments was developed, which was stated by the legislator in Chapter XXII of the 1962 Act. As indicated in the § 2(2) of the aforementioned Order of the Minister of Culture and Arts, the scope of social care was to involve, first of all, the efforts of various individuals and organizations aimed at the monument preservation and its immediate surroundings, second of all, the concern for the proper use of the monument and third of all, the concern for popularizing the scientific, artistic or historical significance of the monument if it served didactic-educational purposes. The Polish Tourist Association (§ 2(3)) was supposed to be the entity specialized in the scope of social care for monuments, and cooperated in this field with social workers. i.e. natural persons, legal entities, social organizations, schools and associations (§ 3(1-2)). Similarly, as in the case of the Decree of the Head of the Ministry of Culture and Arts of December 1954, the practice of enforcing the provisions of the January 1963 Order was mostly politically and ideologically colored. The authorities sought to use various social organizations to declare their advocacy for the official party ideology through active support in the field of cultural heritage protection³³.

It is worth mentioning that under the conditions of the Act of 1962 on the cultural heritage protection and museums, the implementation of the concept of social management of real estate treated as monuments was not abandoned, although natural persons were allowed to acquire such objects. This was done by one of the Resolutions of the Council of Ministers, which was issued on December 8, 1978 on the use of immovable monuments for utility purposes³⁴. It stated, inter alia, that local government ad-

³² Decree of the Minister of Culture and Arts of January 26, 1963 on the issue of social care for monuments (M.P. of 1963, No. 17, item 97).

³³ As pointed out by B. Skaldawski, high-level representatives of the Polish authorities themselves, interestingly, often depreciated the very idea of social care for monuments without seeing the necessity for educational and promotional activities aimed at improving public awareness of the society in the field of the need for cultural heritage protection. See: B. Skaldawski, *Działalność edukacyjna Narodowego Instytutu Dziedzictwa, „Ochrona Zabytków”* 2012, vol. 1-2, pp. 169-170. If this position is accepted as justified, it seems more understandable that the above-mentioned Decree of the Ministry of Culture and Arts of 1963 was largely instrumental and intended at improving the ability of various authorities to use the social organizations for their own propaganda purposes regarding the cultural goods. See: A. Małecki, *Spółeczna Opieka Zabytków na Pomorzu Zachodnim w latach 1952-1970, „Wiadomości Konserwatorskie”* 2013, vol. 33, p. 93. Similar importance should be attributed to the unpublished letters of the Prime Minister of July 31, 1971 and July 28, 1972. The first concerned the protection from destruction, damage or devastation of monuments, while the other referred to the matter of enhancing the care for monument preservation, allowing the field authorities to allocate budgetary surpluses for conservation and repair works in historic objects. In practice, however, this did not lead to the achievement of “significant results” on the level of cultural heritage protection. J. Pruszyński, *Głos w sprawie ustawy o Narodowym Funduszu Rewaloryzacji Zabytków Krakowa, „Ochrona Zabytków”* 1986, vol. 39, p. 12.

³⁴ Decree No. 179 of the Council of Ministers of December 8, 1978 on the issue of using immovable monuments for utility purposes (M.P. of 1978, No. 37, item 142).

ministrations handed over monuments for utility purposes – in the case of a threat of destruction, damage or devastation of a particular monument – not only to natural persons but also to state entities, cooperatives, legal persons or social organizations, which was done in the form of sale, lease, rent or donation for perpetual usufruct (§ 6(1)). Acquisition of a monument involved the necessity of maintaining the obligation to bring the object to proper condition of use within 4 years with the possibility to extend the latter (§ 7(1-2)).

As assessed in the literature of the subject, in spite of an attempt to integrate the society more effectively into the cultural heritage protection as a result of the entry into force of these provisions, in practice, the proposed postulates were not fulfilled in a satisfactory way. The level of devastation of many objects was so high that prospective cost of bringing the property to use discouraged potential natural persons and other organizations mentioned in the Resolution of the Council of Ministers from taking it over. An additional complicating factor in this regard was the complex administrative procedure for acquiring a historic property³⁵.

On the basis of the guidelines of the Minister of Culture and Arts of June 5, 1975, the organization and the scope of functions of local units of this ministry were adjusted to the two-step structure of power and field administration³⁶. This organization was introduced after the administrative reform of 1975, although it did not contribute to more tangible benefits in the field of the cultural heritage protection. The situation did not improve in the end of the PRL and the new authorities after the political breakthrough of 1989 faced a great deal of problems in regulating the cultural heritage protection in the new political and structural environment and in the face of increasing international influence in this field.

CONCLUSION

Summarizing the content presented in the article, the following general conclusions can be drawn:

- the years of the PRL have contributed to the popularization of the concept of „cultural good” in the field of cultural heritage legal protection. In the legal regulations of this period of Poland’s history, however, there is a lack of the legislative consistency, in terms of legal distinction of the concept of „cultural good” from the concept of „monument”, since both were used arbitrarily and interchangeably;
- the cultural heritage protection in Poland in the years 1944-1989 should be assessed in a critical manner in terms of the obtained, favorable results in this field, especially in the context of achievements of the Second Polish Republic;

³⁵ K. Burski, *Normatywne podstawy...*, op. cit., p. 86.

³⁶ M. Pracuta, *Ochrona zabytków...*, op. cit., p. 12.

- throughout the 1944-1989 period, the possible continuation of direction and character of the criminal law protection of the cultural heritage in comparison to the years 1918-1939 can be seen – and only to a limited extent – only in the years 1944-1950. The 50s of the twentieth century and especially the time of the enforcement of Act of 1962 and the executive regulations on the cultural heritage protection and museums were characterized by markedly different PRL authorities' attitudes towards the issues of such protection compared to the approach presented by the authorities of the Second Polish Republic;
- in the presented time perspective, special significance was given to the social protection of cultural goods. This issue was nevertheless clearly politicized and was often used as an instrument of ideological influence on the Polish society.

The attempted characterization of legal regulations in the field of cultural heritage protection in the years 1944-1989 shows that the issue of cultural security was of secondary importance for the authorities in the context of treating the political-ideological goals as a priority. In this sense, political and ideological security was of much greater importance, and the cultural heritage protection was treated instrumentally, as a tool for achieving the objectives adopted by the central government. For this reason, it is difficult to disagree with the view that the legal regulations in the sphere of cultural heritage protection created during the period of the PRL „had a clear political subtext and served as a temporary solution to the occurring problems”³⁷. It has been identified as correct that the aforementioned legal regulations of the years 1944-1989 were distinctly different from the regulations developed in the Second Polish Republic.

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³⁷ J. Pruszyński, *Dziedzictwo kultury...*, op. cit., p. 288.

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