



Center for Social & Economic
Research

Liquidation of Private Firms in Poland 1990-1994

by

Ewa Balcerowicz
Kazimierz Kloc

Warsaw, April 1996

Materials published in these series have a working papers character. They can be subject to further publication. The views and opinions expressed here reflect Authors' point of view and not necessarily those of CASE .

We acknowledge the support of the *Ford Foundation*, which made this publication possible. (grant No: 930-1199)

© **CASE** Research Foundation, Warsaw 1996

ISBN 83-86296-79-8

CASE - Center for Social & Economic Research

00-585 Warszawa, Bagatela 14

tel (48-22) 628 09 12, (48-22) 629 43 83; fax (48-22) 628 65 81

1. INTRODUCTION

The subject of this paper is an issue of liquidation of private economic units, especially its legal, social - economic and statistical views. First chapter of the paper describes legal regulations of foundation and liquidation in Poland. Second chapter deals with analysis of liquidation process of commercial and non-commercial companies - with its procedural, social and economic bearings. Data referring to establishment and liquidation of private enterprises in Poland in 1989 - 1994 are elaborated and presented in the third - statistical chapter.

Until quite lately phenomena of liquidation or bankruptcy were hardly known in Poland. They acquired importance only after free market economy has been established. Foundation and failure of new economic units are the keystone of this system, as the free market eliminates units of small effectiveness. Thanks to liquidation effectiveness of existing production resources increases in new, more profitable allocations. This approach to the subject allows us to examine liquidation as a process beneficial to national economy.

The term of liquidation stands for a termination of economic activity and a dissolution of economic unit, which are based on suitable legal procedures. The disposal of material and non-material assets of liquidated unit is the legislative point of the matter. These assets are: name (firm) of the unit, trade marks, commercial books, real and personal estate of the unit, patents, patterns, obligations and liabilities that have come into being while running the business, rights from lease of unit's apartments, as well as financial resources, receivables and securities.

To terminate economic activity, liquidate financial resources and withdraw remaining funds after settling with creditors is the economic sense of liquidation.

From legal point of view liquidation is oneness with ending of legal existence, which is a consequence of filing the unit away from the trade register.

2. LEGAL REGULATIONS

2.1. ESTABLISHING AND LIQUIDATING PRIVATE ECONOMIC UNIT

In practice there are many different liquidation procedures for the sake of variety of ownership forms, organisation structures of units and underlies of liquidation.

The first partition to be made is a difference in legal form of private economic unit, that divide into: natural person's business, non-commercial partnership, commercial partnership and co-operative societies.(1) In accordance with this partition we analyze legal regulations of companies of private sector. Presentation of liquidation procedures is preceded with rules of founding them, that is substantial, because implications that one have on the other.

2.1.1. Activity of **natural person's business** is based on the Act dated 23/12/1988 on economic performance (bibliography pos.14). Natural person is obliged to report its economic activity to records run by local administration and existing tax duty to the revenue board. A report to files of economic performance includes: name (firm) and principal place of business, aim of activity, place of abode of activity since its beginning. Natural person is obliged to report in a period of 14 days any changes in legal or actual status referring to the unit, which occurred after the inscription into records had been made.

The liquidation of natural person's business boils down to filing it away from economic activity records. In the bill of economic performance there are 3 reasons to cross out name of the company.

The first one, when natural person notifies of ceasing economic activity , the second through valid court ruling forbidding natural person to run the business previously reported. Finally it is possible to file company away if the recording institution has made the entry infringing the law.

In all these cases filing away is made through an official administration channels, in a particularly stated period. It cannot be shorter then 3 months if it is the third enlisted reason (administration error).

2.1.2. Non-commercial partnership is a representative of personal companies. In articles of partnership partners oblige to struggle to obtain common aim. They also bring into their company deposits (ownership and other rights, provision of services). It is substantial that non-commercial partnership doesn't have legal personality , therefore it is not a subject of ownership and is not an owner of common property. Partners are not only liable with joint and several responsibility with common assets, but also with their private property. Non-commercial

partnership is not enrolled into trade register and its functioning is regulated by Civil code (art.860-875) and is filed in a way similar to natural person's business registration.

Dissolution of non-commercial partnership is usually previously stated in agreement of partnership; when the objective of partnership has been reached or when the duration of partnership ended. If, despite of actions previously stated in articles, company persists with approval of all partners it is considered to become partnership at will.

Regardless of contents of agreement each partner has right to claim for dissolution of partnership, because of significant material reason. It requires to bring civil complain against remaining partners. Then eventual dissolution of partnership is ruled by court. Significant material reasons that can dissolve company are: disagreement between partners on methods or course of common economic performance, impossibility of performing their contract, appearance of insuperable obstacles previously impossible to foresee on the way to obtain their aim.

Partnership automatically dissolves, if only one partner is remaining after withdrawal of other's partnership, unless agreement decides different.

If company is at will, each partner can withdraw his partnership in a period of 3 months before an end of every fiscal year. Because of significant material reason partner may withdraw at any moment, even if partnership was concluded for definite period of time. Personal creditor of partner of non-commercial company, who in the period of six months ineffectively executed against property and who acquired his debtor rights entitling him to withdrawal, may withdraw partnership 3 months ahead, even if agreement was concluded for definite period of time.

Another way to dissolve non-commercial partnership is a solid vote of partners in this case.

Civil code does not anticipate obligatory liquidation procedure after dissolution of non-commercial partnership. Legal course of action implies meeting company's and creditor's claims. Corporate property remaining after settling with creditors is returned as original deposits and remaining surplus is divided between partners in a proportions similar to participation in profits. Every partner may demand partition of assets and payment of profits only after dissolution of partnership.

2.1.3. Much more complicated procedures apply to **commercial partnership and co-operative society**. It is an effect of broader legal regulations. Both co-operative and commercial partnership are obliged to enter trade register. According to the Act dated 23/05/1989 on recognition of economic cases by court trade register is kept by commercial courts (bibliography pos.20). Trade register not only includes co-operatives and commercial partnerships but also state-owned and foreign enterprises. Register of commercial partnership is kept according to decree of Minister of Justice of May, 1934 about trade register (bibliography pos.18). Register of co-

operatives is amenable to decree of Council of Ministers of 1983 about register of co-operatives (bibliography pos.19).

2.1.4. Two bills are legal basis of performance and liquidation of **co-operative societies**: Law of Co-operatives dated 16/09/1982 (bibliography pos.15) and the Act dated 20/01/1990 on changes of organisation and activity of co-operatives (bibliography pos.16).

After proclaiming by-law of co-operative society governing body (management) applies to enter trade register. File includes : name and seat of society, subject of economic performance, duration period, amount and quantity of deposits, limitations of statute rights, names of plenipotentiaries , who are going to undertake actions on current economic performance. This application entitles the court to register or deny registration.

Entry in register has a constitutive character (with legal effects); co-operative gains this way legal identity. It can terminate its activity by fusion with another co-operative society, liquidation or bankruptcy. Each of these has to be recorded in the register and every record (including division of society) has constitutive character. Notification in the register is necessary also for data concerning affiliation of organisation unit, names of liquidators, and name of bankruptcy trustee.

According to Law of Co-operatives society goes into liquidation :

- 1) after expiration of duration period stated in by-law
- 2) through diminishing number of members below level indicated in articles of association or in Law of Co-operatives, if society hasn't increased number of members to the required level in a period of at least 1 year.
- 3) through consistent resolution of general assembly with majority of 3/4 of votes on two consecutive assemblies in at least 2 weeks apart.

Also revision committee in which co-operative is associate, can draft resolution about putting co-operative into state of liquidation if:

- 1) activity of society shows rank and persistent infringement of law regulations or articles of association
- 2) co-operative society has been registered with infringement of law
- 3) co-operative has conducted no business in a period of 1 year.

Another premise arises from art.19 of Act on changes in organisation and activity of co-operatives and applies to non-fulfillment of duty of electing management. According to this article societies had to run the election by 31 of March 1990, regardless of deadline of management term. Otherwise co-operative had to go into liquidation on that date. Co-operative societies that went into liquidation in described above way, were given by legislator opportunity to revive their activity before filing away from register by resolution of general assembly with majority of 3/4 of votes.

Moreover, co-operative society that hasn't started its activity in the period of 1 year after registration and hasn't got any assets can be filed away from the register without liquidation if moved by revision committee.(Art. 115 of Law of Co-operatives)

Ability to cancel the decision of liquidation is a very specific solution contemplated in art. 116 of Law of Co-operatives. Co-operative society that had gone into liquidation through consistent resolution of general assembly may in a period of 1 year revive its activity through resolution of general assembly with majority of 3/4 of votes. Another extraordinary solution is a possibility to merge into another co-operative. (Art. 117 of Law of Co-operatives)

Each liquidation demands conclusion of economic activity. Plants owned by cooperative society were exemptions to this rule. (art.3 point 4 of the bill of changes in...)In this case liquidator didn't conclude economic activity, because the purpose of liquidation is only to reorganize the society.

Another exception, when liquidation doesn't indicate total termination of activity of whole unit or its part (art. 3 point 6 of the bill of changes in...) is when liquidation procedure concludes with transfer of plants or individual assets of cooperative in liquidation to another cooperative society in order to continue economic activity performed in this plants.

Until January 1990 according to Law of Co-operatives art.113 two bodies are entitled put cooperative into state of liquidation: competent union of co-operatives or general assembly of this cooperative The Act on changes in organisation and activity of co-operatives dissolved cooperative unions giving some of their power to National Board of Co-operatives. At present decision of liquidation can only be taken by general assembly or court ruling.

Members of last management or persons chosen by general assembly are usually becoming liquidators. However, person from outside of cooperative or legal person can also be chosen. Board of Cooperative is entitled to sign agreement with liquidator about legal liquidation action. Liquidator can be called off during liquidation by the same body that called him for the post. Moreover, liquidator can be called off because of important by revision committee in which cooperative is united . Liquidator is liable to creditors for damage caused by non-fulfillment of duties even after cooperative has been filed away from trade register (art.128 of Law of Co-operatives).

Typical duties of liquidator of cooperative are:

- applying to register for opening of liquidation of the cooperative (if hasn't been done already) and notifying appropriate revision committee and National Board of Co-operatives
- promulgating in "Monitor Spó³dzielczy" opening of liquidation and fixing the period of laying claims for six months.
- notifying district court, if general assembly decides through resolution to revive its activity

- selling material components on auction

Order of settling liabilities is different than in state-owned enterprises. According to art 125 of Law of Co-operatives it is as follows :

1) liquidation costs

2) labour compensations and other liabilities with the same kind of legal protection, as well as gratification for bodily harms, loss of life or health

3) taxes and other liabilities that conform to revenue or bank credit regulations

4) other liabilities

Remaining assets (original capital) are dissolved between members by National Board of Co-operatives. However this payment cannot be made before six months from beginning of the period of laying claims. Creditors, who laid their claims after the deadline, may push on from remaining assets of cooperative Liquidator is obliged in a period of 4 week from laying a claim to notify of denying payment. Material assets left after liquidation can be sold, given to other economic units, devoted to social or cooperative purposes of the last general assembly or can be brought into new cooperative. Process of liquidation finishes with filing cooperative away from trade register.

Underlies of liquidation of **commercial companies** are included in of commercial code.

Commercial companies are: general (ordinary) company, company limited by guarantee (limited liability), company limited by stocks (joint stock) and limited company.

All of the above come into being by deed of association, just like previously described non-commercial partnership. General company doesn't have legal identity therefore agreement of partners is enough to start up this partnership. Limited company doesn't have legal identity either, but it requires a record in a trade register. Non-commercial , general, and limited partnership are called personal partnerships. Stable assets personal roster is their substantial feature. The record in the trade register is what distinguishes non-commercial from commercial partnerships. General company is obliged to enter trade register, but this record has only declarative character (with no legal affects), while agreement is much more substantial. On the other hand record of limited company is obligatory and has a constitutive character (with legal effects).

Similar legal solution is applied to companies limited by guarantee and limited by shares, that gain legal identity entering the trade register.

Data required for application of each type of company are enlisted in code of commerce. Data always required are: name, principal place of business and type of a company as well as aim of activity. In general partnership names of partners, in capital partnership (limited by guarantee and by stocks) names of members of management and plenipotentiaries, amount of original capital brought into business.

In case of limited partnership it is obligatory to provide additionally to data required in ordinary company information about : object of contribution, changes of contribution and maximum amount of single liability of every limited partner.

Causes of liquidation are similar despite of company's type. Common cases are:

- expiration of the term of company's validity
- reaching the objective enlisted in articles of association
- other incidents enlisted in articles
- adoption of dissolution resolution
- circumstances indicating state of bankruptcy (art. 1 par.1 of Bankruptcy Law) - if so bankruptcy procedures are applied
- proving by partner or company authorities that objective assigned in articles of association is unreachable
- attorney or court ruling prohibiting activity infringing the law or dangerous to national security
- other important reasons - court ruling is necessary

Concept of important reason is not explained by code of commerce, it leaves decision about "importance" to the court.

In case of **company limited by stocks** also fusion of companies, withdrawal of concession for particular activity or court ruling in case of not clearing away significant defects while establishing company may cause dissolution (similar to **company limited by guarantee**). Specificity of **general partnership** (personal comp.) implies even more reasons to dissolve company (unless agreement decides different): death or bankruptcy of a partner, withdrawal of partnership by partner or his personal creditor. Dissolution of **limited partnership** is similar to general partnership , however death of limited partner (with limited liability) does not imply dissolution, while death of unlimited partner (with unlimited liability) may cause it. Partners of limited partnership may decide in articles of association, that death of limited (special) partner dissolves company and they can decide that death of unlimited (general) partner doesn't dissolve it. Ability to place resolutions different from those suggested in a code of commerce shows non-obligatory character of regulations.

Decision of liquidation of commercial partnership is taken by partners in away provided by articles of association or by court ruling. However, court cannot rule ex officio, someone has to file a motion. Interesting solution is provided by legislator for general company - liquidation is optional. Liquidation of company limited by guarantee is obligatory and cannot be exempted. Dissolution of joint stock company can be made only after liquidation (except for fusion). However,

if bankruptcy of any commercial company was announced it can be dissolved only after conclusion of bankruptcy procedure.

All partners of general company are its liquidators. Through solid vote they can call only some of them for the post, or even person from outside of partnership. Members of management are liquidators of companies limited by guarantee and by stocks, unless agreement decides different. In case of limited partnership limited partner cannot become liquidator, because he is not entitled by law to run or represent company. He can only move to the register court motion about calling a liquidator. With exception that only unlimited partner can become liquidator calling for that post is similar to general partnership. Liquidators are called off through resolution of partners. In case of general partnership to call off liquidators ruling of the court on motion moved by partners or other entitled persons because of important reasons or a solid vote of partners is needed. Because of important reasons court can call liquidators and in this case he is the only authority to call them off (applies to all commercial companies).In joint stock company minority of at least 1/10 of votes may apply to court with motion about increasing number of liquidators by 1 or 2. Code of commerce doesn't specify scope of responsibility carried by liquidator, therefore it should be set by governing body of the company.

While liquidating commercial companies according to code of commerce, Liquidator's responsibilities concerning legal for and information matters are similar to those in state-owned enterprises and co-operatives. Liquidators report in order to get a record in the register the opening of liquidation as well as their method of representation

Regulation that applies to opening liquidation in commercial companies requires triple announcement in newspapers calling all creditors to lay their claims in a period of 3 months from the date of the last announcement (six months in joint stock companies).Liquidator makes up balance of opening of liquidation and reports it to assembly of partners. At the end of each year he is obliged to give the report and the balance for the last year.

Assets of commercial partnership have to be sold at selling value not below price recommended by partners. In general liquidators have to obey decisions of partners. Assets remaining after liquidation are left to partners will.

Liquidators divide remaining assets of:

- comp. limited by guarantee - proportionally to amount of contribution, unless agreement decides different

- general comp. - according to articles; if not stated - proportionally to participation in profits (same as in limited comp.)

- joint stock comp.- proportionally to contributions for stock capital, however preferred stocks are first to be paid.

In general partnership lack of assets is divided between partners according to articles ;if not stated proportionally to their share in losses. In joint stock company if assets aren't enough to settle with creditors , but some of stocks haven't been fully paid, partners who are behind with payment are obliged to make the payment. Prosecution of payments is a duty of liquidators. Distribution of remaining after liquidation assets cannot be made before six months (12 months for joint stock comp.) from the last announcement about liquidation. During liquidation profits cannot be paid in a form of dividend , if obligations haven't been paid.

Liquidator has duty to satisfy creditors , who didn't lay their claims in appropriate time and he does it from assets remaining after liquidation. After finishing liquidation and adopting final balance by general assembly liquidators publish the liquidation announcement and report it in register court with application for filing the company away from the trade register.

Liquidation procedure finishes with filing comp away from the trade register.

2.2. POSITION AND ROLE OF LIQUIDATOR IN LIQUIDATION OF PRIVATE COMPANY.

On the day opening of liquidation competencies of management of company or co-operative expire and governing is taken over by liquidator. It can be a natural or legal person, who takes over rights and duties of chairman of co-operative or management of the company and his main job is to liquidate the unit. General range of his competence includes temporary administration of the company in order to terminate its activity (he finishes current business matters and starts new only if it is necessary to finish liquidation), gradual reduction of organisation structure and legal and economic ties of the unit. Liquidator disposes with assets of liquidated unit, determines current state of assets, liabilities, reciveables and works out a plan further administration.

Duty to find the liquidator is one of owner's of the unit. Owners can sign with liquidator typical labour agreement (Labour code) or a contract labour agreement (Civil code), that enumerates rights and duties of liquidator. From the moment of opening liquidation (entry in register) liquidator becomes an authority entitled to liquidate the unit. He represents the company externally in all matters and is a subject only to the body that can call him off the post. He is responsible for affairs of any natural or legal person legally tied with the unit on the moment of opening. Such persons are first of all: the Treasure, owners, creditors, staff. Because liquidator becomes a manager of enterprise, he is liable for any material responsibility, even after liquidation. Despite of legal structure of the unit , basic duties of liquidator are:

- taking over from the management files of the unit
- moving application for opening liquidation in register court

- notifying about liquidation: financing bank, local employment office, taxation office, statistical office, local administration organs
- drawing balance of liquidation based on inventory of unit's property.
- announcing in appropriate paper opening of liquidation and calling creditors to lay their claims
- making the list of liabilities
- elaborating financial plan of liquidation and a plan of claims settlement
- elaborating a plan of assets administration and getting its adoption by general assembly
- making this plan work
- drawing financial balance of liquidation , which needs approval of general assembly of partners or members of co-operative
- applying for filing after final balance adoption
- providing adequate financial resources for covering unpredicted liabilities
- passing unliquidated assets to owners.

2.3. EMPLOYEE IN PROCESS OF UNIT'S LIQUIDATION

Employment matters are separate problem not regulated by code of commerce or Law of Co-operatives. This issue is regulated by Labour code (art.41 par1,2) and the Act dated 28/12/1989 on particular order of dissolution of labour contracts by employer as well as by changes in some Acts, so called the Act on collective dismissals (bibliography pos.21).

In case of announcing bankruptcy or liquidation regulations of Labour code about: consulting labour unions, protection of employees , who are 2 years short of retirement , dismissals at a period of leave or any other justified absence (art.41 par.1 of Labour code) don't apply.

In case of bankruptcy or liquidation nobody is given legal labour protection.

Dissolution of labour contracts concluded for a definite period of time or for a performance of certain task in case of liquidation is regulated by art.41 par.2 of Labour code. It provides, that such agreement can be dissolved by each side with notification 2 weeks ahead.

Legal regulations of collective dismissals are applied to enterprises, where liquidation or bankruptcy has been announced or to collective dismissals caused by economic, organisation, technological or productivity changes. This Act applies to each liquidated unit despite of its size or legal structure including state-owned and foreign enterprises. It also applies to natural person's business.

If liquidator wants to dissolve labour contract, because of liquidation he must obey regulations of art.2-4 of Act on collective dismissals. It concerns co-operation of General manager of the plant with labour unions in matter of labour contract dissolution, because of reasons enlisted in the bill. According to art.11 of this Act there are no obstacles to dissolve by bilateral agreement.

The bill of collective dismissals refers to art.36 of Labour code in matters concerning shortening of the notification period in case of liquidation or bankruptcy. Labour code (art.36 point 1) anticipates shortening of notification period of dismissal from 3 to 1 month. This regulation applies also to organisation unit where the employee is employed. Employee is entitled to compensation for remaining original notification period.

However art.7a of law dated 28/12/1989 provides for liquidator an ability to dissolve labour contract without previously notifying. This regulation applies to units that have no assets for compensation, unless employee claims in a period of 5 days from receiving announcement about form of dissolution.

Employee that lost his job in this way is entitled to payment called in art.8 of the Act and to compensation equal to payment for period of notification.

All employees laid off on basis of the Act dated 28/12/1989 through bilateral agreement (art.11) or because of reasons enlisted in par,1 are entitled to payment (art.8) regardless of type of their dismissal Amount of payment is adequate to period that employee has been working for. Amount of payment is fixed according to rules of settling financial equivalent for vacation. Art.8 par.3 decides which situations are not entitling employee to compensation payment. They apply to employees who are:

- not working full-time, receiving retirement or pension or working full in other enterprise;
- having their own business
- having a farm bigger 5 calculated hectares or a farm of special agriculture activity, with tax bigger then from 5 calculated hectares
- those who decided to begin their new job in a plant that took over assets of liquidated unit (fully or partially)
- those who after dismissal started their own economic activity or in a co-operative or company, thanks to taking over real or personal property of liquidated unit.

The employing enterprise cannot protect itself from payment motivating its decision by bad financial statement , because according to law regulations payment doesn't payment is not dependable on financial condition of employer. Employee's claims are ahead of any other claims (art.1025 of Civil code, art.203 of Law of Bankruptcy).

According to art.17 of the Act on changes in organisation and activity of co-operatives : ”after concluding liquidation of unions, National Board of Co-operatives satisfies employee's claims or

those of the same kind according to rules provided for satisfying employee's claims by the Treasury after liquidating state-owned enterprise.

Claims arising from labour ties prescribe after 3 years, from the day they have become requireable. (art.291 par.1 of Labour code) Therefore the right to payment prescribes after 3 years from acquiring the right, that is from the day of dismissal. Motion for payment will be efficient, if enterprise or its legal successor exists. If there is no legal successor and liquidator has finished procedure, there is no one to prosecute for dismissal payment.

3. PROCESS OF LIQUIDATION

Process of liquidation of economic unit is not an easy one, because it infringes former structure of multilateral interests: social and economic ties inside the enterprise as well as relations with its environment. The liquidator who is entitled by owners (shareholders in case of commercial companies, general assembly of members in case of co-operatives) to take over from former management company's businesses, enters the unit where nervousness and anxiety is inevitable.

First of all liquidator after notifying worker unions about putting the unit into the state of liquidation has to plan and do collective dismissals. Therefore his appearance in the unit has a negative influence on employee's attitude, it can cause carelessness, waste, usurpation. Secondly liquidation team is well aware of the fact, that the number of the team's members will consequently diminish, as the liquidation process proceeds, from the very beginning. Running liquidation procedure may be made harder by employees and their negative attitude towards liquidator may even block his actions. Persons on management posts may resign immediately, leaving liquidator without proper management staff to create liquidation team. Finally liquidator can face danger of defections in former management work (that might have caused difficult situation in the unit, which usually is a reason of liquidation).

Second group of difficulties that the liquidator meets are those which cause worsening of liquidated unit's relations with its former surrounding. The reason of this is because activity of liquidated unit boils down to finishing current business and gradually terminates. In other words economic activity of such unit diminishes until it disappears completely. On the other hand activity of environment, which is anxious about the unit's liquidation, clearly increases. So on one hand company's internal powers are abridged, on the other external pressure, of claims of liabilities imply necessity of internal mobilization, in order to avoid bankruptcy.

Therefore liquidator has to be a man of high skills who will be able to manage his task. Scope of his duties is wide and difficult to fulfil, because liquidation is seen by employees and company's

surrounding as a process that has only negative implications to them. Because of this liquidator often remains with immensity of his tasks in total isolation.

By taking over the management of the enterprise in state of liquidation, liquidator has to complete a number of management tasks, indispensable to reach the objective he was given. Those tasks are:

- analysis and evaluation of existing organization structures.
- adjustment of those for liquidation requirements
- creation of so called liquidation team
- securing technical assets for liquidation, organising his own office
- coordinating and controlling

Procedure of preparing liquidation is not regulated by law. Liquidator entering the unit, has to face certain degree of disorganization. In case of commercial companies and co-operatives situation can be made easier, because members of management can become liquidators. They already are acquainted with organization structure, therefore it is easier for them to elaborate the plan of liquidation.

Concentrating on the merits of the liquidation, one has to admit, that program and plan is needed to make liquidation proceed. There are no rules of programming or planning of liquidation. Therefore big role in this process is attributed to knowledge, skills and experience of liquidator and owners.

Liquidation program is prepared by those, who take decision about liquidation of the unit, that is by shareholders or general assembly of co-operative members. Necessity of creating such program is a result of law regulation, however it doesn't specify its contents. Usually liquidation program includes: date of beginning and finishing of liquidation, tasks connected with the procedure, evaluation of real estate and its auction price, rules of disposal of assets remaining after liquidation as well as plan of fulfilling liabilities and receivables. Program is therefore a document addressed to the liquidator of the unit essential for him, because it includes actual scope of liquidation tasks.

Liquidation program is created before beginning of liquidation, while plan of liquidation after opening. Liquidator is a creator of the plan. It has to be a specification of program, therefore it includes particular description of liquidator's duties, is an implementing document, prepared for performing task enlisted in the program. Preparing the plan, liquidator takes into account articles of association of the unit, its former structure, balance-sheet and financial results from the day of opening of liquidation amount of receivables and liabilities, staff situation in the unit, securing of assets, documents describing organization of output and auditing of it. Liquidation plan gives an opening description of actions and periods of performing them, technical and financial resource

preoccupied during implementation of the program as well as anticipated financial results on each stage of liquidation and at the end of it.

Liquidation plan consists of five even more particular plans:

- 1.continuation and termination of activity,
- 2.disposal of assets,
- 3.claiming of receivables and satisfying creditors,
- 4.financial plan of costs,
- 5.plan of clearing of the results of liquidation.

Moving to the first of enlisted plans one has to point out that prolonging current company's activity is one of liquidators duties, no matter how paradoxical it seems to be. This activity needs to be carried on, because of concluded contracts, that have to be performed, in order to liquidate raw materials and prefabricated materials or to provide the unit with financial assets. Here we face a dilemma how large should be the scale of economic performance, if it is favourable to finish the unit's activity quick so the assets will be disposed fully. Continuation of activity implies obligation to pay dividend as well as increase of costs of amortization. These costs are not carried out if the unit is in the state of permanent inactivity.

On account of economic-financial reasons it is reasonable to finish social elements of activity in the first place, then the services that assist key production, which is gradually lowered any way. Moreover services provided by the unit may be deficit and in this case it is advantageous to use outward cheaper services. Same thing happens to the assistant activity, that is becoming unnecessary and deficit consequently with lowering key production. Economic activity is the last one to be terminated, because stopping key production implies biggest external effects and has primary influence on current solvency. In contents of the plan of continuation and termination of the unit's activity material and financial assortment of the enterprise has to be enlisted as well as course of its liquidation, terms, sources and volume of material supply. This plan should be adjusted to agreements concluded before beginning of liquidation.

On the other hand objects of plan of disposal of assets are: the firm, trade marks, etc; commercial books, real and personal estate (raw materials, prefabricated goods, etc); patents, patterns, liabilities and receivables; rights from lease of company's apartments . The plan of disposal of assets describes, what and in what way will be disposed from property of the unit , as well as who will be responsible for technical and legal preparing of the sale of company's belongings. This plan is created according to balance-sheet, in other words it points out major groups of unit's estate with an auction price required by liquidator and anticipated results of those transactions. Starting point of development of this plan is an opening bankruptcy balance-sheet that includes estate taken over and inventoried by liquidator.

Plan of disposal of assets is strongly tied with plan of claiming receivables and satisfying creditors. It has a significant meaning, because of legal implications which may result from omitting one of creditors as well a financial implications during liquidation procedure (lowering of solvency). Liquidator has to create two separate registers: receivables and liabilities. In both registers there must be information about: name of economic unit, date of raising of claim, amount of main claim with interest and costs carried out as well as type of execution actions undertaken - by the unit, in case of receivable, by creditor in case of liability. In the register of claims there should be additional data about : name and seat of the financing bank of the debtor and planned execution procedure against him. Form of the claims register is not regulated by law. However liquidator while creating it derives information from accounting books of liquidated unit and from claims of creditors after announcing liquidation, In both registers there should be partition into liabilities and receivables, that result from trade agreements (invoiced ones), liabilities for the Treasury (budget ones), payment for employees (employment ones) and others.

However giving shape to the register is done only for order purposes, and most important task of liquidator is an analysis of claims. Liquidator in case of each debtor has to take into account his economic shape, how high and how mature is his claim, has he met his previous liabilities, what are the proportions of main claim, interest rates, judicial costs of claim legal status of debtor (is his enterprise in state of liquidation, bankruptcy, privatisation. Then liquidator may start execution of claims trying to maximize amount to obtain, minimize time and costs of this procedure.

Taking into consideration that judicial actions are expensive and long, at the beginning other actions - simpler and cheaper (demand for payment) should be undertaken, then terms of deliveries should be tightened (by demand of cash payment) or even held. Also intermediate way of claiming execution may be chosen, for example by ceding creditors liability to the bank or another creditor of the unit under liquidation, if the creditor agrees.(art.505 of the Civil Code), or discharging the debt by taking over fixed assets of the debtor (if he agrees). It is also possible to compromise by bilateral acceptance of ant other solution . If mentioned above ways of execution of claims are ineffective or liquidator is unwilling to use them, there are always legal actions left.

It could started by court execution by court executive officer. If liabilities are litigable, court procedure is required. Complain may be temporary secured by court or by extension of real estate, or other rights, or placing debtors property under mortgage (art.747 of Civil Code). Execution from debtors receivables if very effective, but only if court executive officer determines, if receivable of that kind exists. If so officer notices debtor that he is no longer entitled to the receivable.

Finally liquidator can present a motion to the court about bankruptcy of the debtor. That kind of action is very expensive (advance towards the costs of the procedure has to be made) and not

always effective, because the creditors claims may be according to the bankruptcy law last but one to be satisfied.

Tasks opposite to these just presented are his obligations as debtor instead of creditor. After elaboration of register of liabilities of the unit, liquidator has to analyze obligations from the legal point of view taking into account their reality and taxation order. (chapter 2).

Liquidator's situation is made even harder by creditors, who are anxious about the liquidation and try to get back their claims intensely.

Of course the best way to satisfy the creditors is repayment of principal with the interest. If it is impossible liquidator can ask for lowering or extinguishing of interest, assuring that the principal will be repaid on time. Another way of satisfying creditors is repayment in kind (with commodities or materials) or in services. On the other hand it is tough to make a deal with creditor, because of the time limitations (deadline of liquidation) that forces creditor to quick execution of its claims.

Another plan that has to be prepared by liquidator is a financial plan, that is a plan of costs and incomes in period of liquidation as well as cost and income of liquidation itself. Liquidations revenues and costs have to be separated in order to make liquidator fully responsible for the liquidation process. Liquidator has to obey same accounting procedures that were in obedience before liquidation as well as Decree of Ministry of Finance of 15th of January 1991 about opening and closing of accounting books while liquidating company. According to this decree it becomes liquidator's duty keep the books. Under process of liquidation it is required to elaborate final balance on the day before liquidation, opening balance of liquidation (those two don't have to be verified) and final balance of liquidation (which needs owner's approval). If liquidation does not finish in the same fiscal year which it started liquidator has to draw up yearly balances at the end of each fiscal year. Liquidator should maintain former accounting system, unless it was incorrect. In opening balance assets should be quoted according to their real market prices.

By preparing those three plans, liquidator analyses financial and economic condition of the unit. If he finds out that the enterprise has permanent fiscal difficulties and amount of company's liabilities outvalues company's assets he is obliged to move a motion about liquidation. Liquidator also has to move the motion if balance is passive at the moment of opening as well as at any moment of liquidation procedure. However, it is not easy to determine company's financial-economic position: defections of accounting section will make it more difficult to determine actual amount of liabilities and receivables, moreover former management may blanch themselves over compounding some facts.

The last plan to be mentioned is a plan of settling up results of liquidation, which is made only for owners for commercial companies and co-operatives. This plan is made to audit liquidator's financial actions in the unit. It has to be clearly said that running unit's financial

business is not an easy job to do. Loan facilities gradually disappear, because banks are unwilling to lend money to companies under liquidation. Bank may grant credits, but only to units that maintained solvency. First of all loan granted by bank cannot overvalue amount indispensable to finish liquidated unit's business. Secondly banks recognize such loan as a high insolvency risk credit and therefore raise interest rates or place property under mortgage in security for it. Often banks don't put fresh loans or even try to withdraw previously granted credits. Banks do so in order to avoid financial risk of liquidation. Other services of financing also diminish, because of: anxiety of contractors or increasing number executions of claims. Worsening of terms of cooperation with suppliers also exerts its influence on financial condition. All those external changes occur simultaneously with decrease of sales income, caused by lowering of output, which together may reflect in loss of solvency.

Therefore liquidator's main financial tasks are connected with attempt to balance financial situation by maintaining or regaining solvency. Quick evaluation, making an estate productive and gradual lowering of output is the secret of liquidators success. But it is much more difficult to fulfil this task, if company ceased its activity long before going into liquidation. It is also very inconvenient if former management has taken number of wrong decisions before putting the unit into liquidation, for example sold assets that easy to dispose or leased them unprofitably.

There is a number of ways to finance the liquidated unit. Is not a bank loan, which is hard to gain, internal assets can be used: reduction of costs, especially operating, as well as lowering of social expenses until totally eliminated, sale of useless assets, that can be sold at high prices. Liquidator can also try to increase financial balance by public issue as bonds or shares.

But those attempts to increase solvency, which are based only on internal sources may not bring any satisfactory effects. Therefore liquidator should try to improve the unit's situation by developing more advantageous ties with unit's surrounding. This can be done by receiving payments in advance for deliveries and services provided by the unit under liquidation or provision of them only if payment is in cash or by registered cheque as well as demand for open letter of credit. All these actions increase certitude of receiving of payment. On the other hand liquidator may try to defer his payments or even cancel them by bilateral agreement. In case of co-operatives and commercial companies legislator provides an option of temporary financial assistance from members or shareholders.

All parts of liquidation plans and connected with them liquidator's actions that have been mentioned above are not always as effective they should be. Liquidator may not receive amounts adequate to assets value on sales. Dismantle and deplete of property in order to sell it causes losses in unit's estate. Because of sales difficulties necessity to give away some assets often occurs. Lack of funds, increasing number of payment calls, court rulings, execution actions of creditors and court

executive officers may make liquidation impossible. If so liquidator has to move bankruptcy motion into court.

After fulfilling the plan of liquidation liquidator finishes whole procedure. He makes final reduction of occupancy and settles with liquidation team members. He also has to liquidate team's equipment. He pays phone and gas bills, rent for the apartment and makes the list of unreal receivables. he should dump assets with no value. Then he makes the final balance of liquidation. If it is accepted by members of co-operative or partners of commercial company, the unit is considered to be liquidated. The balance can include assets that are left to be disposed by general assembly's resolution. This resolution has to be obeyed by liquidator. In case of commercial companies liquidation has to be announced. Finally liquidator can move to register court about filing the commercial company or co-operative away from the register.

4. STATISTICS OF THE LIQUIDATION IN THE PRIVATE SECTOR IN POLAND, 1990 - 1994.

Political changes of 1989 opened the new field for economic transformation. Poland entered the road that had never been walked before: from the economy of shortages to the open and free-market economy.

Elaborated by the last communist government and resolved on December 23rd, 1988 Law on economic activities, gave broad freedom of starting up and running economic activity. It was the base for creation of many new private companies. One year later, when the transformation of economy has started, new, usually small private companies were experiencing totally new, tough market principle - the competition. The process of liquidation of private companies has started, as well as liquidation of state-owned enterprises.

Failure of each individual unit has to be seen in a wider perspective - as a process beneficial to the economy, because the liquidation of ineffective unit implies new, better allocation of its assets. On the other hand social costs of liquidation cannot be forgotten, because employees of the liquidated unit often cannot find new posts (because of dearth of it) and some of labor assets are wasted. However, let's not enter this dispute between liberal and social approach to the economy and move to the analysis of data on liquidation process of private companies. Before that let us present a couple of necessary remarks on sources and accessibility of data.

There are very few papers on liquidation, not many researches have been made and statistics can be described as incomplete. This situation can be easily explained by short history of the phenomena of liquidation in post-war Poland. However, the fact of scarcity of statistics is highly

alarming, because analysis can be always elaborated, while it is practically impossible to reconstruct data for the past periods. The situation is extremely difficult as for as statistics in private sector is concerned. Data on state-owned enterprises can be found in the Ministry of Privatization, because the liquidation is one of methods used in privatization. Statistics on the private sector are significantly neglected. The law on Economic activities mentioned above simplified register rules, by canceling the obligation registering for natural person's businesses (except for tax duty). GUS (Central Statistical Office) publishes only number of natural person's businesses, without indicating how many of them were brought into life or liquidated in a particular year. Similar or even worse seems to be the statistics on non-commercial partnerships, which are also not enrolled in the trade register. Moreover in GUS statistics they are usually not separated from natural persons businesses' data. More information can be found in GUS on commercial companies and co-operative societies. But those also don't include data on number of establishments and liquidations of economic units. There is one exception : in one of GUS publications there is the data on liquidation and establishment of enterprises in particular sectors of the economy in 1992.

Facing the lack of data in GUS statistics, the basis for analysis of liquidation of private units must have been information of the Ministry of Justice, which is much harder to acquire: this data include entering and filling away commercial companies and co-operative societies from the trade register.

In case of GUS data, another difficulty are differences in numerical values of the same indices presented in different publications. In case of such a problem the rule of broader (statistical yearbooks instead of narrow band reports) and newer (most likely already updated statistics) source has been applied.

What can be said about liquidation of private enterprises in 1990-1994 in Poland, on basis of collected data? Let's begin with the size of the private sector within the analyzed period, because this should be a background for evaluation of scale of the phenomena of owner-led liquidation.

4.1. THE GROWTH OF THE PRIVATE SECTOR IN 1990-1994

Generally speaking there has been a significant increase in private sector in 1990 - 1994. If the growth is measured by the amount of private enterprises, there has been an important, 71% increase in number of private firms in the four year period. (see tables 1 and 2).

This significant growth was caused mostly by (because of the leading share of this legal form of the company in the private sector, see table 3) almost 70% increase in natural person's businesses as well as almost triple increase in number of commercial companies. Comparing with this 6.7% rise in co-operative sector is less than modest.

It is easy to notice the irregularity in the growth of the private sector, except for co-operatives where we deal with linear growth. (see table 2). The biggest changes have taken place in 1991: there was 50.5% increase in the number of commercial companies and 25.1% in natural person's businesses. In the next three years increase has been relatively diminishing: in case of commercial companies 28% in 1992, almost 20% in 1993 and 14% in 1994; in case of natural person's businesses respectively 15%, almost 10% and 8%.

General observation is that in the examined period there has been real eruption of particular interest in two legal and organizational forms of economic units: commercial companies and natural person's businesses (together with non-commercial companies). However in the co-operative sector there has been a real stagnation. This has been caused by the fact, that in the whole post-war period co-operative activity was fictitious, assigned to so called socialized economy and managed on the state-owned sector rules. Free-market mechanisms introduced in January 1990 bare inefficiency of existing co-operatives; part of these has been liquidated or went bankrupt. The end of "ideologisation" of this type of organizations and freedom of choose organization structure and ownership form in the private sector resulted in lowering attractiveness of co-operatives among new businessman.

Differences in the rate of growth of those three types of enterprises, described above, resulted in particular changes in the structure of the private sector.

Attention should be paid to an increase of commercial companies' share (from 2.9% in 1990 to 4.5% in 1994), and decrease of co-operatives' share (from 1.6% to 1.0%). However in 1990 as well as in 1994 in number of natural person's businesses have dominated on the market (94.5% of total amount of economic units, only 1 percentage point less then in 1990).

Moving to the short analysis of data on sectors of national economy, it is worth mentioning, that in the case of commercial companies, faster then in the Polish economy as a whole, has increased the number of companies in three sectors: trade (by 227% in three years), transport (by 344%), agriculture (by 208%) (see table 4). Less then an average the number of companies increased in industry (by 98%). Attention should be paid to the increasing rate of growth in agriculture: in 1991 - increase by 9%, in 1992 - by 49%, in 1993 - by 89%, while in two other sectors rate of increase was diminishing. Due to this rising trend, out of two leading sectors of economy: industry and trade, that had concentrated major amount of commercial companies (respectively: 25% and 25.4% of the companies), three years later trade clearly has taken the lead (36.2%) leaving industry that has been second far behind (21.5%)

The number of natural person's businesses (together with non-commercial companies), increased more then the average (of 57.1% in three years) in trade (by 106%) and in other branches of material production (by 157%).

Finally it should be pointed out, that the biggest amount of private economic units has been attributed to trade: 42% (36.2% of commercial companies, 19.2% of co-operatives, 41% of natural person's businesses, 56% of non-commercial companies). The second place, with only less then half of the share of the first one, has been taken by industry (19.4% of all private economic units), that three years before had been much closer (29% versus 32% of the other one).

On the basis of data presented in tables 5 and 6 it is possible to evaluate which type of commercial company is preferred by foreign or domestic capital. The number of companies limited by guarantee is, as we can see, very small, perhaps because of the fact, that the code of commerce regulations concerning this company have been restored only in 1991. Generally increase in the number of companies with foreign capital has been faster, however absolute number of companies with sole domestic capital has been overvaluing the others. The foreign capital has preferred to invest in trade and industry. If legal form of the companies is concerned, the limited liability company has been chosen most often, especially by foreign investors. Amount of general partnerships has been low, probably because of legal implications (unlimited liability of partners. At a slightly slower pace then limited liability, joint stock companies were developing. It should be attributed to complicated establishment procedures and high minimum capital obligations (1 billion of PLZ). Generally it has to be said that, companies with foreign capital and limited liability companies have been the driving force of the growth of the private sector in the analyzed period.

Another - apart from the number of enterprises - measure of growth of the private sector is the change of private companies' shares in creation of GDP or in sector's output sold.¹ From data of table 7 we can see that share of the private sector in GDP have risen by 21 percentage points, which is an increase by 54%. As a result of this in 1994 more then half of the GDP came from the private sector while four years earlier it was less then one third.² This increase in share of the private sector must have been caused by rise of the amount of private commercial companies and natural person's businesses (we don't know what was the proportion between them), if significance of co-operatives in years 1992-1993 (the only data we have acquired) diminished: from 6.2% to 2.7% (see table 7).

Growth of the private sector have taken place in all sectors of the national economy, however the rate of it was different as well as different was the starting point (see chart 8). Agriculture that even in post-war Poland has had extremely large private sector was in very untypical position; in 1989 it was creating 74.8% of total agricultural production. The hardest start had export (4.9% share of private sector in 1990), transport (11.5% in 1989), industry (16.2%) and import (16.8%).

¹ We don't have data on sector's share in GDP at the same period of time, therefore we move to another, similar measures.

² Unfortunately there are no comparable data for 1989 or 1988 which would be appropriate basis for analysis of development of the private sector growth resulting economic reforms.

In the period observed, that is in four or five years, the biggest progress has been made in exports (increase in share by 10.5 times), then in import (3.9 times), transport (also 3.9) as well as in construction (3.3). In all branches except for industry, the share of the private sector exceeded 50 % in 1994, and the leader has been retail trade with 90.8% share. But even in industry, where the scope of privatization has been relatively small, there are branches like light industry, wood and food industries, where private companies have taken the lead. However in other branches like: gas, coal and oil industry, energy or metallurgy, state-owned enterprises still dominate.

In industry (and maybe in other sectors as well - however we don't have appropriate data) attention should be paid to the strong correlation between rate of growth of the private sector and the rate of growth of commercial companies and natural person's businesses. In both cases at the end of the period analyzed, their share in industrial production increased (rise from 3.4% and 5.1% respectively in 1989 to respectively 14.9% and 17.6% in 1993). Both types of units seem to be driving force of the private sector's development: their share in production of the sector in the industry has risen from 52.5% in 1989 to 88.8% in 1993. On this background the declining position of co-operatives can be easily noticed both, in the private sector (decreasing share in sales of the sector) as well as in industry as whole (3.5% in 1994 compared to 7.7% in 1989) (see table 9).

The third method to measure development of the private sector is to study changes of its share in total employment. In years 1990-1994 this share increased by almost 12 percentage points (see table 10); so the scale of change has been not as impressive as the one in GDP (increase by 21 percentage points). However the importance of the private sector as an employer has been bigger than its share in GDP during the whole analyzed period.

It is worth mentioning, that in 1990 the private sector's share was nearly 50% (see table 10), what has been caused by the large agriculture sector, even in post-war Poland mostly private. Individual farmers (3.7 mln people) in 1990 had 47% share in total employment of 7.9 mln in the entire private sector. In the last year of the period examined, share of the private sector increased up to 60.6%³ which is an actual increase of 1.143 thousand people (that is about 14.4%), while in the whole economy labor market has significantly shrunken (from 16.2 mln in 1990 to 14.9 mln in 1994, which is a difference of 1,2 mln or 7.6%). The private sector has been taking over employees from the shrinking state sector, that reduced in the analyzed period number of posts by 2.3 mln (from 8.2 mln to 5.8 mln, that is almost by 29%)

It has to be noted, that an increase in the private sector concentrated in two non-agricultural branches, private farms employed throughout the whole period constant number of workers (approx. 3.7 mln), which implies decrease of their share in the whole private sector's employment

³ This rising trend continued in 1995 when the employment in the private sector rose to 62.6% (Press conference of vice-president of GUS, Gazeta Wyborcza February 1 1996)

(from 47% down to 41%). Despite of this agriculture is still in ranks as first in employment in the private sector, which proves lack or slowness of changes in over comminuted private farming in Poland, with high hidden unemployment.

Interesting conclusions result from analysis of changes in employment in firms of legal forms of ownership (see table 10). There has been a dynamic increase in employment in commercial companies: from 610 thousand in 1990 to 1.8 mln in 1994 (an increase of 1.3 mln, that is by 217%); and a much slower in natural person's businesses: an increase by 13.5% (763 thousand people, that is only half of that in the commercial companies). Reverse tendency has been characteristic to the co-operative sector: total employment has lowered, and the cumulated fall has been almost by 57%). As a result of these two tendencies combined natural person's businesses have kept the lead, but commercial companies have taken over the second position outdistancing co-operatives.

It has to be pointed out that the same tendencies have been characteristic for commercial companies, co-operatives and natural person's businesses in changes of their number and share in GDP or industrial production.

The last conclusion from analysis of employment data presented in table 10 is the one about very small foreign capital involvement in the Polish economy. Despite of high rate of growth, firms owned by foreign capital (entirely or in majority) in 1994 employed only 419 thousand people, which has been only 4.6% of total employment in the private sector and 2.8% in the entire economy. Therefore domestic private capital dominated in the whole analyzed 5 year period with the share of more then 95%.

4.2. THE SCALE OF OWNERSHIP LIQUIDATION

Behind growth of the private sector, described above with three indices:

- 1/ number of private enterprises,
- 2/ share in GDP and production in particular sectors,
- 3/ share in labor market

there are two combining processes:

- establishment and liquidation of private enterprises,
- growth and "shrinking" of existing enterprises.

We are interested in the first of these two processes.

Logic implies that if the amount of enterprises has significantly grown, then the rate of establishment must have been much higher than the rate of liquidation. However statistics on increase of the number of companies, don't give us a chance to find what was the actual number of liquidated or newly established companies. Thus it is necessary to refer to other sources of information, which unfortunately are not impressive.

Before we move to available data it is necessary to explain what the sources of information are and what their imperfections are. First of all we don't know how many natural person's businesses are established every year and how many are liquidated. It is a consequence of legal regulations: there is no duty for them to enter the register. Because number of these enterprises is the biggest one as it is described in part 4.1, we cannot actually say much about the scale of the whole establishment and liquidation process of it the private sector. We only know the combined result of these two processes, that is the rate of increase of private firms (see table 2).

The source of information about newly registered commercial companies and co-operatives is the Ministry of Justice, which collects data on motions moved to the register court concerning entering and introducing changes in the trade register. Data is collected and aggregated for every type of economic unit, also for commercial companies and co-operatives that we are interested in. The commercial companies data are divided into general partnership, joint stock company, limited liability companies and - especially separated because of the source of capital - companies with foreign capital. In the case of commercial companies there is no division by the ownership (state versus private ownership), therefore data covers both state-owned and private commercial companies. Therefore the obtainable data is exaggerated. To adjust this information we've done as follows: from the number of companies that were enrolled into the register in particular year we:

- subtracted the number of newly established one-man companies of the Treasury⁴
- added the number of companies privatized in that year.⁵

The result of these two operations is the actual number of newly registered commercial companies in the private sector. Data for the period of 1990-1994 are presented in table 11. Before starting to comment data it seems to be necessary to add that we decided that the number of accepted motions moved to the register court in statistics of the Ministry of Justice is after described above adjustments oneness with the amount of established enterprises. Therefore we take for granted that establishment of the company implies its economic activity, even if it is well known that some of them are going to begin their activity later (not in the year of establishment) and some never ("sleeper-companies"). Therefore this data overvalue, to some degree, activity of private owners in establishment of new companies. On the other hand, it should not be forgotten, that the activity is higher, because some of it goes into the "shadow economy".⁶

Data on filing away economic units from the register come from the same source: the Ministry of Justice, that collects data from register courts. As in the case of new establishments also here the statistics doesn't specify which companies are state-owned and which are private, and puts them together under the name of commercial companies. Luckily here we deal with a smaller problem. It is justified to predict, that filing away of state-owned enterprises is very seldom, because privatization of the company implies only a small change in the same statistical category of company, not filing it away from the register and re-entering as a private company. The broad administrative liquidation of state-owned units has been completed mostly among so called state-owned enterprises (P.P.), not among commercial companies (one-man companies of the Treasury). Therefore it can be considered that liquidations of commercial companies deal almost entirely with the private sector. We have to add the word "almost", because there are cases of liquidation of commercialized companies that failed to find new, private owners and got into the procedure of liquidation or bankruptcy.

Here we approach another, this time important problem. In statistics filing away is recorded without indicating reasons for it. There are two reasons to file the company away, that are caused by different economic and legal procedures:

⁴ "Commercialization" of state-owned enterprise means the change of legal and organizational structure from so called state-owned enterprise (P.P. - przedsiębiorstwo państwowe) into one-man company of the Treasury and implies filing away from the register of state-owned enterprises and entering the register of commercial companies.

⁵ Actually changing the owner implies only a change in the register, without filing away, therefore it is not included in the statistics of newly registered companies.

⁶ Statisticians try to evaluate the scale of the "shadow" sector, and according to international agreements commonly accepted for use from 1993 in national accounts, any productive activity whether legal or illegal is considered as production. Broad research on evaluation of the "shadow" economy in Poland has been started in 1994 in Zakład Badań Statystyczno-Ekonometrycznych GUS-PAN. The first results and evaluation problems are introduced in "Szara strefa gospodarki (wybrane problemy)", Studia i Prace, z Prac Zakładu Badań Statystyczno-Ekonomicznych GUS i PAN, Warszawa 1995, Zeszyt 223

- liquidation by owner, in which we are interested in this paper, and
- bankruptcy.

In statistics run by register courts and the Ministry of Justice both procedures are treated as the same fact, because they imply filing the unit away. However for economists this is very inconvenient, because it is impossible to analyze the scope of each of the processes. There are two ways to separate bankruptcy cases from liquidation ones, both of which are arduous and imply referring to the basic sources of information. The first one is an analysis of individual motions about filing away moved to the register courts. The second one is studying documentation of all bankruptcy cases in economic courts in order to select these that were finished and concerned private companies. If both cannot be done, the third solution (the second best) might be used.

From the statistics of the Ministry of Justice we know, how many bankruptcy motions were moved in each voivodship and in country as whole in particular year beginning from 1989. This data does not specify legal-organizational forms or types of ownership of units entering the bankruptcy procedure, combining state-owned enterprises (P.P.), co-operatives, and commercial companies (private and owned by the Treasury). However examining the bankruptcy cases in the economic court of Warsaw⁷, we found that out of 1700 motions for bankruptcy submitted in 1990-1994 only 252 (15%) actually ended by declaring the bankruptcy and out of that number only 77 cases were finished or legally discontinued, which is 30% of all cases for which the bankruptcy was declared and only 4.5% of all moved motions. Only after completing the whole bankruptcy procedure the company may be filed away from the register. Assuming that the Warsaw area is representative for the whole country, it is possible to evaluate that in 1990 - 1994 in all register courts 652 bankruptcy cases have been finished and closed by filing the company away. Presuming that except for private companies and co-operatives there have been also state-owned enterprises and even enterprises owned by the Treasury and also that some of cases have been legally discontinued (thus enterprise is still active), we can assume that data in chart 11 for the whole 1990-1994 period are overvalued no more than by 9.7%, probably by around 5-7%.

Passing to the merits, we have to begin with saying that in 1990-1994 period about 87 thousand of new private commercial companies and about 5.5 thousand co-operatives have been established (see table 11). Therefore the ratio of establishing companies to co-operatives has been 16:1, which shows attractiveness of the first legal form to private businessmen. Interest in commercial companies compared with that in co-operatives was increasing as the time was passing by: in 1990 the ratio was 7.4:1 and beginning from 1991 it was more than 20:1.

⁷ Pawel Senator, "Data on bankruptcies in Warsaw economic court", manuscript, CASE, Warsaw 1995, prepared within the research project on "The Process of Enterprises Exit in Transitions to a Market Economy" (ACE - 92- 0111-R)

Coming back to the analysis of nominal figures it has to be pointed out that interest in commercial companies was particularly high in the first two years of the analyzed period (over 19 thousand new partnerships in 1990, and almost 21 thousand in 1991). Beginning from 1992 number of new establishments has been going down (see table 12), but it was still high.

In the case of co-operatives number of new units has been constantly diminishing, and the crucial year was 1991, when less than 60% of new units were established comparing to the previous year (see table 12).

The structure of newly established commercial companies is also worth mentioning. Most important seem to be limited liability companies: altogether 68.5 thousand which was more than 79% of all companies and 3/4 of all new private enterprises. However the establishment rate was decreasing (see table 12).

Increasing rate of new establishments have been characteristic to joint stock companies, that according to data in table 12 attracted more and more investors. As a result of that their share in the whole population of companies has been gradually increasing. Also increasing rate for companies with foreign capital is worth mentioning, it has been the highest one and exceeded the average 2-3.5 times. As a result in 1990 companies with foreign capital were only 6% of total, in 1991 -11%, in 1992 - 16%, in 1993 - 26% and in 1994 - 24%.

When comparing scale and rate of increase in different types of private economic units one question has to be asked: what caused this interest in commercial companies and fall of popularity of co-operative forms of activity. It has to be clearly stated that liberalization of economic system started in January 1st 1990 preceded with legalization of liberal law on economic activity dated of December 1988 has revealed advantages of commercial companies in the free market economy. This can also explain the huge wave of establishment of companies in the first two years of economic transformation (1990-1991).

Significance of newly established private firms to the private sector is shown by table 13. Enrollment into the register in 1990 19.3 thousand commercial companies made almost 55.2% of total number of companies in that year, which means that the number of companies in that year increased by 124%. In the next four years the share of newly registered companies in the amount of all active companies, was decreasing, but still has been impressive. The sector of commercial companies grew throughout the period dynamically and was very young.

Among commercial companies the biggest rate of growth has been shown by joint stock companies and companies with foreign capital. In case of the first ones , in 1992-1994 every third company was the new one⁸; most likely this ratio had even been higher in 1990-1991 and surely exceeded average of the entire sector of companies (55.2% and 39.1%). Also the same index was

higher in case of companies with foreign capital (see table 13), however statistics define such companies as those with any (even a single) share of foreign capital and this is why this data should not be treated too seriously.

On the background of the commercial companies sector, the co-operative sector, except for 1990, was in stagnation (5.4 - 2.7% of new co-operatives in all co-operatives - see table 12). Higher number in 1990 (14.1%) wasn't caused by any downward initiatives, but by the parliament act on decommunization of co-operatives, that resulted in statistics on economic units.

Let's get back to table 11. Except for described above scale of establishment procedures it also describes absolute scale of liquidation of commercial companies and co-operatives. As we can see in columns showing filing away of economic units number of liquidated companies dynamically increases in first three years reaching its top in 1992 and then remains constant at the level of about 1400 per year. As we can see it is moved one year forward comparing with similar trend in new establishments: liquidation top was in 1992, registration top in 1991.

On the contrary to the development in the sector of commercial companies number of liquidation of co-operatives has been constant during that period, closing in narrow limits of 246-303 units per year (see table 11).

Relative scale of liquidation of private firms in 1990-1994 was generally small (see table 15)⁹, however it was different for commercial companies and for co-operatives. In case of the first ones there was a rising trend until the middle of the period, and later - smaller in value - but falling trend. As a result of that in starting point (1990) enterprises filed away constituted only 0.7% of the total number of companies population, while in the last year of analysis it was 1.5% (see table 15).

Inside the company sector situation was diversified. The attention should be paid to the low ratio of liquidation of companies with the foreign capital and higher then the average liquidation ratio of joint stock companies.

Situation of co-operatives was stable : in the whole 5-year period liquidated units made about 1.5% of all existing co-operatives.

Also very interesting comparison can be done between newly registered companies and those that were filed away¹⁰ (see table 16). Also here there are different trends in time. The average for the whole period was 1 liquidation for every 16 new establishments. During first two years the ratio of liquidations was significantly lower (75:1 in 1990 and 34:1 in 1991) then in next two years the

⁸ Remember about presumption about the data on private companies; see comments to table 13

⁹ Taking into account the reservation to the data on private companies (see comments to table 13), we have to realize that the accurate scale was even smaller, then the presented in table 15.

¹⁰ Again we have to remember about presumption about data on private companies; see comments to table 13

ratio stabilized at the level of 11:1. During the last year of observation the trend turned back again and the ratio rose to 16:1.

It is worth mentioning that among commercial companies those with the foreign capital were liquidated much less rarely than the average of commercial companies. More often than the average were liquidated general partnerships, which were becoming much less popular (the number of newly registered general partnerships was significantly falling down throughout the period). It can be presumed that private investors preferred to move their capital into limited liability companies and companies limited by stocks. For co-operatives the ratio was for the whole period was at the level of 4:1, significantly lower, than for commercial companies. Except for the first year of analysis when the ratio was lower (11:1), the liquidation happened more often than the average, about 1 liquidation per 2 or 3 establishments.

*

Summing up we may say that, private companies and co-operatives in the analyzed period constituted two different populations.

Companies were much more attractive legal and organizational form for investors. The number of newly registered companies in 1990-1994 was 16 times higher than co-operatives. Among companies the most dynamically growing were joint stock companies, however the biggest group were and still are limited liability companies. Dynamically increased number of companies with foreign capital. On the other hand in 1990-1994 amount of general partnerships and partnerships limited by guarantee has been strictly symbolical. Because of dynamic growth the population of commercial companies is very young.

Cases of owner-led liquidation at the beginning of the examined period were rare, which is understandable; as the years were passing by, liquidations became more often in absolute numbers as well as in relative terms. However they have still been on the fairly low level: 16 new companies per 1 liquidation. Very low number of liquidation in absolute and relative terms (of all commercial companies 1-2% liquidated) can be explained as follows. On the one hand transformation of economic system opened great new potentials for the private entrepreneurship. On the other after post-socialist shortage economy, the market was at the beginning an easy one. Along with the development of market and competition increase in liquidation scale should be expected, especially among younger, starting up companies.

As far as co-operative sector is concerned it stagnated. The total number of co-operatives didn't change much, only by 6.7% in the 5-year period. Therefore it seems to be the older population. Scale of liquidation was kept on the same level of 1.3-1.5% of the whole population. Except for the 1990, the ratio of newly established co-operatives to the liquidated ones was at the level of 3:1 or 2:1.

Because of these different characteristics of the populations, at the end of the analyzed period the share of commercial companies in private sector significantly increased: in 1990 there was 1.8 times more companies than co-operatives while in 1994 - 4.6 times more.

Bibliography:

1. Bieniek G., Pracownicy likwidowanych przedsiębiorstw, Zachodnie Centrum Organizacji, Warszawa - Zielona Góra 1992.
2. Groszek M., Cieśla S., Likwidacja i upadłość - regulacje, doświadczenia, skutki. Przypadek Polski., maszynopis, Warszawa 1993.
3. Koc St., Likwidacja jednostki gospodarczej, w: Rachunkowość nr 11/92.
4. Kodeks cywilny, Wydawnictwo Prawne, Warszawa 1991.
5. Kodeks handlowy, Rozporządzenie Prezydenta RP z dnia 27.06.1934r., Dz.U. Nr 57, poz. 502, z późniejszymi zmianami.
6. Kufel J., Siuda W., Prawo gospodarcze dla ekonomistów, Poznań 1994.
7. Lewandowski J., Prawo cywilne, SGH, Warszawa 1994.
8. Lewandowski J., Prawo handlowe (spółki) wekslowe i czekowe, SGH, Warszawa 1991.
9. Opala A., Poradnik likwidatora i syndyka masy upadłościowej, Zachodnie Centrum Organizacji, Zielona Góra 1994.
10. Rozporządzenie Ministra Sprawiedliwości o rejestrze handlowym z dnia 01.07. 1934 Dz.U. Nr 59, poz.493, z późniejszymi zmianami
11. Rozporządzenie Prezydenta RP z dnia 24.10.1934r. Prawo upadłościowe, Dz.U.Nr 93, poz.834, z późniejszymi zmianami.
12. Rozporządzenie Rady Ministrów w sprawie rejestru spółdzielni z dnia 14.03.1983r. Dz.U. Nr 20, poz. 87.
13. Solarz J. K., Niepowodzenia w biznesie, Poltext, Warszawa 1991.
14. Ustawa z dnia 16.09.1982r. Prawo spółdzielcze, Dz.U. Nr 30, poz. 210, z późniejszymi zmianami.
15. Ustawa z dnia 20.01.1990 r. o zmianach w organizacji i działalności spółdzielczości, Dz.U. Nr 6, poz.36, z późniejszymi zmianami.
16. Ustawa z dnia 23.05.1989r. o rozpoznawaniu przez sądy spraw gospodarczych, Dz.U. Nr 33, poz. 175.
17. Ustawa z dnia 23.12.1988r. o działalności gospodarczej, Dz.U. Nr 41, poz. 324, z późniejszymi zmianami.
18. Ustawa z dnia 28.12.1989r. o szczególnych zasadach rozwiązywania z pracownikami stosunku pracy z przyczyn dotyczących zakładu pracy oraz o zmianie niektórych ustaw Dz.U. Nr 4, poz. 19, z późniejszymi zmianami.
19. Wójcicki R., Poradnik likwidatora, Warszawa 1993.
20. Zakrzewski A., Meandry upadłości. Doświadczenia i przemyślenia syndyka, Materiały na konferencję nt. prawa upadłościowego, Związek Prawników Polskich, czerwiec 1993r.

Table 1: Private enterprises, 1990 - 1994*

	1990	1991	1992	1993	1994
Commercial Companies**	34,884	52,486	67,105	80,181	91,558***
Co-operative Societies	18,575	18,949	19,372	19,746	19,816
Natural Person's Businesses and Non-commercial Companies	1,135,492	1,420,002	1,630,629	1,783,900	1,924,230
Total	1,188,951	1,491,437	1,717,106	1,883,827	2,035,604

Comments:

1. All data as of December 31
2. Without non-commercial companies, presented together with natural person's businesses (see row3)
3. According to authors' evaluation

Sources:

Statistical Yearbook of 1993, GUS, Warszawa 1993
Statistical Yearbook of 1994, GUS, Warszawa 1994;
Structural changes in Groups of Units of the National Economy 1994r., GUS Warszawa 1995.

Table 2: Increase in numbers of private firms, 1991 - 1994* (1990 = 100)

	1991	1992	1993	1994
Commercial Companies**	150.5	192.4	229.9	262.5***
Co-operative Societies	102.0	104.3	106.3	106.7
Natural Person's Businesses and Non-commercial Companies	125.1	143.3	157.1	169.5
Total	125.4	144.4	158.4	171.2

Comments:

1. All data as of December 31
2. Without non-commercial companies, presented together with natural person's businesses (see row3)
3. According to authors' evaluation

Sources: Calculation based on data of table 1.

Table 3: Legal and organizational structure of private sector, 1990-1994 (%)

	1990	1991	1992	1993	1994
Commercial Companies	2.9	3.5	3.9	4.3	4.5
Co-operative Societies	1.6	1.3	1.1	1.0	1.0
Natural Person's Businesses and Non-commercial Companies	95.5	95.2	95.0	94.7	94.5
Total	100.0	100.0	100.0	100.0	100.0

Source: Calculation based on data of table 1.

Table 4: Private economic units according to legal forms and national economy sectors, 1990 - 1993*

	Year	Commercial Companies	Co-Operatives	Natural Person's Businesses	Non-Commercial Companies
Total	1990	34,884	18,575	1,135,492	.
	1991	52,486	18,949	1,420,002	.
	1992	67,105	19,372	1,630,629	99,331
	1993	80,181	19,746	1,783,900	186,433
Industry	1990	8,720	2,411	334,613	.
	1991	11,281	2,535	348,922	.
	1992	14,318	2,578	347,192	19,430
	1993	17,233	2,587	345,257	36,443
Construction	1990	5,717	734	165,541	.
	1991	9,441	996	171,665	.
	1992	11,667	994	187,815	8,828
	1993	13,368	1,018	195,874	16,650
Agriculture	1990	390	4,244	1,802	.
	1991	427	4,141	.	.
	1992	636	4,180	.	838
	1993	1,201	4,167	.	1,604
Forestry	1990	40	-	.	.
	1991	67	-	.	.
	1992	98	-	.	150
	1993	123	-	.	421
Transport	1990	423	187	61,368	.
	1991	993	273	73,655	.
	1992	1,433	286	73,212	2,216
	1993	1,880	288	80,073	4,473
Communications	1990	61	-	.	.
	1991	116	6	.	.
	1992	148	7	.	97
	1993	115	6	.	88
Trade	1990	8,859	3,650	368,805	.
	1991	17,535	3,766	588,038	.
	1992	23,857	3,789	626,132	56,830
	1993	29,029	3,784	761,041	104,634
Other Material Production Branches	1990	7,356	454	65,513	.
	1991	6,486	348	149,972	.
	1992	6,755	340	146,547	2,295
	1993	6,870	333	168,495	3,421

Comments:

* All data as of December 31

(.) = no data available or no reliable data available

(-) = does not occur

Sources:

Statistical Yearbook of 1993, GUS, Warszawa 1993

Statistical Yearbook of 1994, GUS, Warszawa 1994;

Structural changes in Groups of Units of the National Economy 1993r., GUS Warszawa 1994

Table 5 Commercial companies according to forms of ownership and sources of capital in chosen branches of national economy.

		Joint Stock Companies		Limited Liability Companies		General Partnership	Companies Limited by Quarantee
		D	F	D	F	D	D
Total	1992	1,525	248	52,846	9,883	808	49
	1993	1,825	332	60,004	14,835	835	105
	1994	2,229	425	66,091	19,312	846	122
Industry	1992	291	75	10,011	3,388	146	10
	1993	380	112	11,445	4,579	154	21
Construction	1992	336	17	9,908	740	130	2
	1993	397	29	11,045	1,124	137	11
Agriculture	1992	22	.	476	113	4	.
	1993	26	.	952	179	7	.
Forestry	1992	.	.	80	13	4	.
	1993	1	.	92	24	5	.
Transport	1992	25	4	954	341	11	.
	1993	29	6	1,175	532	12	1
Communication	1992	8	6	104	19	2	.
	1993	8	5	71	19	3	.
Trade	1992	455	50	19,086	3,555	352	27
	1993	545	69	21,662	5,912	358	53
Other Material	1992	165	23	5,792	593	44	3
Production Branches	1993	167	23	5,831	652	44	7
Utilities	1992	3	2	267	39	9	.
	1993	5	2	342	67	6	.

Comments:

D = sole domestic capital

F = with foreign capital

(.) does not occur

Sources: Statistical Yearbook of 1994 and 1995, GUS, Warszawa 1994 and 1995

Table 6: Commercial companies by legal forms and sources of capital, 1992 - 1994*

		Total**	with *** :	
			Domestic Private Capital	Foreign Capital
Total	1992	69,907	63,952	10,010
	1993	83,283	74,447	15,167
	1994	95,017	83,585	19,737
<i>Of which:</i>				
- Joint Stock Companies	1992	2,624	2,047	248
	1993	3,131	2,457	332
	1994	3,897	2,998	425
- Limited Liability Companies	1992	66,426	61,052	9,762
	1993	79,212	71,052	14,835
	1994	90,146	79,617	19,312
- General Partnership	1992	808	804	.
	1993	835	832	1
	1994	852	848	.
- Companies Limited By Guarantee	1992	49	49	.
	1993	105	105	1
	1994	122	122	.

Comments:

* All data of December 31

** Private and state-owned together, this explains the difference between data in table 6 and table 1 where there are only private ones.

*** At least one share/stock belongs to domestic or foreign capital. Therefore it should not be added, because the sum will be bigger than "total".

(.) = does not occur

Sources:

Structural changes in Groups of Units of the National Economy 1993r., GUS Warszawa 1994.

Structural changes in Groups of Units of the National Economy 1994r., GUS Warszawa 1995

Table 7: Private sector's share in GDP, 1990 - 1994

	1990	1991	1992	1993	1994
1. Private sector's share in GDP	30.9	42.1	47.2	51.5	52.2
2. Co-operatives' share in GDP	6.2	6.2	4.7	2.7	2.7

Sources:

Statistical Yearbook of 1993, GUS, Warszawa 1993

Statistical Yearbook of 1995, GUS, Warszawa 1995

Table 8: The role of private sector in particular sectors of the national economy, 1989 - 1994 (% , in current prices)*

Share of the Private Sector	1989	1990	1991	1992	1993	1994
1. Industrial production sold	16.2	18.3	27.0	30.8	34.6	39.4
2. Construction production sold	25.5	27.8	57.5	76.6	82.3	84.9
3. Transport services sold	11.5	11.5	26.5	38.1	45.2	-
4. Gross output in agriculture	74.8	72.8	78.6	80.6	86.7	-
5. Retail sales of commodities	59.5	63.9	82.8	86.4	89.1	90.8
6. Imports	-	16.8	49.9	54.5	59.8	65.8
7. Exports	-	4.9	21.9	38.4	44.0	51.3

Comments:

* Without VAT and turnover tax, including excise.

Until 1991 - on FOB basis fob, from 1992 - CIF basis

(-) = non available data

Sources:

Statistical Yearbook of 1991, GUS, Warszawa 1991;

Statistical Yearbook of 1993, GUS, Warszawa 1993;

Small Statistical Yearbook of 1994, GUS, Warszawa 1994;

Statistical Yearbook of 1994, GUS, Warszawa 1994;

Statistical Yearbook of 1995, GUS, Warszawa 1995.

Table 9: Share of different company types in industrial production sold, 1989 - 1994 (current prices, %).

	1989	1990	1991	1992	1993*	1994**
Private sector - total	16.2	18.3	27.0	30.8	36.6	39.4
Commercial companies	3.4	5.2	10.4	9.4	14.9	-
Co-operatives	7.7	5.0	5.0	4.7	4.1	3.5
Natural person's businesses	5.1	8.1	11.6	16.7	17.6	-

Comments:

* With VAT introduced from 5 July 1993.

** Without turnover tax and VAT; with excise.

(-) - non available data

Sources:

Statistical Yearbook of 1991, GUS, Warszawa 1991;

Statistical Yearbook of 1992, GUS, Warszawa 1992;

Statistical Yearbook of 1993, GUS, Warszawa 1993;

Statistical Yearbook of 1994, GUS, Warszawa 1994;

Table 12: Rate of registration of commercial companies and co-operatives, 1991 - 1994 (1990 = 100)

	1991	1992	1993	1994
1. Commercial companies	106.6	91.8	80.3	73.0
- joint stock companies	100.3	100.0	102.4	131.4
- limited liability companies	100.8	81.2	62.3	57.9
- general partnerships	91.8	81.9	32.2	19.9
- companies with foreign capital	206.1	252.4	361.0	295.4
2. Co-operatives	39.2	25.1	25.7	20.4

Source: Author' evaluation on the basis of table 11.

Table 13: The share of newly registered private firms in total amount of private firms, 1990 - 1994 (in %).

	1990	1991	1992	1993	1994
1. Commercial companies	55,2	39,1	26,4	19,3	15,4
- joint stock companies	-	-	33,5	28,2	29,5
- limited liability companies*	-	-	22,0	14,2	11,5
- general partnerships	-	-	49,4	18,8	11,4
- companies with foreign capital	68,6	48,5	28,1	26,8	16,9
2. Co-operatives	14,1	5,4	3,4	3,4	2,7

Comments:

(-) data available

*The indices on commercial companies should not be treated as an exact ones; we had to use data from table 5, because of the lack of accurate data. The data used decrease number of domestic private companies, by skipping these with the minority shares of the Treasury or state-owned enterprises capital. On the other hand they increase the number by including companies with mixed capital of the Treasury and foreign capital, with minority of foreign shares. Altogether data from table 5 diminish real number of units, therefore indices in table 13 for commercial companies and co-operatives are a little bit too high.

Sources: Authors' evaluation based on tables 1, 5, 11.

Table 14: Rate of filing companies and cooperatives away, 1991 - 1994 (1990 = 100)

	1991	1992	1993	1994
1. Commercial companies	233,1	638,9	561,1	537,4
2. Co-operatives	123,2	108,9	106,7	122,4

Source: Authors' evaluation based on table 11.

Table 15: Relative scale of liquidation of private firms, 1990 - 1994 (in %)

	1990	1991	1992	1993	1994
1. Commercial companies	0.7	1.1	2.4	1.8	1.5
- joint stock companies	-	-	4.4	2.4	2.0
- limited liability companies - z o. o.	-	-	2.3	1.5	1.3
- general partnerships	-	-	2.2	16.5	8.2
- companies with foreign capital	-	0.5	0.8	0.7	0.8
2. Co-operatives	1.3	1.6	1.4	1.4	1.5
Total (1 + 2)	0.9	1.3	2.7	1.7	1.5

Comments: (-) no data available

Sources: Authors' evaluation based on tables 1, 5, 11.

Table 10: Employment in private sector, 1990 - 1994* (in thousands; % of total employment)

	1990		1991		1992		1993		1994	
	thous.	%	thous.	%	thous.	%	thous.	%	thous.	%
Total	16,145.4	100.0	15,442.6	100.0	15,010.9	100.0	14,761.2	100.0	14,924.0	100.0
Private Sector	7,902.0	48.9	8,390.5	54.3	8,404.5	56.0	8,700.9	58.9	9,045.6	60.6
<i>of which:</i>										
- Commercial Companies	610.4	3.8	1,009.0	6.5	1,389.4	9.2	1,488.5	10.0	1,934.6	12.9
- Co-Operatives	1,658.2	10.2	1,169.7	7.6	888.5	5.9	797.6	5.4	714.7	4.8
- Natural Person's Businesses	5,633.4	34.9	6,211.8	40.2	6,126.6	40.8	6,414.8	43.5	6,396.3	42.9
- of which: Private Farms	3,738.8	23.2	3,648.8	23.6	3,583.8	23.9	3,584.9	24.3	3,744.9	25.1
<i>Private Sector, of which :</i>										
- Domestic Capital	7,734.6	47.9	7,967.8	51.6	8,100.1	54.0	8,293.6	56.2	8,626.7	57.8
- Foreign Capital	167.4	1.0	422.7	2.7	304.4	2.0	407.3	2.7	418.9	2.8
- of which: Sole Foreign Ownership	-	-	89.0	0.6	119.9	0.8	150.0	1.0	228.1	1.5

Comments:

* All data as of December 31

(-) = data nonavailable

Sources: Statistical Yearbook of 1995, GUS, Warszawa 1995 and authors' calculations

Table 11: Private economic units : newly registered and filed away, 1990 - 1994

	1990		1991		1992		1993		1994		1990 - 1994	
	N	F	N	F	N	F	N	F	N	F	N	F
1. Commercial companies	19,261	257	20,540	599	17,684	1,642	15,467	1,442	14,071	1,381	87,023	5,321
- joint stock companies	594	2	596	21	594	78	608	51	782	54	3,174	253
- limited liability companies	17,022	240	17,154	520	13,828	1,461	10,608	1,144	9,849	1,102	68,461	4,467
- general partnerships	487	6	447	22	399	18	157	137	97	70	1,587	253
- companies with foreign capital	1,128	5	2,325	25	2,847	79	4,072	105	3,332	153	13,704	367
2. Co-operatives	2,610	246	1,022	303	656	268	672	286	533	301	5,493	1,404
Total (1 + 2)	21,871	503	21,562	902	18,340	1,910	16,139	1,728	14,604	1,682	92,516	6,725

Comments:

N - Newly registered

F - Filed away

Sources: The Ministry of Justice, unpublished data and authors' evaluations based on Statistical Yearbook of GUS 1993, 1994 and 1995, as well as Privatization of State-Owned Enterprises, GUS, Warszawa, 1993.

Table 16: Ratio of newly registered private units to those filed away* 1990 - 1994

	1990	1991	1992	1993	1994	1990 - 1994
1. Commercial companies	75 : 1	34 : 1	11 : 1	11 : 1	16 : 1	16 : 1
- joint stock companies	279 : 1	28 : 1	8 : 1	12 : 1	13 : 1	13 : 1
- limited liability companies	71 : 1	33 : 1	9 : 1	9 : 1	15 : 1	15 : 1
- general partnerships	81 : 1	20 : 1	22 : 1	1 : 1	1 : 1	6 : 1
- companies with foreign capital	226 : 1	93 : 1	36 : 1	39 : 1	22 : 1	37 : 1
2. Co-operatives	11 : 1	3 : 1	2 : 1	2 : 1	2 : 1	4 : 1
Total (1 + 2)	43 : 1	24 : 1	10 : 1	9 : 1	9 : 1	14 : 1

Comments: * evaluated as a quotient of newly registered firms to those filed away in the same period.

Sources : Authors' evaluation based on table 11.