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Bartomiej Zimny*

**Komisja weryfikacyjna
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The peer-reviewed monograph authored by Przemysław Wipler¹ constitutes a monumental and timely contribution to the fields of Polish administrative law, constitutional theory, and political science. At the heart of this rigorously researched publication lies one of the most contentious legal, political, and social phenomena in post-1989 Poland: the reprivatization of real estate in the capital city of Warsaw. Wipler undertakes the formidable task of dissecting the legal and institutional character of the Commission for the removal of the legal effects of reprivatization decisions concerning Warsaw properties, issued in violation of the law. By formulating the primary hypothesis that the Verification Commission is a *sui generis* institution that fundamentally escapes the traditional tripartite separation of powers and the principle of political neutrality of public administration, the author embarks on an ambitious analytical journey. Employing the hermeneutic circle as his primary methodological framework, the author posits that one cannot comprehend the totality of the

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1. P. Wipler, *Komisja weryfikacyjna ds. reprivatyzacji jako nadzwyczajna instytucja wzruszająca decyzje administracyjne. Studium przypadków z lat 2017-2020*, Dom Wydawniczy ELIPSA 2025.

legal system without understanding its minute details, nor can one grasp the details without viewing the entire system holistically. This methodological choice allows the publication to transcend narrow dogmatic boundaries, offering an interdisciplinary perspective that intertwines administrative procedure, the history of political doctrines, and constitutional axiology.

To properly contextualize the extraordinary nature of the Verification Commission, Wipler rightly dedicates the initial sections of the monograph to the historical and material premises that led to the reprivatization crisis. The narrative meticulously reconstructs the harsh post-World War II reality, highlighting the catastrophic destruction of Warsaw, where approximately 84% of the left-bank and 65% of the right-bank urban fabric was methodically obliterated by the occupying German forces. In this landscape of unprecedented ruin and legal uncertainty regarding property ownership, the post-war communist authorities enacted the Decree of November 26, 1945, on the ownership and usufruct of land in the capital city of Warsaw, widely known as the “Bierut Decree.” The author demonstrates how the original legislative intent purportedly to enable the rational reconstruction and further expansion of the capital was swiftly transformed into an instrument of *de facto* nationalization. This radical deprivation of property rights was deeply rooted in the Marxist ideological rejection of private ownership, which the post-war communist state sought to implement, drawing historical parallels to the concepts of Karl Marx and Friedrich Engels. The intricate and often chaotic evolution of post-war spatial development plans further complicated the legal status of these properties, creating a convoluted regulatory environment where the verification of pre-war claims became a bureaucratic maze. Wipler successfully argues that the failure of the democratic state after 1989 to enact a comprehensive reprivatization statute left a legislative vacuum. This failure allowed the flawed mechanisms of the Bierut Decree to persist and ultimately gave rise to the pathological trade in reprivatization claims.

Before dissecting the Commission itself, the publication establishes a firm dogmatic foundation by analyzing the essence of the administrative decision and its place within the Polish legal system. A critical component of this analysis is the principle of the durability of final administrative decisions, which is explicitly enshrined in Article 16 of the Code of Administrative Procedure (KPA). The author emphasizes that this principle is not merely a procedural convenience but a fundamental element of a democratic state governed by the rule of law, directly linked to the constitutional protection of legitimately acquired rights. Under standard legal conditions, eliminating a final administrative decision from the legal order requires navigating highly restrictive extraordinary modes, such as the

resumption of proceedings dictated by Article 145 of the KPA or the declaration of invalidity under Article 156 of the KPA. The author's rigorous examination of these standard procedural frameworks serves a vital rhetorical and academic purpose: it starkly illuminates the radical and legally disruptive nature of the powers subsequently granted to the Verification Commission. The author notes that the constitutional right to a court and the stability of legal relations demand that administrative decisions cannot be challenged indefinitely without strict statutory boundaries, citing relevant jurisprudence of the Constitutional Tribunal to support this claim.

The core of the monograph's academic contribution lies in its exhaustive and critical analysis of the Act of March 9, 2017, which officially established the Verification Commission. Wipler systematically deconstructs the statutory architecture of this organ, revealing it as a profound institutional anomaly. While formally designated as a public administration organ standing guard over the public interest, the Commission is endowed with a hybrid set of competencies that heavily bleed into the judicial and prosecutorial spheres. The author details how the Commission is authorized to exercise the rights of a prosecutor, including the power to demand files, interrogate witnesses, and order the search of premises or the seizure of property in cooperation with law enforcement. Furthermore, the Commission operates with an unprecedented coercive apparatus. It is capable of imposing severe financial penalties, such as fines up to 10,000 PLN for an unjustified absence of a party or witness at a hearing, and up to 30,000 PLN for repeated offenses. Even more drastically, the Commission can impose administrative pecuniary penalties ranging from 1,000 to 1,000,000 PLN on individuals or legal entities that persistently hinder the use of premises by tenants. Strikingly, Wipler notes that standard statutes of limitations, such as the five-year limit typically found in the Code of Administrative Procedure, do not apply to these massive financial penalties, further underscoring the Commission's exceptional and punitive status.

The author also critically examines the procedural mechanisms that heavily favor the Commission's pace over standard due process. A prime example highlighted in the text is the legal fiction of delivery regarding notifications. The Act stipulates that notifications or summonses posted in the Public Information Bulletin (BIP) are considered legally delivered after just seven days. Wipler points out the inherent flaw in this fiction, noting that ordinary citizens do not monitor such bulletins daily, making this a highly controversial departure from the standard protections offered by the Code of Administrative Procedure. Another significant deviation involves real estate valuation during the Commission's proceedings. The law mandates that the property's value must be determined based

on its state on the exact day the original reprivatization decision was issued. The author highlights the practical impossibility and potential unfairness of this rule, as it deliberately ignores decades of potential investments, renovations, or physical decay, forcing appraisers to rely heavily on archival documentation rather than the current, tangible reality of the building. Additionally, the author discusses the role of the Social Council, a nine-member advisory body appointed from non-governmental organizations. While the Commission is statutorily obligated to seek the Council's opinion before issuing a decision, Wipler correctly notes that the Commission can legally proceed and issue a ruling completely contrary to the Council's stance, rendering the Council's role largely symbolic and devoid of binding legal authority. In a move that significantly bypasses standard judicial channels, the Commission can also unilaterally order warnings to be entered into land and mortgage registers, effectively freezing the legal status of a property and disabling the warranty of public faith of these registers. Even more striking is the Commission's statutory authority to automatically suspend related proceedings before common courts, administrative courts, and even the Supreme Court upon merely initiating its own investigative process.

Moving beyond abstract statutory exegesis, the publication gains immense empirical value through its implementation of a law in action perspective, utilizing detailed case studies of specific reprivatization proceedings. The author examines high-profile cases, such as the properties at Twarda 10, Poznańska 14, and Nabelaka 9. Through these analyses, Wipler demonstrates how the abstract legal norms of the 2017 Act were operationalized to combat the deeply ingrained pathologies of the Warsaw real estate market. The case of Twarda 10 illustrates the procedural complexities of properties without sitting tenants, focusing heavily on the interpretation of spatial development plans and the refusal to establish perpetual usufruct rights due to the land's original designation for public schooling. Conversely, the case of Poznańska 14 introduces the tragic human element, detailing the first major proceedings involving sitting tenants and demonstrating the chaotic, unregulated transfer of property rights. The author documents the drastic rent increases imposed by the new private owners, effectively forcing out long-term residents who had no legal recourse under the previous system.

However, the case of Nabelaka 9 is particularly illustrative of the monograph's empirical and emotional depth. It highlights the stark contrast between the formal legality of administrative decisions and the egregious social realities they produced. This case is intrinsically tied to the tragic fate of Jolanta Brzeska, a tenant activist whose murder became a grim symbol of the entire reprivatization scandal. The author uses this empirical evidence to show how the Verification Commission

justified its aggressive interventions by citing gross contradictions with the social interest. Specifically, the Commission focused on the predatory practices of “claim buyers,” such as Marek Mossakowski, who acquired rights to multi-million zloty properties for nominal sums – sometimes as low as 500 PLN. By showcasing these extremes, the author proves that the Verification Commission was designed not merely to correct purely procedural errors, but to act as an aggressive, highly visible mechanism of historical and social retribution aimed at dismantling the reprivatization mafia.

The ultimate theoretical triumph of the reviewed work is its profound axiological synthesis, located in the final chapter. Wipler elevates the discourse from administrative dogmatics to the philosophy of law, framing the Verification Commission as the focal point of a profound clash between formal justice and material justice. Formal justice, deeply embedded in the concept of the “legal state,” demands strict adherence to procedural rules, legal certainty, and the stability of finalized administrative decisions. Under this paradigm, even flawed reprivatization decisions, once finalized, should remain untouched to maintain systemic trust and the certainty of economic transactions. Conversely, material justice, which underpins the concept of the “solidary state,” dictates that the law must serve a higher moral and social purpose. When formal legal procedures facilitate the mass eviction of vulnerable citizens and the fraudulent transfer of public wealth, the state has a moral imperative to intervene, even if it necessitates breaching the standard rules of legal stability. The author provides a highly nuanced critique, demonstrating that the legislators and the Commission explicitly prioritized material justice over formal legal certainty, treating the protection of tenants and public assets as a higher constitutional good than the stability of flawed administrative acts.

Crucially, the monograph concludes with strong *de lege ferenda* postulates. Wipler astutely points out that the Commission, despite its sweeping powers, is merely treating the symptoms of a systemic disease rather than curing it. The author observes that the true stabilization of Warsaw’s real estate market requires broader, generalized legislative action, pointing to the 2018 Act on the transformation of the right of perpetual usufruct of land developed for residential purposes into ownership. This legislative shift, which explicitly prohibits the establishment of new perpetual usufruct rights for housing from the beginning of 2019, represents the kind of systemic, forward-looking regulation that Poland lacked for decades. Wipler rightly concludes that relying on extraordinary, quasi-judicial commissions is fundamentally dangerous for the stability of business trading and property rights in the long term, advocating instead for comprehensive statutory frameworks that prevent such pathologies from occurring in the first place.

In conclusion, Przemysław Wipler's monograph is a stellar academic achievement that offers a definitive, multi-dimensional analysis of the Verification Commission. Its primary strength is its ability to seamlessly integrate a rigorous dogmatic analysis of administrative procedure with a deep understanding of historical context, empirical case studies, and legal philosophy. By maintaining a highly objective academic tone, the author successfully dissects both the egregious social wrongs of the reprivatization process and the profound systemic risks introduced by the Verification Commission. The work is a critical reflection on the limits of the rule of law when confronted with historical injustice and the inherent dangers of compromising legal certainty for the sake of social retribution. This publication is highly recommended for scholars of administrative law, constitutional theorists, and political scientists seeking a profound understanding of the delicate balance between legal certainty and social justice in modern democracies.

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Wipler P., *Komisja weryfikacyjna ds. reprivatyzacji jako nadzwyczajna instytucja wzruszająca decyzje administracyjne. Studium przypadków z lat 2017-2020*, Dom Wydawniczy ELIPSA 2025.