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The Legal Position of the National Bank of Poland as a Guardian of the Value of Money in the Light of Normative Determinants of Monetary Order

Pozycja prawna Narodowego Banku Polskiego jako strażnika wartości pieniądza w świetle normatywnych uwarunkowań ładu pieniężnego

ABSTRACT

The article concerns an issue of great significance from the point of view of contemporary challenges. The primary objective is to identify problems and legal instruments which are of fundamental importance in the perspective of the central bank's tasks concerning the protection of the value of money and the maintenance of a stable price level, as defined in the Act on the National Bank of Poland (the NBP) and in Article 227 (1) of the Polish Constitution. In this context, it is important to understand the problem of the value of money in general and to give due consideration to the legal status of the NBP in the context of building monetary order and the legal possibilities of its operation in this area. Undoubtedly, an important attribute of the NBP is its legally guaranteed independence from all state authorities and the formulation of its basic forms of action within the framework of the legal system. Fundamental to the problem identified in the title of this article is undoubtedly an understanding of the basic legal instruments used by the NBP to protect the value of money. These include in particular: the determination and implementation of monetary policy, the prevention of excessive inflation and the increase in the prices of goods and services, as well as the use of interest rates in the process of stabilizing the value of money and price formation. The question of issuing money, especially when we are dealing with money overprinting, becomes a separate problem. In

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conclusion, it should be stated that concern for monetary order is an essential element in building the foundations of economic, financial, social and legal order in the state. The work uses primarily the dogmatic method and, to a lesser extent, other methods as well.

Keywords: National Bank of Poland; guardian of the value of money; inflation; Polish Constitution; normative determinants of monetary order

INTRODUCTION

The modern formula of market economy cannot be reduced to the idea of self-organizing system, advocated by its forefathers and classics, combined with negation of the role of the state and law, intended to eliminate various threats to the functioning of the public order in the state. In the context of its formation, the monetary order and the state's concern for the value of money are undoubtedly important. They constitute a foundation and a kind of guarantee of the security of the state and citizens not only in the legal sphere but also in the economic and social spheres. The originality of the statements in this matter entails not only the interpretation of the applicable law and the search for the optimal content of the law, but also basing them on the principle of democratic state ruled by law[1] and clear axiological foundations. It was therefore very important to give the central bank a constitutional dimension while assigning it the role of guardian of the value of money. According to Article 227 (1) of the Polish Constitution,[2] the central bank of the State shall be the National Bank of Poland. It shall have the exclusive right to issue money as well as to formulate and implement monetary policy. The National Bank of Poland shall be responsible for the value of Polish currency. This is undoubtedly a reference point in the search for an optimal normative formula for monetary system. It is rightly assumed that the National Bank of Poland (the NBP) is a kind of its creator. This entails expectations that the NBP will hold an appropriate position within the framework of the state structure and appropriate intellectual and instrumental potential, appropriate to contemporary challenges. This may be facilitated by legally determined requirements regarding the independence of the NBP, the forms of establishment of governing bodies, and the qualifications of holders of functions in those bodies. The macroeconomic situation in Poland and the world is also important for the achievement of the objectives and tasks of the NBP.

[1] E. Kosieradzka, M. Zdyb, *Zasada państwa prawnego na gruncie prawa administracyjnego w kontekście współczesnych wyzwań*, "Studia Iuridica Lublinensia" 2016, vol. 25(1), pp. 77–99.

[2] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended). English translation of the Constitution at https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm (access: 10.7.2023).

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It is not my intention to solve all problems related to the status of the NBP and its tasks, but rather to analyze issues that are related to the shaping of monetary order and security, and thus the protection of the value of money. This will be related to the thesis that the NBP is undoubtedly an institution equipped with the appropriate legal instruments, allowing it to be considered as a guardian of the value of currency. However, it should be borne in mind that crucial in this context is the way in which the existing legal regulations are implemented in practice, as well as the fact that not everything depends solely on the NBP in that area. In such circumstances, it indeed matters whether the actions of other state bodies, including the legislative and executive authorities, go in line with the objectives of the central bank set out in Article 227 of the Polish Constitution. The effects of the NBP's operation may also be affected by actions of a macroeconomic nature and the international situation.

The aim of the study is to identify problems and legal instruments that are crucial in the NBP's activities in the context of its constitutionally defined responsibility for the value of Polish currency. The research objective set out in this way requires an answer to several fundamental questions:

1. What is the value of currency and why is a body, the guardian of these values in a normative sense, appointed to protect it?
2. Has the NBP's legal status been shaped in a way that allows it to fulfill its normatively defined responsibilities, and is its legally-guaranteed independence satisfactory?
3. What manifestations of dysfunctionality of monetary order are particularly dangerous for it?
4. What is the problem of inflation, price increase, uncontrolled money printing, and the statutory specification that the primary task of the NBP is to "maintain price stability" (Article 3 (1) of the NBP Act[3])?
5. Is the protection of currency the exclusive domain of the central bank?

Answering such questions is not easy and requires a novel perspective on the problem, necessary for the basic theses to be formulated. The basic research method in this publication – understandably – is the legal dogmatic method (with the auxiliary application of other methods), allowing for the extraction from the Polish Constitution and the law in force anything that is relevant from the point of view of the purpose of this study. It should be noted that the legal literature in this area is not abundant, especially when looking at this problem from the perspective of contemporary challenges. Since references to it will be made further herein, there is no need to discuss it in detail.

[3] Act of 29 August 1997 on the National Bank of Poland (consolidated text, Journal of Laws 2022, item 2025).

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MONEY AND THE VALUE OF MONEY

There has been a need for trade since the earliest times. It used to be done by exchanging one commodity for another. By its very nature, such an exchange of commodity for commodity gave rise to various difficulties connected with each estimation of the value of the goods being exchanged. Hence, the need arose to create an instrument that would become a carrier of a specific value, namely money. This does not mean that today there is no commodity-for-commodity exchange. Situations of this kind are still of great importance, e.g. in some tribes in Africa, etc.

It should be emphasized that the entire history of money was associated with the improvement of its function, recognition, transferability, and over time giving it a value not connected with the intrinsic value of the material it was made of (e.g., gold, platinum, silver, etc.), but with the denomination specified on it. It is now difficult to imagine trade based only on barter exchange.

Although money has been an important value in the functioning of societies for centuries, it would be difficult to find a definition and concept of money that would form a conceptual axiom. Associating it only with trade, payment for goods, efforts to fully determine its value in money, with its material value, etc. does not exhaust the problem of its essence, although it would be difficult to disagree with the opinion of the genius sage Aristotle – that

> all things that are exchanged must be somehow comparable. It is for this end that money has been introduced, and it becomes in a sense an intermediate. (…) If we do not need a thing now we shall have it if ever we do need it – money is as it were our surety; for it must be possible for us to get what we want by bringing the money.[4]

Copernicus added that

> money loses its value most of all through excessive abundance, (…), in this way the coinage's market value vanishes. (…) Moreover, those places which use sound money, as is well known, have (…) abundance of commodities. On the other hand, where cheap money prevails, through listlessness, lethargy, and slothful idleness the development of the fine arts as well as of the intellect is neglected, and the plentifulness of all goods is also a thing of the past.[5]

He believed that sound money was an element in the formation and strengthening of a society. Towards a similar direction went also the deliberations of St. Thomas

[4] N. Copernicus, *Monete cudende ratio – Essay on the Coinage of Money*, 1526 (translation) http://webs2.uci.umk.pl/nct/en/archives/money/4/?view=transkrypcja&lang=en (access: 28.7.2023).

[5] *Ibidem*.

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Aquinas and other prominent thinkers of Antiquity and the Middle Ages, as well as related later abundant discussions on the history of money.[6]

Undoubtedly, its universal legal definition could not be formulated along the long historical development of money, no matter what kind of money we are talking about (paper, fiat, non-cash, bank money, etc.). It is not enough to generally state that a certain currency (e.g., euro, zloty, dollar) is the basic means of payment in a given country. This does not explain complex legal problems related to, for example, the value of money, inflation, deflation and the emergence of virtual money as well. Of course, such a definition can be defined through the basic functions of money, according to which money is:[7] a) "a medium of exchange that is universally recognizable (people exchange their goods and services for money, and then use it to buy the goods and services they need). (…) Money playing the role of a medium of exchange is used in practically all activities. Employees exchange the services of the human factor, i.e. labour, for money";[8] b) "the measure of value is a commonly recognized equivalent, it allows expressing the value of goods in money. In this function, it is very important to maintain its purchasing power defined by the amount of goods that can be purchased for a unit of money";[9] c) "a store of value, it can be used to make purchases in the future. A person can store money and use it later (…) to make some transaction. The value storing function is related to the stability of money";[10] d) a means of payment used to settle obligations not related to the purchase of services and goods, these are mainly payments related to loans taken out and repaid, settlement of tax liabilities, etc.

The modern concept of money results from a long evolution at the end of which the problem of determining the value of money appeared. There is no doubt that determining the value of money today is not easy. The mere fact that we are dealing with a kind of regulator, the market, is not enough, primarily because market standards are shaped by rules that do not always correspond to national and global

[6] A. Dylewski, *Historia pieniądza*, Warszawa 2011; W. Kalwat, *Historia pieniądzem się toczy*, Warszawa 2019; J.P. Kowalkowski, *Wojna pieniądza*, Szczecin 2019; J. Kurpiewski, *Zarys historii pieniądza polskiego*, Warszawa 1988; L. von Mises, *Teoria pieniądza i kredytu*, Warszawa 1953; W. Morawski, *Zarys powszechnej historii pieniądza i bankowości*, Warszawa 2002; N. Murray, *Tajniki bankowości. Fundamenty pieniądza, bankowości depozytowej, kredytowej i centralnej*, Warszawa 2006; R. Sédillot, *Moralna i niemoralna historia pieniądza*, Warszawa 2002; A. Szelągowski, *Pieniądz i przewrót cen w Polsce XVI i XVII wieku*, Warszawa 2021; J. Walewski, *Historia pieniądza. Od barteru po kryptowaluty. Część 1*, 19.7.2019, https://comparic.pl/historia-pieniadza-od-barteru-po-kryptowaluty-czesc-1 (access: 28.7.2023); M. Brzoza-Brzezina, *Polska polityka pieniężna. Badania teoretyczne i praktyczne*, Warszawa 2011.

[7] A. Brzegowy, B. Chmielarska, A. Miraszewski, B. Wolnik, *Pieniądz*, https://mfiles.pl/pl/index.php/Pieni%C4%85dz (access: 28.7.2023).

[8] E. Mansfield, *Podstawy makroekonomii*, Warszawa 2002, p. 214.

[9] S. Owsiak, *Finanse*, Warszawa 2001, p. 128.

[10] E. Mansfield, *op. cit.*, p. 214.

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manifestations of their existence. The basic means of payment in Poland is the zloty (subdivided into 100 grosz). The value of the Polish currency and its purchasing power depends on a number of determinants. In brief, it should be assumed that "the purchasing power of money is the real, genuine value of money. It says how many goods or services at current market prices we will be able to buy for a certain sum. (…) When prices increase, the real value of money decreases".[11] The opposite situation occurs in the case of deflation, which, as a rule, is associated with price decrease (increase in the purchasing power of the zloty).

The real value of money is also subject to changes related to exchange rate differences, analysed in relation to other currencies (the US dollar, the Swiss franc, the euro or the British pound sterling). These relationships are significant also in other context than transfer payments and domestic and international exchange. It is not only about the exchange of money for commodities, but also money for money or money for various types of services and labour. It thus becomes the embodiment of the value of goods, services, labour, etc. Since it has the ability to express such diversity of values, it is also a kind of economic and legal benchmark, since it is subject to economic and normative laws that serve as a point of reference in their evaluation and in the determination of the price of goods, services and labour. Hence, it can serve as an instrument and a very important means of saving. Of course, the value of money is also significantly influenced by other factors and processes, including one or other activity of countries, related to expectations of the moment. Hence the need to establish an institution that would become the guardian of the value of money. Protecting it from its deterioration not only due to various social, legal, and economic processes, but also the inclination towards excessive money issuance. In fact, this also means protection against inept actions of the state, faulty laws and disregard for phenomena that serve monetary and financial order, especially when its activity contributes to depreciating the value of money and destabilizing the monetary system and thus also the financial system. It must be borne in mind that no money has a single and fundamental reference point for determining the parity of a particular currency today.

The concern for the legal and institutional safeguarding of monetary order and the value of money has become crucial to the functioning of monetary order. A specific call for optimal safeguards for the stabilisation of the value of money was the philosophy of money expressed by N. Copernicus, who stressed that "those countries flourish the most which have sound money, whereas those which use interior coinage decline and fall".[12] Regretfully, today we seem to have lost sight of the normative essence of the message concerning monetary and financial

[11] W. Grzywna, *Co wpływa na wartość pieniądza?*, 9.6.2022, https://www.money.pl/pieniadze/co-wplywa-na-wartosc-pieniadza-6777924802247232a.html (access: 28.7.2023).

[12] N. Copernicus, *op. cit*.

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order and the value of money, as well as the unification of the system in this area, which, one might say, would point to the need to establish security institutions. Central banks were to be such an institution. The first such bank was established in Sweden (Sveriges Riksbank, 1668), followed by England (Bank of England, 1694), Spain (Banco de España, 1782), and the United States (Bank of the United States, 1791). It should be noted that also in the Polish lands, in the Kingdom of Poland, the Bank of Poland in Warsaw was established as a central bank in 1828. The most important function of these first banks was to issue money and take care of its value.[13] Currently, the central bank in Poland is the National Bank of Poland.

THE LEGAL SYSTEMIC POSITION OF THE NBP AND ITS BODIES IN THE PERSPECTIVE OF PROTECTION OF THE MONETARY ORDER AND THE VALUE OF MONEY

1. Legal status of the NBP in the context of its concern about the value of money

Defining the nature and legal status of the NBP is not a simple question, although it is a state institution constituting a crucial element of the banking system and a kind of guardian of monetary order, which is largely stated in the literature.[14] In the Polish Constitution, the issues related to NBP are referred to in Article 227 located in Chapter X "Public finances", which regulates quite a variety of issues

[13] See *350 lat historii bankowości centralnej na świecie*, 17.12.2010, https://www.rp.pl/banki/art6892051-350-lat-historii-bankowosci-centralnej-na-swiecie (access: 28.7.2023).

[14] See E. Fojcik-Mastalska, *Narodowy Bank Polski jako centralny bank państwa*, [in:] *Prawo bankowe*, ed. E. Fojcik-Mastalska, Wrocław 2010, p. 36; E. Knosala, R. Stasikowski, *Status Narodowego Banku Polskiego w systemie organów państwa*, „Przegląd Sejmowy" 2010, no. 1, p. 63 ff.; K. Koperkiewicz-Mordel, *Narodowy Bank Polski jako bank centralny*, [in:] K. Koperkiewicz-Mordel, L. Góral, M. Karlikowska, *Polskie prawo bankowe*, Warszawa 2006, p. 34; E. Kosieradzka, *Status prawny Narodowego Banku Polskiego. Zagadnienia administracyjnoprawne*, Warszawa 2008, p. 18 ff.; eadem, *Bankowy Fundusz Gwarancyjny – podstawowa instytucja zapewnienia bezpieczeństwa finansowego i stabilności systemu bankowego w Polsce*, "Studia Iuridica Lublinensia" 2004, vol. 4, pp. 129–141; C. Kosikowski, *Pozycja Narodowego Banku Polskiego i jego organów w prawie polskim (stan obecny i postulaty na przyszłość)*, "Państwo i Prawo" 2002, no. 11, p. 15 ff.; J. Krzyżewski, *Polityka pieniężna jako instytucja prawa konstytucyjnego*, "Bank i Kredyt" 2000, no. 4, p. 8; A. Mikos-Sitek, *Ustrojowa pozycja banku centralnego w Polsce*, Warszawa 2006, p. 87 ff.; Z. Ofiarski, *Prawo bankowe*, Warszawa 2011, p. 491; I. Pyka, *Bank centralny na współczesnym rynku pieniężnym*, Warszawa 2010, p. 7 ff.; P. Sarnecki, *Opinia w sprawie statusu organów centralnego banku państwa (art. 227 Konstytucji Rzeczypospolitej Polskiej)*, "Przegląd Sejmowy" 2002, no. 5, p. 106; M. Zdyb, *Wspólnotowe i polskie publiczne prawo gospodarcze*, vol. 2: *Prawo bankowe. Obrót instrumentami finansowymi, fundusze inwestycyjne, ochrona konkurencji*, Warszawa 2008; M. Zubik, *Narodowy Bank Polski (analiza konstytucyjno-ustrojowa)*, "Państwo i Prawo" 2001, no. 6, p. 45 ff.

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related to public finances, law on public levies, the Treasury, etc. Such combination of constitutional provisions is undoubtedly justified, as the NBP, as a guardian of the value of money, has an impact on the public finance system. However, this does not lead to the determination of the legal organizational nature of the NBP.

According to the Polish Constitution, the NBP is a central bank (Article 227 (1) of the Polish Constitution), which may by its very name indicate its unique position in relation to other banks. It is therefore reasonable to define it as a bank of banks. This position is also linked to the adoption, in both the Polish Constitution (Article 227 (1)) and the NBP Act (Article 4),[15] of the principle of exclusivity with respect to the issue of money and the determination of its amount.

The key *designatum* as regards the performance of NBP tasks is the determination and implementation of monetary policy and responsibility for the value of money. The concern for the value of money is linked to the essential purpose of the NBP and the fundamental task "to maintain price stability, while supporting the economic policy". Naturally, in the conditions of market economy, the central bank has no possibility of setting prices for goods and services, but by taking care of stabilization of the monetary system and showing concern about value of money, it has a stabilizing effect not only on the prices of goods and services but also the stability and certainty of wages and salaries. It is therefore an important element of legal and economic security in this regard. In such a situation, the above-mentioned effect may be directly or indirectly contributed by other tasks as specified in Article 3 of the NBP Act, such as: 1) organizing payments; 2) managing the foreign exchange reserves; 3) conducting foreign exchange activities within the bounds stipulated by statutes; 4) providing banking services to the state budget; 5) regulating the liquidity of the banks and providing them with refinancing facilities; 6) establishing the necessary conditions for the development of the banking system; 6a) acting towards stability of the financial system in terms of the financial institution, as defined by Article 4 (4) of the Act of 5 August 2015 on prudential supervision over the financial system and crisis management in the financial system (Journal of Laws 2022, items 963, 1488); 6b) acting towards eliminating or reducing the systemic risk, as defined by Article 4 (15) of the Act of 5 August 2015 on prudential supervision over the financial system and crisis management in the financial system , etc.[16]

The above-mentioned tasks refer more to the functions of the NBP than its legal status. Undoubtedly, it would be reasonable to define the status of NBP more precisely, if only because the performance of the NBP's function involves legal measures and instruments that are attributed to specific state authorities and state institutions. The absence of appropriate instruments may prevent effective op-

[15] Act of 29 August 1997 – Banking Law (consolidated text, Journal of Laws 2021, item 2439).
[16] Article 3 of the Banking Law.

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eration. Having this in mind, it should be stated that the legislature, by granting legal personality to the NBP and formulating tasks to protect the value of money, defined them in a quite complex way. Therefore, a question arose about the legal and organizational form of the central bank in Poland. It is difficult to answer this question, for several reasons.

Firstly, the NBP decision-making bodies, i.e. the Governor, the NBP Management Board, and the Monetary Policy Council (the MPC), despite being intended as apolitical, are appointed for 6-year terms (with the possibility of only the Governor to be appointed for a second term). The Governor of the NBP is appointed by the Sejm at the request of the President of the Republic of Poland, while the MPC members are appointed by the President of the Republic of Poland, the Sejm, and the Senate, three persons each for their individual terms of office. With the exceptions set out in the law, they cannot be revoked by anyone. This is to build their independence and apolitical character as well as independence in the protection of the value of money, the issue of money and its size, as well as determining and implementing of monetary policy. This serves to build their independence and, at the same time, their accountability.

Secondly, despite the fact that the NBP and its bodies are legally responsible for the value of money and the implementation of monetary policy, the economic, welfare, and social policy of the government and parliament have a significant impact on the possibility of optimal implementation of all tasks in this area. It is worth noting here the quality of law, the problem of legal certainty and security, investment policy, money distribution, public debt, foreign loans, emergencies such as war or pandemic, etc. The effect of undesirable phenomena may be a significant increase in prices and inflation.

Thirdly, the complex nature of the objectives and tasks of the NBP and its bodies related to the protection of the value of money, and the role of a kind of guardian of these values is associated with the need to use various institutions and forms of action that are not always easy to be arranged within the existing legal system. Hence, when speaking about the legal status of NBP, it can be said that it is a hybrid institution, for several reasons:[17]

- although the NBP fulfills a number of tasks in the field of public administration, it is certainly not a public administration body. Public administration bodies by their nature do not have legal personality. This does not mean, however, that the NBP's bodies cannot perform tasks in the field of public administration with all the consequences,

[17] M. Zdyb, *Ewolucja statusu prawnego Narodowego Banku Polskiego i jego organów w latach 1989–2018*, [in:] *Z dziejów polskiej bankowości*, eds. W. Bednaruk, J. Dworas-Kulik, Lublin 2019, p.179 ff.

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- the thesis that "the central state bank is a financial body of the State, having certain powers and obligations"[18] cannot be accepted. Perhaps such a definition was appropriate for the period of the People's Republic of Poland, but currently a clear statement that the independent NBP guards the value of money and stability of the monetary system is incompatible with the above-mentioned thesis,
- the term "bank of banks" implies that the banking system is of a two-tier nature, but it is not connected, e.g. when adopting resolutions by NBP bodies regarding interest rates, management of budget reserves, etc., with a traditional hierarchical legal and organizational subordination, but with functional subordination,[19] which gives rise to legal effects in relation to banks. Like most central banks in the world, the NBP is the holder of property rights and obligations (which means that it has private-law personality within the meaning of the Civil Code, as well as public-law personality, which means that in the event of damage caused by an NBP's officer, all claims must be directed against NBP),[20]
- despite the fact that scholars in the field and publicists refer to the legal status of the NBP regarding specific organizational and legal forms (trader, enterprise, state authority, public establishment, commercial bank, etc.), it does not seem legitimate, due to the nature of each of these forms. K. Koperkiewicz-Mordel, who emphasizes that the NBP is "neither a public office nor an undertaking, nor a commercial bank, nor a budgetary establishment" shares a similar position in this matter.[21] This position is also shared by C. Kosikowski, who stresses that the NBP "is simply a central bank with all its consequences and effects, without the need to assign it to any category of entities".[22]

Referring to my previous views, I can conclude that

the National Bank of Poland is a central, state and national institution, independent of the state authorities operating under the principle of separation of powers, the most important institution in the area of banking law of the Republic of Poland, referred to as the bank of banks (the central bank), having legal personality, the key objective, task and mission of which is to ensure that the value of money is optimized and that prices remain stable, as well as the exclusive right to issue money and the obligation to determine monetary policy by carrying out the tasks provided for by the applicable law, using appropriate instruments of action, concerning the setting of interest rates, the management

[18] See H. Gronkiewicz-Waltz, *Bank centralny – od gospodarki planowej do rynkowej. Zagadnienia administracyjno-prawne*, Warszawa 1994, p. 179.

[19] Judgment of the Constitutional Tribunal of 28 June 2000, K 25/99, OTK 2000, no. 5, item 141.

[20] M. Zdyb, *Ewolucja…*, p. 78.

[21] K. Koperkiewicz-Mordel, *op. cit.*, p. 34.

[22] C. Kosikowski, *op. cit.*, p. 17 ff.

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of NBP reserves, the prevention of inflation while fully respecting its independence, the safe handling of the State budget and the Bank Guarantee Fund.[23]

The hybrid nature related to the status and activity of the NBP are reasonable primarily in the context of NBP's responsibility for the value of money in Poland and the implementation of monetary policy aimed at the stability of the monetary system.[24]

2. Normative independence of the NBP in the perspective of protection of the value of money and shaping the monetary policy

When analysing the legal status of the NBP, a prominent element of it is its independence *vis-à-vis* the organs of the state which, through their responsibilities and powers, have an impact on the shaping of monetary and thus also financial order. As a rule, attention is drawn in this context to executive authorities, whose central embodiment is primarily the government. The roles of parliament (the Sejm and the Senate) should also be borne in mind, especially when passing laws which significantly affect public finances, or which impair the value of money, increase public debt, etc. In this context, it is important to eliminate in the Budget Act and other laws those factors that may result in inflation and public debt increase. It now seems reasonable to increase or strengthen those powers of the NBP bodies that are related to the purchasing power of the zloty. Without sufficient legal instruments, the NBP may be restricted in its role as the guardian of the value of money. The Council of Ministers, when presenting its draft Budget Act, does not have to take into account the MPC's opinion on the bill. However, it must be admitted that examination of such opinions from a dozen years or so does not always provide grounds for satisfaction. Their content is not always characterized by prudence, especially when dealing with some extraordinary circumstances, and not always these extraordinary circumstances are a reasonable excuse. I follow T. Dębowska-Romanowska's view that "the monetary policy has an independent form in relation to the state financial policy pursued by the Council of Ministers".[25] This gives the NBP considerable space for action.

Considering the problem of the NBP's independence, it is reasonable to note that it is a kind of necessity, also because the activities of executive authorities are too often directed towards achieving short-term objectives, while the NBP should

[23] *Ibidem*, p. 79.

[24] M. Zdyb, *Ewolucja…*, p. 7.

[25] T. Dębowska-Romanowska, *Istota i treść władztwa finansowego – samowola finansowa (samowola podatkowa), restrykcje finansowe – zagadnienia pojęciowe*, [in:] *Konstytucja, ustrój, system finansowy państwa*, ed. T. Dębowska-Romanowska, Warszawa 1999, p. 352.

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in its actions have in mind activities that shape the timeless foundations of the monetary order. Bearing in mind the essence of the independence of the central bank, especially its tasks of protecting the value of money and shaping monetary policy and order, one can distinguish:[26] personal, financial, and functional independence.

Important from the point of view of the formation of its basic standards was the case law of the Polish Constitutional Tribunal, especially judgments: of 28 June 2000 (K 25/99),[27] of 24 November 2003 (K 26/03),[28] of 22 September 2006 (U 4/06),[29] and of 16 July 2009 (Kp 4/08).[30] It seems reasonable to point out the fact that both the Polish Constitution and the NBP Act do not explicitly formulate the principle of independence. However, it is beyond doubt that both the constitutional legislature, using in Article 227 (1) of the Polish Constitution a term implying that the NBP is a central bank, that it has the "the exclusive right of issue" and "to formulate and implement monetary policy", as well as the NBP Act confirming the constitutional indication of the central dimension of the NBP, the exclusive right of issue and the categorical imperative, according to which "the basic objective of the activity of NBP shall be to maintain price stability, while supporting the economic policy of the Government, insofar as this does not constrain the pursuit of the basic objective of NBP" – must assume the institutional independence of the NBP as a prerequisite for the task of protecting the value of money, stabilizing the monetary system and stabilizing the level of prices. In the latter case, of course, it is not about setting state-determined prices, because it is unacceptable in a market economy, but rather about stabilizing them, using interest rates, protecting the value of money, preventing excessive inflation, and applying prudent and rational rules on the issue of the zloty.

Some objections may arise from the constitutional provision that the NBP bears responsibility for the value of money, because neither the provisions of the Polish Constitution nor the NBP Act set out the detailed rules of this responsibility, nor do they indicate who, when and to what extent is to be held accountable. Article 198 of the Polish Constitution only states, quite generally, that the Governor of the NBP is to be held constitutionally liable before the Tribunal of State "for violations of the Constitution or of a statute committed by them within their office or within its scope".

From the point of view of independence of the NBP and its authorities, important provisions are those related to the appointment of specific people to the

[26] E. Kosieradzka, *Status prawny…*, pp. 61–106; W. Sokolewicz, *Niezależność NBP*, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, ed. L. Garlicki, vol. 5, Warszawa 2007, pp. 13–14; R. Sura, *Niezależność Narodowego Banku Polskiego a relacje z Parlamentem RP*, "Przegląd Sejmowy" 2021, no. 4, pp. 105–122; P. Wróbel, *Konstytucyjne gwarancje niezależności Narodowego Banku Polskiego*, "Studia Iuridica Lublinensia" 2010, vol. 14, pp. 237–254; M. Zdyb, *Ewolucja…*, pp. 85–110.

[27] OTK 2000, no. 5, item 141.

[28] OTK ZU 2003, no. 9A, item 95.

[29] OTK ZU 2006, no. 8A, item 109.

[30] OTK ZU 2009, no. 7A, item 112.

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positions of the Governor, MPC, and Management Board.[31] Although all members of these bodies are appointed by political bodies (the Governor is appointed by the Sejm upon proposal of the President of the Republic of Poland; members of the Management Board – by the President of the Republic of Poland upon proposal of the Governor of the NBP; members of the MPC – three persons each by the President of the Republic of Poland, the Sejm, and the Senate), for a 6-year individual term, i.e. once the post is vacated, a successor is appointed for their own 6-year term. Introducing the principle of extending the term of office in relation to the term of office applicable to political bodies may have an impact on depoliticizing individual elections. Regretfully, when the MPC was first elected, all its members were appointed for a 6-year term of office at the same (similar) time. A peculiar factor guaranteeing independence, at least to a certain extent, are the eligibility requirements for those who seek to hold such functions.

Bearing in mind that under Article 12 of the NBP Act, the MPC fulfills key tasks related to the value of money and the stabilization of the monetary system, it should be noted that this body, among other things, "shall set the annual monetary policy guidelines and submit them for the information of the Sejm alongside the submission of the draft Budget Act by the Council of Ministers", the size of the NBP interest rates, "the minimum reserve requirement ratio for banks", as well as "ceilings on the liabilities arising from NBP borrowings from foreign banking and financial institutions", and "the principles for open market operations". To accomplish such important tasks, relevant knowledge and qualifications are needed, not only in the field of finance (as referred to in Article 227 (5) of the Polish Constitution), but also in the field of the functioning of the capital market, stock exchange, banking, money circulation and the impact of various economic and political phenomena on the value of money or processes affecting inflation. The absence of political affiliation, and the ability to think in terms of the state as a whole, as well as the lack of certain entanglements and activities incompatible with the dignity of his office, are becoming important in this context (Article 227 (4) of the Polish Constitution). By taking the oath, a member of the MPC declares as follows: "I will act with full impartiality, pursuant to the knowledge and experience I posses with respect to monetary policy (…)".

3. General legal acts of NBP governing bodies in the area of monetary order

The basic, general acts of the NBP governing bodies include resolutions of the MPC, resolutions of the NBP Management Board, and regulations of the Governor. Their nature raises a number of doubts and objections, primarily due to the

[31] C. Kosikowski, *op. cit.*, p. 15 ff.; M. Zubik, *op. cit.*, p. 45 ff.; M. Zdyb, *Wspólnotowe i polskie…*, pp. 28–29.

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way the matters of generally applicable acts and acts of internal law (bye-laws) are regulated in the Polish Constitution. It seems, however, that in this respect, especially when it comes to secondary legislation (regulations) which are acts of universally applicable law, the legislature was largely inconsistent. Specifying that regulations may be issued only by the organs indicated in the Polish Constitution, it is not consistent as to the name of these bodies and the name of the acts adopted by them. An example here is Article 94 of the Polish Constitution, which provides for the possibility of enacting local law, including resolutions of local government units, as universally binding acts.

The legal nature of the resolutions of the NBP bodies (the Management Board and the MPC) and the statutory authorization to issue them were questioned by the President of the Supreme Audit Office, in the application to the Constitutional Tribunal, who considered them neither acts of generally applicable law nor acts of internal law. Accepting this proposal could lead to unforeseeable consequences. The idea of a closed catalogue of sources of universally binding law was generally recognized. This does not change the fact that both the scholarly opinion and judicature criticized the constitutional solutions and the manner in which this concept was implemented in the Constitution. It was emphasized that "the model of a closed system of sources of universally binding law established by the legislature was not expressed by the legislature neither in a clear nor in a uniform manner".[32] Experts see the irrationality and even, as P. Winczorek put it, the "dysfunctionality" of the existing solutions. A similar, even more far-reaching position is represented by the author hereof. Despite its imperfections, a large part of its critics do not allow the possibility of any interpretation, which would lead to its extension to, for example, acts of the NBP governing bodies concerning interest rates; the exclusive right to issue money; set the reserve requirement ratio for banks; determine and implement monetary policy, etc. In principle, the conditions for accountability for the value of money have not been defined. Therefore, the question may arise as to whether this is really about legal liability, or perhaps only about political responsibility. In this context, there is a need to precisely define the content of the right to issue money as well as to reveal the essence of the term "determination and implementation of monetary policy". Are they just declarations with no legal meaning? I think not.

The Constitutional Tribunal, examining the application of the President of the Supreme Audit Office in case K 25/99, faced a very difficult challenge, because if it had shared the position of the applicant, this would have created a very dangerous situation that could paralyze the monetary system. In such a state of affairs, it concluded that although in the case of acts of NBP bodies (resolutions, regulations) addressed to banks, there is no organizational subordination to the NBP, but none-

[32] S. Wronkowska, *Opinia w rozpatrywanej przez Trybunał Konstytucyjny sprawie K 25/99*, p. 4.

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theless there is a functional link and subordination. Therefore, acts of this type, as specified in the judgment, are acts of internal law. It was therefore concluded that the criterion of "organizational subordination" referred to in Article 93 (1), on the fulfillment of which the admissibility of enacting acts of internal law depends, should be understood more broadly than "hierarchical subordination" in the sense adopted in administrative law. Thus, the Tribunal admitted that "under the applicable law, the idea of hierarchical subordination, referring to acts of internal law, does not necessarily mean the presence of hierarchical organizational links, and these links may also be of a functional nature".[33] The adoption of such a resolution had undoubtedly a pragmatic character and was associated with the need to solve the problem which was a kind of "squaring the circle".

LEGAL INSTRUMENTS FOR THE SHAPING OF MONETARY ORDER AND THE PROTECTION OF MONEY VALUE

1. Determination and implementation of monetary policy

The determination and implementation of monetary policy is one of the most important functions of the NBP. I follow T. Dębowska-Romanowska's view that, due to the NBP's independence, the monetary policy "has an independent form in relation to the state financial policy pursued by the Council of Ministers".[34] However, the tenets of the financial and monetary order cannot be detached from systemic conditions, including the need of cooperation with the Council of Ministers, whose activity may constitute a source of NBP's activity and to some extent also the responsibility for the value of money. In view of the position taken by the Constitutional Tribunal, "it is not equated with the imperative to promote the growth of this value or to keep it at a stable level, but is commonly understood as assigning the NBP a task to pursue monetary policy in a manner conducive to a comprehensive economic development and improving the welfare of citizens".[35]

Of paramount importance for the implementation of monetary policy are the powers of the MPC, whose basic instrument in this area are NBP's interest rates. Important instruments of NBP's activity in this matter also include: deposit and loan operations, open market operations, and the system of minimum reserve. In the context of monetary policy tenets, the main parameters of monetary policy, including the level of interest rates, should be adjusted to the situation in the

[33] Judgment of the Constitutional Tribunal of 28 June 2000, K 25/99, OTK 2000, no. 5, item 141.

[34] T. Dębowska-Romanowska, *op. cit.*, p. 352.

[35] Judgment of the Constitutional Tribunal of 24 November 2003, K 26/03, OTK ZU 2003, no. 9A, item 95.

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economy so as to ensure, over a wide range of time, price stability and support for sustainable economic growth and the stability of the financial system. The NBP's monetary policy strategy should undoubtedly take into account flexibility in terms of the instruments used and market conditions.[36]

2. Excessive inflation prevention

Under the current Polish Constitution, the primary NBP's duty is to protect the value of money. Of course, the economic policy of the state (especially of its government) and its ability to shape economic order, in which rationality and prudence and predictability are linked to the idea of this order, have a significant impact on its stabilization. Looking from this perspective, the striving towards stabilization of prices is important. In this respect, it is important that both the government and the NBP are guided not only by short-term political and macroeconomic objectives. Article 3 of the NBP Act leads to the thesis that the NBP should set for itself, as the very basic assumption in the context of the responsibility for the value of money, an objective leading in the long term to the stabilization of prices "while supporting the economic policy of the government, insofar as this does not constrain the pursuit of the basic objective of NBP".

As a rule, price stability is assumed to be determined over the medium term at the level of the inflation target of 2.5%, with a possible deviation of 1% upwards or downwards. The independence of the NBP and its bodies in relation to the legislative and executive authorities is important for the weakening of inflation, as is the fact that the NBP has been endowed with money creation power (the right to issue money), the ability to manage foreign exchange reserves, and influence inflation by setting appropriate interest rates. The capability to act effectively in this area depends on the qualifications of members of the NBP's bodies and the ability to perceive the monetary order in a broad normative and economic perspective.

In the above context, it is reasonable to draw attention to the threats and dangers resulting from the growing and high inflation, as inflation growth entails such negative consequences as, firstly, the instability of the financial system. It may be accompanied by an increase in public debt, the process of printing unbacked money, which is often an element of money corruption, about which N. Copernicus wrote about 500 years ago. Secondly, the lowering of the degree of security related to belief in the Polish currency. Thirdly, the need to raise interest rates, which becomes an important means of combating it. However, this leads to an increase in the cost of bank loans, and thus reluctance to take them. Fourthly, inflation usually leads to a reduction in real wages, pensions, and other payments, even if their nominal value increases, which is

[36] Narodowy Bank Polski, *Polityka pieniężna*, https://www.nbp.pl/home.aspx?f=/polityka_pieniezna/polityka_pieniezna.html (access: 28.7.2023).

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a consequence of price increase higher than the degree of inflation. Increases in the above-mentioned payments do not necessarily mean their real growth, and they may even mean their decrease. For example, salaries of researchers have not increased nominally for a long time. And taking into account the increase in prices and inflation, they have clearly decreased. Fifthly, it should be noted that the weakening of the value of money through inflation may significantly affect exchange rates, especially with regard to currencies in countries where inflation is lower. The weakening of the Polish zloty exchange rate against other currencies has an undoubted impact on the import of foreign goods, which are paid for in the currencies of these countries. Subsequently, this is reflected in the prices of these goods in Poland. It has been accepted that inflation can be beneficial when exporting goods abroad. Such a statement may be true when the basis for payments is the Polish currency. However, quite often, the payments are also made in the currency of the country purchasing the goods, or in third country currencies that enjoy monetary authority (e.g., US dollars, Swiss francs, euros, etc.). In circumstances of monetary stabilization, with a strong position of the Polish currency, NBP's intervention aimed at the exchange rate of this currency or changes in interest rates are usually not necessary. The purpose of the NBP's exchange rate effect is to stabilize inflation in the long term around the inflation target (in Poland it is 2.5%). Sixthly, inflation is not conducive to economic growth in the long term and hinders favorable trade. From the point of view of spiraling inflation, a kind of trigger "may be the deteriorating situation of the budget, the growing deficit in trade with other countries, (…) or finally weakening the independence of the central bank and, as a result, accelerating inflation".[37]

To sum up, inflation is linked to a specific dysfunctionality of the monetary system caused by the weakening of the value of a country's currency. Inflation in Poland was 17.2%, according to September 2022 data. This means a significant weakening of the value of the Polish currency and the exchange rate of the zloty against other currencies. The reduction in inflation can be achieved by changing interest rates and using other NBP instruments. The instruments held by the central bank are not the only means to reduce inflation. The government's wise, rational, pro-governmental, and responsible financial policy is also important here. In recent times, inflationary processes have been influenced by the pandemic and the fuel, energy, and food crises caused by Russia's aggression in Ukraine, as well as past negligence in diversifying fuel and energy sources. It is now clear that not only the very actions of the NBP but also the prudent actions of the government will be crucial for tackling the phenomenon of inflation and price increases, as well as for strengthening the value of the zloty.

[37] L. Balcerowicz, Sprawozdanie z działalności Narodowego Banku Polskiego w 2005 r., Druk nr 628, 31.5.2006, https://orka.sejm.gov.pl/Druki5ka.nsf/0/25D7E4AC2EA930DAC125718100388175/$file/628.pdf (access: 28.7.2023).

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3. Interest rates and other instruments to influence the value of money

Undoubtedly, monetary policy can be used as an important instrument in shaping the monetary order and value of money through the actions of the MPC in the area of interest rates, which influence the stabilization of the value of money. In this context, the question of how they can affect inflation processes is definitely fundamental. In a wider time frame, it is important that inflation stabilization processes were at the level of 2.5% (+/–1%), thus the level of the expected inflation target "considered in the long-term horizontal trend". As a result, this means striving to stabilize interest rates (and thus of course also the currency exchange rate) at some rational level. With this in mind, the MPC performs the function of the bank of banks, at the same time shaping the price of money and its value. Therefore, interest rates are the directional, most important, and also the most often used monetary policy measure and the guardian of money. The interest rate system that has developed in central banking practice includes the following: the rediscount rate ("determines the interest rate on the rediscount credit granted by the central bank"), the Lombard rate ("Lombard credit interest rate"), the deposit rate ("which is the deposit rate offered by the central bank to commercial banks"), and the reference rate ("serves to signal the current monetary policy direction to the financial market by determining the interest rate on short-term open market operations carried out by the central bank").[38]

There is no doubt that essential for building the monetary order is the ability to see complex financial and monetary problems in a broad normative perspective, based on the relevant knowledge of the members of the MPC and other bodies. The value of money and its stability are a key element in the certainty of monetary circulation and related legal security. Such security builds the authority of the state and the confidence of citizens and other actors in the state and the law, and is thus the foundation of public order as such. It cannot be ignored that the situation in this respect in Poland and globally is of great importance here. Attention should be paid here to economic crises, financial market crashes, and the general political and economic situation in the world. Undoubtedly, the economic, financial, and legal costs of the pandemic have had quite a significant impact on the destabilization of money. It is important in such a perspective to avoid the temptation of printing so-called unbacked money.

Regardless of interest rates, important instruments for shaping monetary order include open market operations and the institution of minimum reserves. The institution of minimum reserves only appeared in the USA at the end of the Great Economic Crisis (in 1933). It is a quite peculiar instrument of an administrative-law and market nature. Hence, it could not be used during the period of Polish People's Republic. It was only introduced in Poland by the Act of 31 January 1989 on the

[38] E. Kosieradzka, *Status prawny…*, p. 254; T. Gruszecki, *Teoria pieniądza i polityka pieniężna. Rys historyczny i polityka gospodarcza*, Kraków 2004, p. 116.

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National Bank of Poland.[39] Worth following here is the position of H. Gronkiewicz-Waltz that "minimum reserves are an improved tool for regulating liquidity of banks and replace (…) the liquidity ratio, which was a direct regulator of banks' lending activity".[40] Undoubtedly, these reserves, i.e. obligatory funds to be transferred in a certain amount to the account of the central bank, perform, apart from prudential functions, a kind of function of securing depositors. Definitely, the basic minimum reserve can serve "to stabilize short-term market interest rates at a certain level (…) and to ensure the liquidity of clearances made by banks".[41]

The amount of interest rate has not always been changed in a thoughtful way. The problem looks similar with regard to reserve requirements. This is reflected in the changes that have taken place over the last 2 years. First, as a result of the pandemic and its consequences, the MPC lowered the basic rate of reserve requirement from 3.5% to 0.5%, to be increased to 2% as of 30 November 2021. In July 2022, it was as high as 3.5%. An increase in the required reserves may result in an increase in the interest rate on funds accumulated in bank accounts and an increase in the money supply. Failure to notice the problem of the increase in interest rates on funds accumulated in bank accounts, despite the increase in interest rates and the amount of required reserves, may result in weakening of the authority of banks and the NBP as persons of public trust and a loss of trust in the state and applicable law. With high inflation and huge price increases, this means the loss of value of savings. The deprivation of citizens and other entities (due to the weakness of money) of a significant part of the real value of savings stirs a sense of threat and weakens the legal security of savers. A distrust in the state, law, and money may result in various problems, including pathologies.

The shaping of the monetary order and the optimal formula of the value of money is a process in which new legal and economic instruments are emerging, aimed at eliminating adverse phenomena. They are not always accompanied by fully satisfactory regulation. Undoubtedly, one of the most important instruments for the development of monetary policy and concern for the value of money are open market operations intended to regulate money supply in Poland. E. Kosieradzka describes them in an accurate and concise manner, noting that

> open market operations consist in the purchase or sale by the central bank of securities issued by public institutions (e.g., treasury bonds, government bonds, municipal bonds, and even NBP bills and private securities [corporate bonds, other debt securities], which have been qualified for these operations by the central bank in order to increase or decrease financial liquidity on the market). The subjective scope of the operation is determined by the central bank.[42]

[39] Journal of Laws 1989, no. 4, item 22, as amended.
[40] H. Gronkiewicz-Waltz, *op. cit.*, p. 118.
[41] Narodowy Bank Polski, *Edukacja*, https://nbp.pl/edukacja (access: 10.8.2023).
[42] E. Kosieradzka, *Status prawny*..., p. 260.

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Due to the above-mentioned operations, sometimes quite complex not only in economic and financial, but also in legal terms, the state of regulations in this area is still far from ideal, despite the passage of over 30 years. As the institution is under development and with a multitude of new problems arising, it is not always remembered that this requires economic knowledge on the circulation and liquidity of money and the ability to recognize complex problems in a broad normative perspective. Therefore, still relevant are J. Massalski's remarks, according to which

> the crucial condition for pursuing open market policy is having an organized capital and money market. If there is no such market, the central bank can only buy securities, and there is no possibility to sell them. There are no open market operations in such a situation (…). An open market policy is applied in order to neutralize the movement of capital, maintain the central bank's contact with the money market.[43]

ISSUE OF CURRENCY

The issue of currency is undoubtedly an important function and at the same time the competence of the NBP (the NBP's competent body), which also involves putting into circulation and withdrawal. The exclusive right to issue money is strongly rooted in constitutional and statutory regulations. The constitutional legitimacy has been reflected in Article 227 (1) of the Polish Constitution, which is crucial for the protection of the value of money, as well as in Article 4 of the NBP Act, according to which the NBP has the exclusive right to issue cash in Poland. Keeping in mind the above-mentioned provisions, it should be noted that the issue of money is combined in the Polish Constitution with the right to define and implement monetary policy. Naturally, this right is correlated with appropriate responsibility for the value of money in the Republic of Poland (Article 227 (1) of the Polish Constitution) and – as is specified in Article 3 of the NBP Act – the obligation to stabilize prices, to the extent falling within the scope of the NBP's objective.

The implementation of the function of issuing money undoubtedly Involves the recognition that the NBP performs the function of a kind of monetary authority,[44] so that it has a significant impact not only on the value of the money itself, but also on the formation of the monetary order and indirectly also on the positive and negative consequences and effects of the issue. In the negative sphere, I am referring above all to the danger of inflation. There is no such threat when the NBP correctly identifies the supply and demand factors and hence the size of emission demand and the timing of introduction of currency into circulation. Being an entity equipped with monetary authority, the NBP controls, but also creates, using

[43] J. Massalski, *Zarys polityki otwartego rynku banków centralnych*, Warszawa 1939, p. 31.
[44] Judgment of the Constitutional Tribunal of 28 June 2000, K 25/99, OTK 2000, no. 5, item 141.

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financial instruments, the foundations for the governance of the banking system and "participates (…) in the issue of so-called central money".[45] In this respect, that situation offers the possibility for NBP to carry out macroeconomic tasks. This undoubtedly opens up the possibility of performing other important functions, from the point of view of the matter discussed herein, such as setting foreign exchange rates. Of course, it also has the possibility to sell not only domestic currency but also foreign currencies. The issue of money can be linked directly or indirectly to issues of so-called unbacked money, which are a topic for a separate study.

CONCLUSIONS

The achievement of the research objective set out in the introduction and the answer to the fundamental questions is undoubtedly a major challenge due to the not always satisfactory state of legislation and too general definition of the NBP's tasks in the NBP Act, including the questions of interest rates, money issue, and also various external situations, especially those affecting price increases and high inflation. Despite all of this, a thesis may be put forward that a legal system was formed in Poland after 1989 that provides the foundation for the banking and monetary system corresponding to the requirements of a market economy. This required a number of significant transformations. The NBP, as the bank of banks, a central bank pursuing important tasks related to the functioning of the monetary system, was undoubtedly of key importance in this respect. Undoubtedly, its basic functions are those that arise from Article 227 (1) of the Polish Constitution and Articles 3 and 4 of the NBP Act, in particular the fact that both the constitutional legislature and the regular legislature have shaped the status of the NBP in a way that makes it the guardian of the value of money. In this respect, the NBP has the legal possibility to fulfill this task by, i.a., defining and implementing monetary policy, issuing currency, and other instruments of legal influence analyzed herein. In crisis situations, problems related to the protection of the value of money may be solved using, i.a., the appropriate determination of interest rates, the prevention of excessive inflation, and the possibility of influencing price stabilization. The views of scholars in the field in this respect are diverse, hence I argue with some of them. The literature all too often exposes problems of an economic nature without recognising the potential that is inherent in legal solutions, particularly in the possibilities of their optimal interpretation.

The fulfilment of these tasks, despite NBP's independence, surely requires coordination of activities primarily with the centres of executive authority, in order to prevent the latter from neutralizing and hindering the performance of the

[45] J. Wolniak, *Finanse publiczne*, Warszawa 1999, pp. 181–182.

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NBP's tasks defined in Article 227 (1) of the Polish Constitution and in the NBP Act. The appropriate and prudent use of the possibility of issue of currency and rational influence on the money rate using the acceptable instruments for combating inflation, which also involves combating the expensive and rapid growth of the prices of goods and services, is of utmost importance here. Open market operations should be used in a balanced and well-thought-out manner; the same is with an appropriate solution to the issue of minimum reserves. The value of money has recently been affected by the pandemic and various global phenomena and the effects of the war in Ukraine, including massive increases in energy and fuel prices. Such situations require cooperation between, among others, the NBP and the government, while maintaining the independence of the central bank. It is also important to have relevant knowledge and pro-state and pro-citizen approach at the same time. This circumstance has forced me to open up to elements of new knowledge. The right approach to this problem allows for a rational response to various risks (e.g., inflation, uncontrolled price rises, money overprinting, failure to adjust social policy to the capacity of the state, underestimation of the importance of budgetary balance, etc.). There is no doubt that such a situation poses certain challenges not only for the NBP, but also for the parliament and the government. It should undoubtedly be borne in mind here that the legal solutions in force should lead to the conclusion that law is not only an art of what is good, right and just, but also prudent and rational.

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ABSTRACT

Artykuł dotyczy problematyki o dużej doniosłości z punktu widzenia współczesnych wyzwań. Celem podstawowym jest identyfikacja problemów i instrumentów prawnych, które mają podstawowe znacznie w perspektywie określonych w ustawie o Narodowym Banku Polskim (NBP) oraz w art. 227 ust. 1 Konstytucji RP jego zadań dotyczących ochrony wartości pieniądza i utrzymania stabilnego poziomu cen. Istotne w tym kontekście jest zrozumienie problemu wartości pieniądza w ogóle i właściwe podejście do statusu prawnego NBP w kontekście budowania ładu pieniężnego oraz prawnych możliwości jego działania w tym zakresie. Niewątpliwie istotnym atrybutem NBP w tym zakresie jest prawnie gwarantowana jego niezależność od wszelkich organów państwa oraz wyartykułowanie w ramach systemu prawa jego podstawowych form działania. Podstawowe znaczenie dla problemu określonego w tytule artykułu ma niewątpliwie zrozumienie w praktyce działania NBP podstawowych instrumentów prawnych w zakresie ochrony wartości pieniądza. Należy do nich w szczególności zaliczyć: ustalanie i realizację polityki pieniężnej, zapobieganie nadmiernej inflacji oraz wzrostowi cen towarów i usług, a także wykorzystanie stóp procentowych w procesie stabilizacji wartości pieniądza i kształtowania cen. Oddzielnym problemem staje się kwestia emisji pieniądza, zwłaszcza gdy mamy do czynienia z jego dodrukowywaniem. W konkluzji należałoby stwierdzi, że troska o ład pieniężny jest kluczowym elementem budowania podstaw ładu gospodarczego, finanso-

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wego, socjalnego i prawnego w państwie. Chociaż artykuł koncentruje się i opiera na prawie polskim, to jednak posiada również wartość poznawczą ujmowaną w perspektywie ponadnarodowej. W pracy zastosowano przede wszystkim metodę dogmatyczną, a w mniejszym zakresie także inne metody.

Słowa kluczowe: Narodowy Bank Polski; strażnik wartości pieniądza; inflacja; Konstytucja RP; normatywne uwarunkowania ładu pieniężnego

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