



The Flag and the Anthem of the Republic of Poland after 1989 in Historical Perspective¹

(Excerpts)

Each state uses at least one flag as its distinguishing mark. Frequently, two flags: national and official, are used simultaneously. The national flag is used commonly, whilst the official flag with the coat of arms in the middle is used only by state offices indicated in special regulations².

Problems connected with the national flag are strictly associated with the issue of the coat of arms. Colors presented on the flag correspond with the coloring of the coat of arms. The Polish flag combines the whiteness of the eagle and the redness of the shield. Historical Polish state banners, used between the XII and the XVIII century, usually presented a white eagle on the red field. The dark redness of the field, obtained during fabric dyeing, referred to as the crimson or the carmine, was typical for the Polish coat of arms and banners for a long time³.

Flag of the People's Republic of Poland

First legal act adopted in Poland after the II World War which regulated national symbols was The Constitution of the People's Republic of Poland of 22nd July, 1952.⁴ It was also the first Polish constitution which has ever regulated the abovementioned issue. Article 89 (2) of the Constitution Chapter IX – "The Emblem, Colors and Capital of the People's Republic of Poland", stipulated that "The colors of the People's Republic of Poland shall be white and red. Details concerning the colors shall be specified by other legal acts."⁵

Legal act specifying the constitutional regulations was the State Council's decree on the Emblem and Colors of the People's Republic of Poland and the State Seals of the 7th December 1955⁶. According to the Article 2 of the decree "The colors of Poland are white and red, in two horizontal, parallel stripes of equal width and length, of which the top one is white and the bottom one is red, corresponding to a cinnabar color (Illustration 10). The Article 3(1) stipulated that the state flag is a rectangular piece of cloth in the national colors: white and red. In Article 3(2), the Constitution incorrectly determined proportions of the flag, introducing the proportion of 3:8 which extended the flag's length in relation to the former patterns. However, the proportion was restored to 5:8, i.e. traditionally used proportions of the national and state flags, less than one year later⁷. The decree of 1955 did

not restricted the usage of the national flag, but in the Article 13 it introduced penal responsibility for illegal usage of the coat of arms, the flag with the coat of arms and special flags.

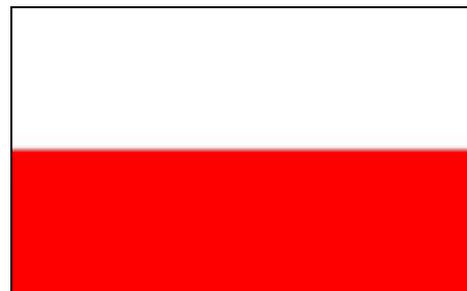


Illustration 10. Flag of the People's Republic of Poland.

Subsequent alterations of the Polish national symbols took place in 1980 when an act regulating the national symbols issue in a complex way was passed. Regulations of The Emblem, Colors and Anthem of the People's Republic of Poland Act of 31st January 1980 were preceded by a preamble which defined the meaning of the Polish symbols for the entire nation in a momentous way⁸. Article 4 of the Act almost literally repeated phrases of the decree of 1955 which referred to the colors and the state flag. Article 15 of the Act ordered to use the national symbols with honor and respect whilst the conditions of the usage were to be determined by other legal acts. Displaying the white and red flag (e.g. on the 1st of May), alongside the red flag, was recognized by the Act as a citizen's duty (Illustration 11).



The Act of 1980 altered the graphical pattern of the flag, included in the 2nd attachment to the Act. A new, darker than a cinnabar color, hue of red was introduced. The attachment provided precise, technical coordinates for colors, white and red, instead of a former verbal prescription. "Trichromatic coordinates of the x and y colors, their component Y and tolerated color ΔE differences in the CIE 1976 (L* u* v*) color space, established according to CIELUV with the Illuminant C and measuring geometry d/0." Table attached to the Act indicated that coordinates x,y, Y and ΔE for the white

¹ Originally published in *International Journal of Public Administration in Central and Eastern Europe*. No. 2010/1. p. 67-77.

² A. Znamierowski, *Insignia, symbole i herby polskie. Kompendium*, Warszawa 2003, p. 46.

³ *Ibidem*, p. 158.

⁴ Dz. U. z 1952 r. nr 33 poz. 232.

⁵ Szerzej P. Sarnecki, *Artykuł 28, [in:] Konstytucja Rzeczypospolitej Polskiej. Komentarz tom V*, red. nauk. L. Garlicki, Warszawa 2007, p. 1.

⁶ Dz. U. z 1955 r. nr 47 poz. 314.

⁷ Rozporządzenie Prezesa Rady Ministrów z dnia 20 marca 1956 r. o sprostowaniu błędów w dekreście z dnia 7 grudnia 1955 r. o godle i barwach

Polskiej Rzeczypospolitej Ludowej oraz o pieczęciach państwowych, Dz. U. z 1956 r. nr 7 poz. 43.

⁸ Dz. U. z 1980 r. nr 7 poz. 18.

color are adequately: 0,315, 0,320, 82,0 i 4,0, and for the red color 0,570, 0,305, 16,0 i 8,0⁹. It is worth mentioning that since 1980 the issue of the red color discoloration has not been subject to any discussion. It can be hoped that the dispute over colors of the state flag has been definitely terminated.

Alterations of the Polish flag after 1989

Revision of the Constitution of the People's Republic in Poland that took place on the December 29th 1989¹⁰ did not affect the regulations on the state colors and the Polish flag. It was limited to the modification of the state's name. The Act introduced numerous temporary periods for using the national symbols, including flags consistent with the old pattern. The longest temporary period applied to the military symbols which were to be altered until the 31st December 1997.¹¹

Detailed regulations concerning the colors and the flag of Poland were included in The Emblem, Colors and Anthem of The Republic of Poland Act¹². Similarly as in case of the Constitution, no new legal act was adopted but slight amendments were introduced to legal acts which were in force. Structural transformation that took place in 1989 did not lead to changes of colors or the pattern of the state flag. Modifications were introduced to the flag with the coat of arms as the new pattern included the coat of arms consistent with the of pattern of 1999 (attachment no. 3 to the Act). Similar alterations affected the military flags and other special flags¹³.

The modifications of the binding legal regulations unfortunately left in force those norms which referred to the colors of white and red, the white and red flag and the white and red flag with the coat of arms as to the state colors and flags (Illustrations 13, 14). Thus, the terms 'national colors' and 'national flag' were not restored. At the same time, the usage of the white and red flag with the coat of arms was strictly regimented so that the right to use it was not even granted to the President of the Republic of Poland. It was an unusual situation as in most of the states there is only one flag used by the citizens, offices and institutions or a national flag for the citizens and the institutions and a flag with a coat of arms for state offices.¹⁴



Illustration 13. Current flag of the Republic of Poland with a coat of arms.

⁹ Ibidem, załącznik nr 2.

¹⁰ Ustawa z dnia 29 grudnia 1989 r. o zmianie Konstytucji Polskiej Rzeczypospolitej Ludowej, Dz. U. 1989 nr 75 poz. 444.

¹¹ Ibidem, art. 4 ust. 3.

¹² Art. 43 ust. 1 Ustawy o godle, barwach i hymnie Polskiej Rzeczypospolitej Ludowej z dnia 31 stycznia 1980 r. Dz. U. z 1980 nr 7 poz. 18.

¹³ A. Znamierowski, *Insignia, symbole i herby polskie. Kompendium*, Warszawa 2003, p. 162-183.

¹⁴ A. Znamierowski, *op. cit.*, p. 161-162.

The flag issue was regulated in the new Constitution of the Republic of Poland of the 2nd April 1997. Article 2 of the Constitution stipulated that "The colors of the Republic of Poland are white and red".¹⁵ The regulations of the new Constitution are the same as the regulations of 1989. Details concerning the colors are left to the statutes¹⁶.

The Emblem, Colors and Anthem of the Republic of Poland and State Seals Act of 31st January 1980 is still in force. It was amended many times. Between 1990 and 2009 8 amendments to the Act were introduced, modifying the list of the subjects entitled to the usage of the state symbols and the conditions of the usage. One of the modifications, which can be recognized as an attempt to restore the national colors to the citizens, was introduced in 2004. Conditions of the flag's usage was modified at the time. Article 5 was supplemented with an additional paragraph which stipulated that "Everyone has the right to use the colors if the Republic of Poland, especially in order to emphasize ceremonies, holidays and other events (...)"¹⁷ Moreover, Article 6a, which established the Polish Flag Day (2nd May), was added.



Illustration 14. Current flag of the Republic of Poland.

The above alterations were well accepted by the citizens, though there is a long way for the use of the white and red flag during national holidays to become common. The introduced modifications were long demanded by the Polish constitutional law doctrine. One of the doctrine's representatives, P. Sarnecki, wrote: "The fact that the Constitution regulates the state symbols cannot lead to a conclusion that the usage of the symbols is limited only to public subjects or even to organs of the Polish authorities. Quite the opposite – the usage of the symbols is available to all the citizens who created the Republic of Poland in its constitutional shape and whose common good is the Republic of Poland. One can even consider if there is a sort of a constitutional citizen right."¹⁸

The Anthem

The anthem of the Republic of Poland is a completely different issue. There were numerous songs which were acknowledged as anthems throughout the Polish history. The oldest song, "Gaude, mater Polonia" ("Rejoice, Mother Poland"), which dates back to the XIIIth century, was the anthem of the Piast dynasty (Table 1)¹⁹. It was written in 1231 by a Polish Dominican, poet and

¹⁵ Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. Dz. U. z 1997 r. nr 78 poz. 483.

¹⁶ Ibidem, art. 28 ust. 5.

¹⁷ Ustawa z dnia 20 lutego 2004 r. o zmianie ustawy o godle, barwach i hymnie Rzeczypospolitej Polskiej, Dz. U. z 2004 r. nr 49 poz. 467.

¹⁸ P. Sarnecki, *Artykuł 28*, *op. cit.*, p. 2.

¹⁹ W. Panek, *Hymny polskie*, Poznań 1996, p. 5.

composer, Wincenty z Kielczy (de Kielcza)²⁰. Nowadays, this song is performed during special occasions, and almost always accompanies academic ceremonies.

The first knight's anthem in Poland was „Bogurodzica” („Mother of God”), written in 1407 (Table 2). It is the oldest written and performed in Polish song acknowledged as an anthem in Poland. In the XVth century the song was used as knight's reveille chanted on battlefields. According to historical records, „Bogurodzica” was chanted by the Polish royal knights before the battle of Grunwald in 1410²¹.

Most of the hymnic songs, including the current anthem of Poland „Mazurek Dąbrowskiego” („Dąbrowski's Mazurka”), originated in the years 1795 – 1918, i.e. when Poland did not exist. The mazurka is also known as „The Song of the Polish Legions in Italy” and by its incipit „Poland Is Not Yet Lost” or „Poland Has Not Yet Perished”.

The anthem in the Second Republic of Poland

Despite its vast popularity, the „Dąbrowski's Mazurka” was not acknowledged as a Polish anthem. When Poland re-emerged as an independent nation after the First World War in 1918, the second song competing for the status of an official national anthem was „Boże coś Polskę” („God Save Poland”)²². The conservatives preferred the abovementioned song due to the fact that it was a church song which imitated the English hymn „God save the King”. „Boże coś Polskę” was known among other Slavic nations, but not as well as the „Dąbrowski's Mazurka”. It was translated into Hungarian, German and Italian²³.

During the first independent years, the question of a national anthem was left without an answer. The Constitution adopted in 1921 did not regulate the issue of national symbols. However, after it had been passed, the song „Boże coś Polskę”²⁴ was chanted. On the other hand, official Polish delegations were welcomed at that time with the sounds of songs such as: „Rota”, „Warszawianka”, „Mazurek Dąbrowskiego” lub „Boże coś Polskę”.²⁵ It was an unprecedented situation.

The acknowledgement of the „Dąbrowski's Mazurka” as a national anthem was contributed with numerous legal acts. The Minister of The Military Affairs with the order of 22nd March 1921 commanded to give military honors during the performance of the Mazurka and the anthems of the Allied, leveling them in terms of military ceremonial²⁶. The „Dąbrowski's Mazurka” was first described as the national anthem in the order of the Minister of The Military Affairs of the 2nd November 1921 which regulated the issue of the national anthem's performance during military ceremonies.²⁷ The Ministry of Religious Beliefs and Public Enlightenment issued a

circular of 26th February 1927 on the national anthem valid during school occasions which declared the Mazurka as the only anthem of Poland. The 26th February 1927 is considered to be the official date of acknowledging the „Dąbrowski's Mazurka” as the anthem of the Republic of Poland²⁸. It can be surprising that the issue of an anthem was left to legal acts of such low level in the hierarchy, especially due to the fact that the stylization of the coat of arms or the colors of the flag were highly regarded at the same time. It is said that the anthem's issue was treated as the element of the customary law²⁹. The abovementioned thesis is confirmed by the fact that the anthem was not regulated in legal acts of higher rank until 1939³⁰.

The anthem in the People's Republic of Poland

Since the beginning of the People's Republic of Poland, the state used the national symbols introduced in the Second Republic of Poland. However, the symbols were either gradually modified or replaced. In 1946, the leading state and party activists appealed for a new national anthem which would reflect the spirit of the new age. The appeal was badly received by the artistic circles. Finally, the „Dąbrowski's Mazurka” remained the Polish state anthem because of Józef Stalin who did not support the then President's (Bolesław Bierut) attempts to create a new anthem³¹.

The indecisive Polish parliament did not adopt any decision regarding the anthem, which led to a situation similar to the one from the 20's. The issue of an anthem was regulated for the first time since 1945 in a legal act of a low rank. On the 20th April 1948, the Ministry of Education introduced the „Dąbrowski's Mazurka” as an anthem for the use by the studying youth³². The Constitution of the People's Republic of Poland of the 22nd July 1952 did not regulate the issue of an anthem which was not surprising as its prototype – the Constitution of the Soviet Union of 1936 – also ignored the issue. Many representatives of the constitutional law doctrine agreed on the uselessness of such regulations arguing that the issue of a national anthem was an element of customary law³³.

The increase of the rank of a legal act regulating the issue of a national anthem occurred in the 70's due to the State Council's resolution on the conditions of the national celebrations and the local state ceremonies of the 8th March 1973. The state anthem was regulated in the Constitution of 1976. It was a result of a thorough amendment of the Constitution of the People's Republic of Poland of the 22nd July 1952³⁴. It can be considered paradoxical as the most controversial amendment in the history of the People's Republic of Poland (introducing – among other numerous regulations – the phrases about the communist party having a leading role and about friendship and cooperation with the Soviet Union) simultaneously raised to constitutional the rank of legal

²⁰ Ibidem, p. 11.

²¹ Ibidem, p. 16-17.

²² A. Rosner, *Prawnoustrojowe symbole Rzeczypospolitej szlacheckiej na ziemiach polskich w początkach XIX wieku*, Studia Iuridica XLII/2003, p. 195.

²³ W. Panek, *Hymny...*, op. cit. p. 35-38.

²⁴ M. Kijowski, *Polski hymn państwowy jako zagadnienie konstytucyjnoprawne*, *Ius et Administratio*, 2004/3, p. 122.

²⁵ W. Panek, *Hymny...*, op. cit., p. 31.

²⁶ M. Kijowski, *Polski hymn...*, op. cit. p. 123.

²⁷ Ibidem.

²⁸ M. Kijowski, *Polski hymn...*, op. cit. p.124.

²⁹ D. Górecki, *Symbole i stolica państwa* [in:] *Polskie prawo konstytucyjne*, red. D. Górecki, Warszawa 2008, p. 53.

³⁰ M. Kijowski, *Polski hymn...*, op. cit., p. 12-13.

³¹ Ibidem, p. 127.

³² W. Panek, *Hymny...*, op. cit. p. 32.

³³ M. Kijowski, *Polski hymn...*, op. cit. p. 131.

³⁴ Ustawa z dnia 10 lutego 1976 r. o zmianie Konstytucji Polskiej Rzeczypospolitej Ludowej, Dz. U. z 1976 r. nr 5 poz. 29.

regulations regarding a national anthem. Article 89 was supplemented with paragraph 3 which acknowledged the "Dabrowski's Mazurka" as the anthem of Poland³⁵ which made it subjected to a special protection. In 1976, directly after constitutional amendment, a consolidated text was announced. It changed the numeration of several articles and moved the regulations of the anthem to Article 103(3)³⁶.

Detailed regulations on the national and state symbols were included in the Act on The Emblem, Colors and Anthem of the People's Republic of Poland of the 31st January, 1980³⁷. The act cleared up the regulated issues. It should also be appreciated that the rank of legal regulations regarding state symbols was raised to a statutory level. Article 12 of the Act repeated after the Constitution that the "Dabrowski's Mazurka" is the state anthem, settled the anthem's lyrics (attachment no. 4) and melody (attachment no. 5) and entrusted the supervision over the musical interpretation to the Minister of Culture and Art. Article 13 of the Act determined the circumstances under which the anthem were to be performed and Article 14 introduced exact rules of behavior during the performance of the anthem.

The anthem in the Republic of Poland, 1989

The constitutional revision of the 30th December 1989, as well as the amendments introduced to the Act on the Emblem, Colors and Anthem of 1980, did not affect the state anthem. The Act of 1980 was subjected to numerous amendments after 1989. However, all the introduced modifications did not bring significant changes in terms of the state anthem. The Constitution of the Republic of Poland of 1997, which regulates the anthem and other state symbols in Article 28, confirmed legal stabilization of the issue³⁸. Article 28(3) is concurrent with previous constitutional regulations.

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³⁵ Ibidem, Art. 1 pkt. 46.

³⁶ Obwieszczenie Przewodniczącego Rady Państwa z dnia 16 lutego 1976 r. w sprawie ogłoszenia jednolitego tekstu Konstytucji Polskiej Rzeczypospolitej Ludowej uchwalonej przez Sejm Ustawodawczy w dniu 22 lipca 1952 r., Dz. U. z 1976 r. nr 7 poz. 36.

³⁷ Dz. U. z 1980 r. nr 7 poz. 18.

³⁸ Dz. U. z 1997 r. nr 78 poz. 483.