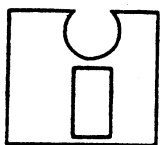


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EMPLOYED INVENTORS - AN IMPORTANT ASSET OF ENTERPRISES AND
NATIONS: HOW TO PROTECT THEIR RIGHTS AND INTERESTS

*Document prepared by Mr. Wlasyław Roman Pawlak, Representative of the
Association of Polish Inventors and Rationalizers (SPWiR), and
Division Director - Technology Agency (ATT),
Warsaw, Poland*

FOREWORD

In the foreword we would like express our conviction that the legal international and national regulations regarding inventive and innovative activities are very useful and even necessary in consideration of the protection of employed inventors and innovators rights and interests. On what basis is that conviction? Why do we think so? It is obvious that the so called non-material assets/properties have very high value, mostly much higher than that of material assets. Not only do the inventions, patents, innovations belong to them but also all forms of execution or potential implementation belong (realization, presentation, application, use, etc.). Poland is in a transition period, economically and politically, although formally and officially the market economy and democratic principles of governance have been introduced. It means, as well, the openness to all international relationships, incl. the inflow of the foreign capital and development of proper entrepreneurship.

Employed inventors and innovators (or rationalizers like we often call them in Poland) can be treated in very different ways, very often depending on the personal attitudes of the owner at the company, top management or existing company culture (what has not always positive aspect). In many situations the employed inventors and innovators are not aware, that they have any rights. But appropriate laws and correct legal regulations oblige officially their application and finally facilitate the beneficial performance with advantageous results for all parts involved (not only in financial sense). It is positive for companies too. Certain practical observations and experiences on that field, with further corresponding indications, are presented in this document.

A. RATIONALIZATION AND INNOVATIVENESS IN POLISH CONDITIONS

1. The ownership changes in Poland (national and international privatization of domestic enterprises) influenced significantly registered innovative activity in the country. It practically means that the radical decrease of the number of patents was caused by 3 main reasons:

- (a) lack of interest in registration of inventions, specially in small and medium sized companies (SMEs), joined with the orientation of their proprietor to rapid and high profitability, which included dominantly many trade and service activities;
- (b) trust in proper solutions by foreign (international) enterprises, coming into the Polish economy, and lack of motivating encouragement for Polish employees with innovative ideas (specially in the first half of 1990);
- (c) increase of patent fees in Poland, economic crisis at the beginning of 1990s, lack of rational benefits for innovators, without implementation possibilities giving return of possible investments in reasonable terms and sizes.

2. Until today, the number of registered patents in Poland, in comparison to developed countries, per million inhabitants, is approx. 5 - 7 times less, [2,3,5]. But from 1993, the general number of patents applications has been slowly increasing, 10% - 15% yearly, with a relatively stable proportion of registered patents (ca. 12% - 20% from applications number).

3. From this point of view, the trend is positive, but the more profound analysis demonstrates continuously the same and very big problem of their industrial or commercial

implementation[3,5]. Many Polish patents are filed by university or scientific units without intention of their use! They are treated as part of the scientific and technological output of researchers. Therefore, the practical transfer of new technologies to industry is too deficient. It confirms the necessity to apply and to continue the “*push model*”, which becomes the essence of activity for countries in the early stages of development. And to them actual Poland belongs (at least economically, possessing a huge intellectual potential ready to practical use and progressive implementation).

4. From another point of view, we observe a very rapid development of innovativeness in private, bigger firms or renowned corporations located in Poland. They have normally owned corporate culture which in every case includes the continuous improvement process based on innovative creativity of employees. The power of human resources in that aspect is not limited, but needs only very positive management and stimulating leadership[4]. Such an approach is an integral part of competitive management systems like *TQM* (Total Quality Management) or national and international *Quality Awards*, incl. Polish or European versions based on *EFQM - Excellence Model* (European Foundation for Quality Management), *Japanese Deming - Prize*, *American Baldrige - Prize* or others similar prizes and distinctions.

5. We can join to them, as well, the standardized management systems proposed by *ISO norms* (ISO - International Standardization Organization) in sets denominated as *ISO 9000* (production), *ISO 14000* (ecology), *ISO 18000* (safety+healthy) or in new drafts determined as *ISO 9001* or *4 : 2000*, and in further proposals. In all mentioned norms, innovative and corrective activities are included. The certification of those systems influences internal performances of firms, increasing their innovative awareness as well, specially small and medium sized enterprises (SME's). The same effect is observed in Poland but the progress is not satisfactory (only ca. 2000 firms certified) due to the real costs involved and the time needed.

6. Therefore, it is possible to differentiate 21 levels, in consideration of innovativeness:

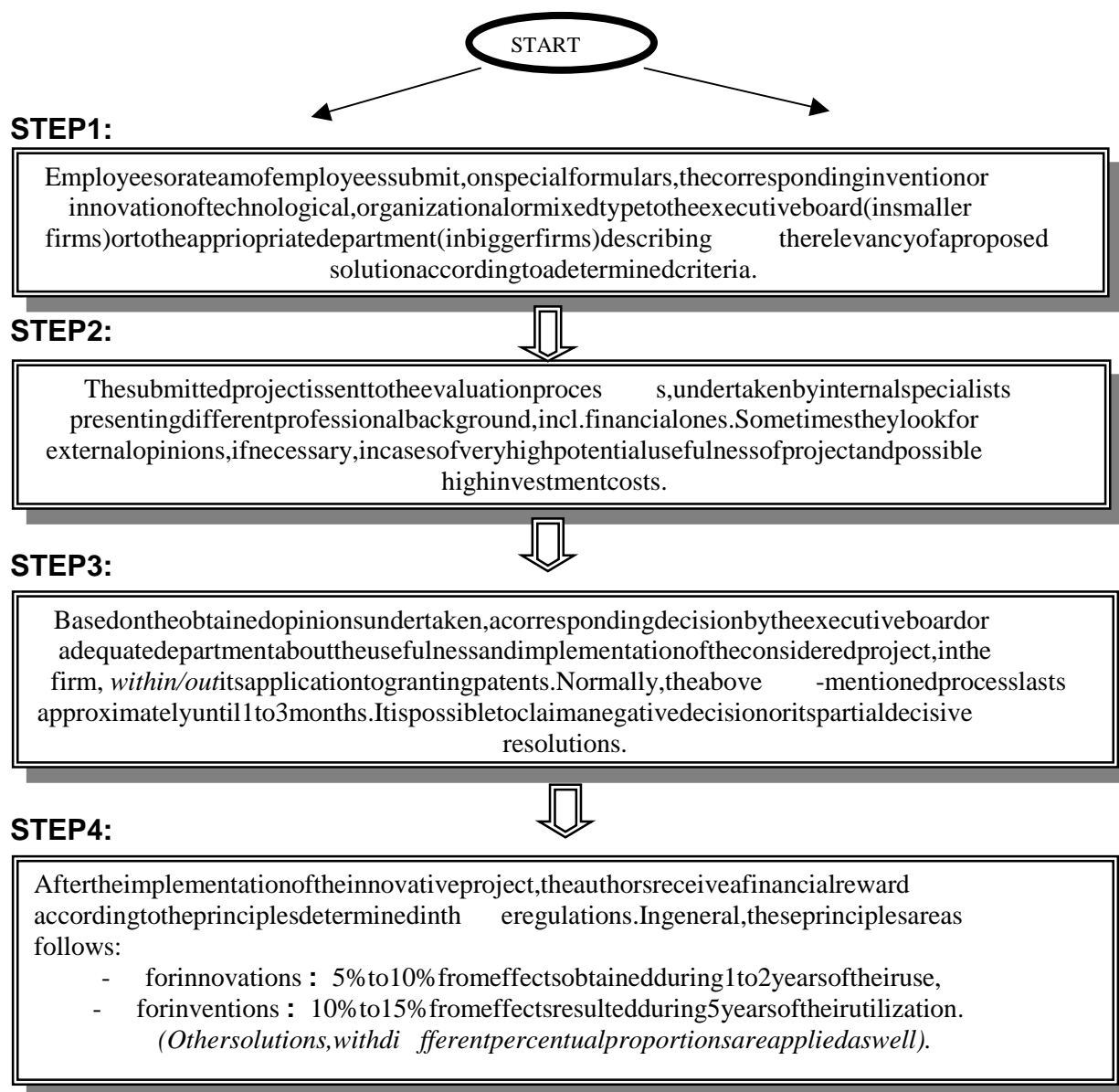
- (a) innovations in the form of improvement activities;
- (b) inventions which can be treated independently.

7. Both have practical applications in the Polish conditions. They are regulated by internal rules, very often detailed and descriptive or generally determined in companies, depending on the attitude of the top management. On the other hand they exist in the Polish official law for authors adopted by Parliament in 1993, having fundamental application, first of all, to the state-owned enterprises (there are yet many of them in Poland, mostly in so called commercialization form, being property of the Treasury of the State) with utilization possibilities to other type of companies or approaches independent from ownership consideration.

8. Recently this year, the draft of the new official regulations was presented, called the “*Law of Industrial Property*”, which was in public discussion, including the involvement of the Polish SPWiR[3]. In the spring of this year, it was rapidly accepted by the First Chamber of Parliament, considering as well the necessity of its adaptation to the European Union regulations, because we hope to become an ordinary EU member in the future. But the present problems and criticisms on it will influence the results during a significant period of its functioning.

B. GENERAL FLOW - CHART OF INNOVATIONS IN POLISH ORGANIZATIONS

9. Presently, the 1993 Law on Inventiveness is still in force and is applied mostly in the non-private sector of the Polish economy. But private firms use it as well, including its indications if they haven't other rules or internal solutions (procedures). And many regulative details are specifically introduced by concrete companies independently from their ownership status. More practically, it is possible to distinguish 4 general steps of performance, [3].



10. In many present day situations, non-financial motivators come into practice upon the influence of foreign exposure customs, habits or approaches that are applied additionally or autonomously (i.e. special ceremonies with diplomas, photographic presentations on information boards or in internal periodicals, distinctions said publicly during common meetings, company president congratulations handed in prepared events, etc).

11. In some private companies the procedure of adapting and implementing innovations and inventions has been simplified to a great extent: the head is allowed to decide directly if any new idea can be profitably implemented and financially supported, mostly without any formal assessment or documented evidence. Meanwhile, this can negatively impact innovators' rights and interests.

C. CRITICAL OBSERVATIONS ON THE USE OF FINANCIAL INNOVATIVE REGULATIONS

12. In the beginning of this year, Poland was presented with the official report prepared by the State control institution NIK - Najwyższa Izba Kontroli (The Highest Chamber of Inspection) and the report is entitled: "About the inspection results on Effectivity in View of Implementation of Innovative Projects in Selected Economic Entities". Generally, 24 organizations were checked along with 19 commercialized companies and 5 state-owned firms. Among them were: 4 power station plants, 3 energy distribution works, 4 chemical and 4 machinery factories, 2 oil refinery companies, 2 cotton spinning factories, 2 steel works, 1 coal mine and 1 metallurgic division in copper holding [1,2]. It looks surprising, but in the considered period (over 1 year), from all the entities that were submitted (1,555 new innovative projects), 1,027 were implemented (indirect contribution was 66%). Additionally, some awaited 3,193 projects were submitted earlier for the evaluation process (positive or negative results). Based on the calculations presented, the result was that 1 currency unit of innovative investment gave over 4 currency units of net profit. Conclusion – very high profitability !!

13. The profits from the innovative activity in industrial organizations are hence unquestionable. But some critical observations were also detected in these organizations in connection with the activity of employed inventors:

- (a) very bureaucratic and slow performance, especially when the innovators are on lower positions, incl. workers;
- (b) unethical approaches of managers to subordinated employees, presenting independently proper innovative projects;
- (c) in some cases, persons were added, mainly from the senior and top management level, to the individuals or teams proposing inventive or innovative projects;
- (d) unproportional division of financial benefits, according to managerial position and not to intellectual contribution to projects;
- (e) general disregard of people from low levels, who, basically, are without higher education, but have contributed different improvement ideas;
- (f) very long consideration of some innovative projects, when the original inventor disagrees to add other persons as co-inventors or to increase (falsify) calculations of possible benefits (that add to personal financial rewards);
- (g) very deficient so-called "rationalization duty departments" with internal patent agents, working often without commitment or even professional competence and willingness.

14. It is necessary to say that the report presented very concrete situations. Here they have been collected, grouped and generalized. For the correct balance, the report demonstrated *mostly the positive approaches and results*, which is very natural and not so interesting for the goals of the presented elaboration.

D. PROPOSALS OF NEW LEGAL REGULATIONS IN POLAND

15. In the public discussion, including again the involvement of the SPWiR, is the draft of New "Inventive Law", which should replace the law of 1993, which is presently in force. This "Inventive Law" project includes Article No. 7 with 3 explanative points, which are very controversial for non-innovative environments. They use, as well, the concept of "rationalization project", which is profoundly understood and settled in Polish industrial reality. Fortunately, it was adopted by both chambers of parliament recently. All the points presented were very generalized in context, giving many open possibilities for entrepreneurs in the formulation of proper regulations. Practically, that Article indicates the correct performance for all small and medium sized enterprises (SMEs) [3], it also has the corresponding significance for national SME's, promoting internal innovativeness in them. This is constantly very necessary in Polish conditions.

16. These observations should serve for reflexive consideration in view of the conditions of every potential organization or even country. The average level of proper awareness or mentality in innovative aspects of economic development is a starting point for further, quicker or slower progress. The later modification or adaptation is always possible, but often it is not so much needed in consideration of the changes in mentality realized during such a process.

17. The freshly introduced, but not yet officially accepted, "Law of Industrial Property" in Poland, demonstrates the necessity of administrative interventions with an aim to formulate best practices for the awarding of employed inventors. Due to the different experiences from the past, such practices were not automatically formulated in the appropriate conditions nor in new economic competitive environments in Poland. Probably the preparation of "Guidelines for Inventive and Innovative Performance" would be very useful at the present time and for the close future [3].

18. The participation and cooperation of SPWiR in that approach would be accepted very easily by inventive environments, but the discussion about it is continuously lasting without a final decision. The lack of rapid solutions, oriented to growth of effectiveness in the national economy, in consideration of its innovative progress, is sometimes very tiring and even painful sometimes. It is advantageous to say it directly, even in this place, for better internal and external understanding and possible acceleration of posterior actions, in consideration of the transmission of those experiences to other potential users.

CONCLUSIONS AND INDICATIONS FOR THE FUTURE

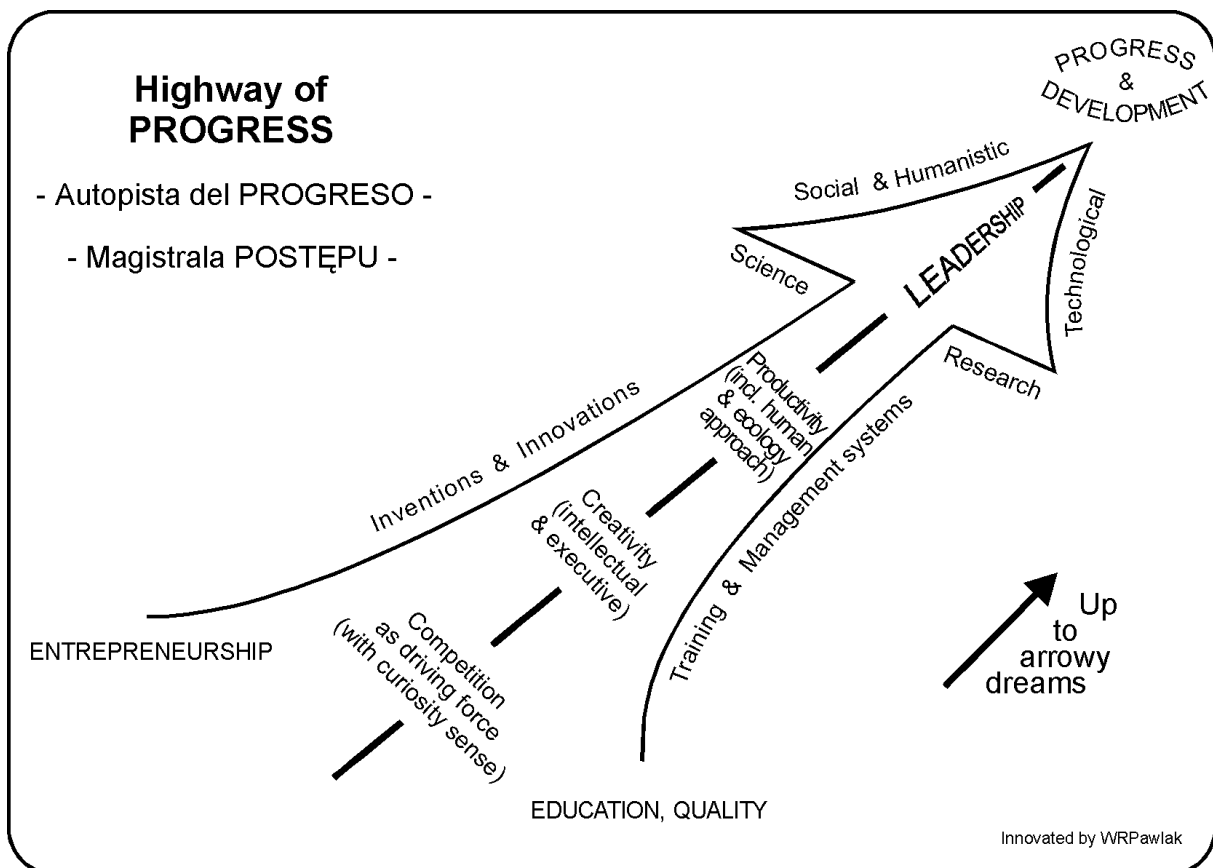
19. Creativity and innovativeness are the core of continuous improvement, higher quality, growth of productivity and increase of competitiveness. In the same form of thinking, they are the crucial parts of entrepreneurship, decreasing significantly all kinds of unemployment through the establishment of different kinds of new firms, including the spin-off types. They are mostly generated by researchers or inventors from R&D environments. As well, their social impact is very important. Thus, the innovative activities influence significantly the

growth of competitiveness between manufacturing companies increasing the selling processes at the market, resulting finally in a substantial reduction of local and/or regional unemployment.

20. In many occasions, the social effect is omitted or not considered due to a natural human dream about fantastic invention, intended to overlook the huge jump in development of humanity, solving in one instance all preoccupations and problems of people. But this is not possible. Magic, unlimited skills exist only in legends or fables of all nations. They present the obvious and natural evidence of such dreams, determining one of the drive forces of all inventors or innovators, in all areas of existence and in all levels of consideration. The joined results of innovations, sometimes very small ones, form together, often even in short periods, significant progress and development.

21. And this is the basic and the strongest conclusion, even message, for innovative and inventive movement:

to join individual creativity with interhuman cooperation, synergic teamwork and dream leadership, [4]. In other words, we can demonstrate the idea of progress in the following figure, called "HIGHWAY of PROGRESS".



22. What results from these type of considerations in view of practical performances? What indications are useful for the near and far future in the pragmatic sense?

23. The international cooperation is obviously needed and the neighborly relationships obligatory. Eliminating different barriers and obstacles is a work of the constant continuity. The SPWiR acts dominantly in Poland but is completely open to international co-operation in all aspects of inventive and innovative progress. Our aspiration to European Union and to Western level of life is very natural. But we have neighbors at the Eastern board as well. There are Lithuania, Belarus, Ukraine, Russia and other new re-established countries. The mutual assistance in formulation, development or even acceleration or organized innovative movement would certainly be very advantageous for all parties in consideration of wide international cooperation. The protection of inventors' rights and interests will be much more effective as well.

24. They are not only so-called "big words". They have inside a very concrete offer for the widening of effective international cooperation. In the era of globalization, progressive information technology and accelerating technological, economic and social changes, intellectual property protection becomes more and more important, and not only in the financial and moral sense.

25. Pragmatic steps could be realized in indirect and close collaboration between identified persons, presenting determined organizations and institutions. The indications for the future include such organic, fundamental, everyday work with *visionary* and *stimulating leadership*. Therefore we have presented openly our experiences and observations, sometimes negative and painful, from the human point of view, but certainly true and real. Our Polish social and economic transition is not so easy. But who did say or promise that it will be easy? The opinions vary from one organization and country to another. Common efforts permit to overcome all difficulties of this kind much quicker, better and easier.

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