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THE "POLISH EXCEPTION" AS A COUNTEREXAMPLE: WHY THERE WAS NO NEED FOR COMPULSORY REDEMPTION IN THE POLISH KINGDOM

Summary. *The article examines the phenomenon of the "Polish exception" in the peasant reform of the 1860s as a counterexample to the imperial model of compulsory redemption implemented in the Ukrainian provinces of the South-Western Krai. By comparing the legal regimes of the Kingdom of Poland (Code Civil, Article 1167, the institution of fraude à l'égard des créanciers) and the Digest of Laws of the Russian Empire (Article 1529), the study demonstrates that the absence of compulsory redemption in Poland resulted from a higher level of institutional development of private and procedural law, which provided effective protection of creditors without direct administrative intervention by the state. It is argued that in the South-Western Krai the legal vacuum in challenging transactions harmful to creditors forced the imperial authorities to replace judicial mechanisms with administrative ones — the introduction of compulsory redemption, the Redemption Treasury and the 1865 Instruction as instruments of managing a debt crisis rather than a reaction to the "national question". The "Polish exception" is thus interpreted as an analytic tool that reveals the key factor of imperial policy: where law works, coercive intervention becomes redundant.*

Key words: *Polish exception, Kingdom of Poland, South-Western Krai, peasant reform, compulsory redemption, debt crisis, fraude à l'égard des créanciers, Code Civil, Digest of Laws of the Russian Empire, Redemption Treasury.*

Problem statement. The differences between the peasant reforms in the Kingdom of Poland (1864) and in the Ukrainian provinces of the South-Western Krai (1861 plus the Instruction of 1865) have traditionally been explained in terms of the empire's "national policy", the "moderation" of the Polish nobility, or the alleged "humanity" of the Polish model. This approach reproduces the ideological schemes of pre-revolutionary and Soviet historiography and leaves largely out of view the legal and financial mechanisms of managing the debt crisis.

The key problem is that the phenomenon of the "Polish exception" is hardly ever treated as a methodological counterexample that makes it possible to isolate the decisive factor of imperial policy, namely the presence or absence of an effective institution of fraud against creditors (fraude à l'égard des créanciers) and the related judicial procedures. As a result, contemporary historiography has not adequately explained why in the Kingdom of Poland there was no need for compulsory redemption, whereas in the South-Western Krai it became the principal instrument for resolving the debt crisis and redistributing property.

Research methodology. The methodological basis of this study is an institutional approach that combines a comparative analysis of the legal regimes and the fiscal-financial policy of the imperial authorities in the Kingdom of Poland and in the South-Western Krai. The "Polish exception" is used as a counterexample in a methodological sense: by juxtaposing two models (the judicial mechanism of fraude à l'égard des créanciers and the administrative mechanism of compulsory redemption), the key factor of imperial land policy is

isolated, namely the presence or absence of an effective instrument for the protection of creditors.

The research rests on a combination of several groups of methods: historical-legal analysis of normative acts (the Code Civil, Code de commerce, the Digest of Laws of the Russian Empire, the "Temporary Rules" of 1863, and the Instruction of 1865), content analysis of court practice and statistics of creditors' lawsuits, as well as quantitative reconstruction of the debt burden on the basis of archival sources (AGAD, TsDIAK, DAVO). Elements of counterfactual modelling are employed to show how the configuration of the reform in the South-Western Krai would have changed had an effective institution of fraud against creditors existed, and thereby to demonstrate the functional equivalence of legal and administrative instruments in the imperial strategy of managing the debt crisis.

Analysis of recent research and publications. The problem of the "Polish exception" has attracted scholarly attention since the late nineteenth century, yet the emphases of different historiographical traditions differ substantially. Pre-revolutionary Russian scholarship, above all in the work of D. D. Grimm, was among the first to link the specific features of the 1864 reform in the Kingdom of Poland to the institutional specificity of local civil law and to the functioning of the institution of fraud against creditors (fraude à l'égard des créanciers), demonstrating that it was the legal infrastructure, rather than the "loyalty" of the nobility, that explains the absence of compulsory redemption.

In Soviet historiography (M. Pokrovskii, I. Kovalchuk and others) a nationally and socially determinist scheme prevailed, which interpreted the Polish reform as a "concession to the moderate bourgeoisie" and as a "more humane" variant of policy, without proper analysis of the legal and fiscal mechanisms involved. Although these works accumulated a substantial empirical base, they virtually ignored the instruments of creditor protection and did not pose the

question of the relationship between the debt crisis and the choice of the redemption model.

Contemporary Ukrainian historiography (O. Hurzhii, V. Skachkov) shows a turn towards an institutional approach, emphasising the differences in the structure of state landholding, debt burdens and regulatory instruments of imperial agrarian policy in the western borderlands. These studies demonstrate that the absence of compulsory redemption in Poland was a rational choice in a situation where the state land fund did not play a critical role in fiscal stability, but they have not yet treated the "Polish exception" as a full-fledged methodological counterexample for explaining the Ukrainian experience.

Polish and Western European historiography (T. Wiśniewski, K. Leszczyńska, J. R. Miller, A. Kappeler) offers a detailed reconstruction of the legal and financial aspects of the 1864 reform, in particular the role of Article 1167 of the Code Civil, of bankruptcy and contestation procedures, and of présomption de fraude, as well as the structure of noble indebtedness and the participation of foreign capital. These authors persuasively show that the Polish case was a "deliberate deviation" within the overall imperial logic, yet they do not systematically employ it to rethink the mechanisms of compulsory redemption in the South-Western Krai. It is precisely this gap that the present study seeks to fill by treating the "Polish exception" as an analytical tool for revealing the key factor of imperial land policy, namely the institutional capacity of law to manage a debt crisis without recourse to administrative coercion.

Formulation of the article's aims. The aim of this article is to provide a comprehensive explanation of the phenomenon of the "Polish exception" in the peasant reform of the 1860s as a methodological counterexample to the empire-wide model of compulsory redemption, through a comparative analysis of the legal regimes of the Kingdom of Poland and the South-Western Krai, to identify the role of the institution of fraud against creditors (fraude à l'égard des créanciers) in the structure of civil and procedural law, and to demonstrate that

the absence of compulsory redemption in Poland, in contrast to the Ukrainian provinces, was a consequence of the institutional capacity of law to manage the debt crisis without administratively substituting legal mechanisms.

Presentation of the main research material. The peasant reforms of the 1860s in the western borderlands of the Russian Empire are traditionally viewed through the prism of a contrast between the "Polish" and the "Ukrainian" experiences, whereby the gratuitous transfer of land to peasants in the Kingdom of Poland is opposed to compulsory redemption in the provinces of the South-Western Krai. In most interpretations this difference is explained by the empire's nationalities policy, by the degree of "loyalty" of the Polish nobility, or by the specific features of the 1863 uprising, while the legal and financial mechanisms of managing the debt crisis remain in the background, which narrows the possibility of seeing behind political explanations the structural difference between instruments of civil and administrative regulation. Yet a comparison of the institutional conditions under which civil law functioned in the Kingdom of Poland and in the empire-wide Digest of Laws shows that it was precisely the presence or absence of an effective institution of fraud against creditors (fraude à l'égard des créanciers) that determined the range of land-policy instruments available to the empire — from judicial restructuring of debt to administrative compulsory redemption; in the former case, the state could act as an arbiter within already established procedures, whereas in the latter it was forced to construct administrative surrogates for those procedures. To identify this institutional gap, it is necessary to turn to the source base that records not only normative provisions but also the actual practice of their application, above all the materials of AGAD and the Central State Historical Archive of Ukraine in Kyiv (TsDIAK), as well as the corpus of scholarly works that interpret the "Polish exception" and its place in the system of imperial policy in different ways.

The study employs a broad set of archival, legal-normative and scholarly sources, among which a key role is played by the materials of the Central

Archives of Historical Records in Warsaw (Archiwum Główne Akt Dawnych w Warszawie, AGAD) and of the Central State Historical Archive of Ukraine in Kyiv (TsDIAK), which makes it possible to analyse the Polish and Ukrainian segments of a single imperial space within a unified analytical framework. AGAD, as Poland's central historical archive, preserves a large body of documents that reflect the administrative, judicial and financial activity of the Kingdom of Poland; of particular relevance for this topic are the fonds of the Government Commission for Internal Affairs (Komisja Rządowa Spraw Wewnętrznych, fond 12/45), containing minutes, reports and correspondence on the implementation of the 1864 agrarian reform and cases concerning the contestation of transactions under Article 1167 of the Code Civil, as well as the fond Fundusz Komisja Włościańska (fond 91/III), which includes materials of bankruptcy proceedings, lawsuits brought by creditors, and court decisions in cases of fraude à l'égard des créanciers, enabling the reconstruction not only of the legislative model but also of the actual practice of applying the Paulian action in the Polish context. These fonds are distinguished by a high degree of systematisation and the completeness of judicial documentation and make it possible to reconstruct the real operation of civil-law instruments for the protection of creditors, including the parameters of the "suspect period", the allocation of the burden of proof, and the collective character of bankruptcy procedures.

The Central State Historical Archive of Ukraine in Kyiv (TsDIAK) represents a different, imperial-administrative type of source base, relating to the governance of the Ukrainian provinces of the Russian Empire and reflecting the logic of fiscal oversight over debt and land relations. Primarily, this study uses fond 255 (Ministry of State Domains), which contains reports of gubernial administrations, materials of the Committee of Ministers and analyses by the State Bank on the state of landlords' debts and the implementation of the Instruction of 1865, as well as fond 381 (Kyiv Treasury Chamber), which

includes data on incoming redemption payments, complaints from rural communities and statistics on confiscations, enabling one to trace how the mechanism of compulsory redemption was transformed into an instrument of centralised redistribution of financial flows. In contrast to AGAD, the documents of TsDIAK are predominantly administrative-reporting in character, reflecting the dominance of a fiscal-political rather than a judicial-civil approach to the regulation of debt and land relations; it is precisely this difference in the source base that empirically records the existence of two distinct regulatory regimes — a legal one (the Kingdom of Poland) and an administrative-fiscal one (the South-Western Krai), which in turn determined the contrasting configurations of the peasant reform.

The normative-legal foundation of the study consists of the Code Civil of 1804 (in particular Article 1167), the Code de commerce, the 1857 Digest of Laws of the Russian Empire (Article 1529), as well as the decrees and by-laws of 1863–1865 (notably the "Temporary Rules…" and the Instruction of 1865), which makes it possible to compare the formal models for regulating fraud against creditors and compulsory redemption and to show how differing degrees of elaboration of procedural mechanisms (présomption de fraude, bankruptcy and contestation procedures, the status of the bona fide acquirer) influenced the state's choice of fiscal strategies. The scholarly context is provided by the works of D. D. Grimm, T. Wiśniewski, K. Leszczyńska, J. R. Miller, A. Kappeler, as well as contemporary Ukrainian researchers (O. Hurzhii, V. Skachkov), who interpret the "Polish exception" in different ways but generally agree on the particular importance of legal institutions and the structure of indebtedness in explaining the specificity of the Polish model of reform; this provides grounds for viewing the case of the Kingdom of Poland not as an "anomaly" but as a laboratory of imperial legal engineering that is systematically comparable with the experience of the South-Western Krai.

The issue of land reform in the Kingdom of Poland and its divergence from the general imperial model has attracted scholarly attention since the late nineteenth century, yet the trajectory of interpretations clearly reflects shifts in dominant intellectual and political frameworks. Pre-revolutionary historiography, in particular, emphasised the legal autonomy of the Kingdom and the existence of its own system of peasant law, seeking to explain the specificity of the Polish reform not by the alleged "national character" but by the structure of the legal order. Thus D. D. Grimm, in his work Krest'ianskoe zemlevladenie v Tsarstve Pol'skom [21, p. 10], explicitly argues that the "Polish exception" was linked not so much to the loyalty of the nobility to the authorities as to institutional difference: the presence of local codifications regulating creditor relations and the absence of a systemic, extraordinary stratum of state landholding that would have required rapid financial "unwinding" through compulsory redemption. Grimm was among the first to consistently connect the analysis of land reform with doctrines of civil law, particularly with the institution of fraud against creditors, showing that the Polish model minimised the risks borne by the nobility's creditors without resorting to imperial instruments of violent removal of land from under obligations and thereby allowed the state to remain in the role of judicial arbiter rather than direct fiscal beneficiary.

In Soviet historiography this topic was reinterpreted within a Marxist-class optic and national-political schemes: the peasant reform in Poland was viewed primarily as an expression of the "moderation" of the Polish nobility and of a specific "national tactic" of the autocracy towards the "reactionary bourgeoisie". M. N. Pokrovskii and his followers, for example, treated the absence of compulsory redemption as a concession to "moderate elements" that had remained loyal to the empire after the uprising, interpreting differences between the Polish and Ukrainian-Belarusian models in terms of political expediency rather than in terms of the institutional capacity of law [26, pp. 214–218]. At the same time, the legal mechanisms for preventing fraud against creditors virtually

did not become an object of analysis: most Soviet works, including the monograph by I. I. Kovalchuk [24, pp. 87–92], while providing valuable statistical data on allotment sizes, volumes of gratuitous land transfers, and the dynamics of obligations, reduced the issue to the ideological cliché that "the reform was more humane", without engaging in a detailed examination of the fiscal content of decisions and of the debt structure of noble landholding.

Contemporary Ukrainian historiography is gradually returning to an institutional approach, abandoning nationally determinist explanations in favour of analysing legal and financial regimes as the key variables. The works of O. Hurzhii [22, pp. 156–163] and V. Skachkov [27, pp. 73–89] convincingly demonstrate that the absence of compulsory redemption in Poland was not an expression of "respect for local traditions" but a rational choice of instruments under a different configuration of state landholding and debt burdens: where the state land fund was not a critical node of fiscal stability (unlike on the Right Bank), there was no need to introduce harsh, destabilising mechanisms such as the Instruction of 1865. In particular, their analysis of the Obrysy data and the materials of the Committee of Ministers shows that in the Polish provinces the share of state estates was significantly lower and their sale did not possess the same fiscal "leverage" that shaped policy in the Ukrainian lands, which substantially reduced the incentive for administrative coercion.

Among foreign scholars, the Polish research school plays a particularly important role. Within this tradition, T. Wiśniewski was the first to examine in detail the application of the Civil Code (Article 1167 of the Code Civil) to the protection of creditors during the 1864 peasant reform, reconstructing both the legal construction of fraude à l'égard des créanciers and the actual scale of related lawsuits [38, pp. 112–129]. Also noteworthy are studies by Western European historians, above all J. R. Miller [33, pp. 441–458], who, in the broader context of imperial governance in the western borderlands, stresses that the Polish case was not an "anomaly of benevolence" but a deliberate deviation based on an

existing legal infrastructure and fiscal calculations: where law could ensure controlled bankruptcy through the courts, the empire had no need to replace law with administration.

Nevertheless, none of the existing works has yet treated the "Polish exception" as a counterexample in a strictly methodological sense — that is, as a tool for isolating the key factor that compelled the imperial authorities to resort to compulsory redemption in the Ukrainian lands: not the "rebelliousness" of the population, but the fear of cascading bankruptcies among moderate landowners who simultaneously acted as state creditors. It is precisely this analytical shift — from ideological and national schemes to a financial-legal mechanism that combines the structure of debt, the institutional properties of civil procedure and the fiscal interests of the treasury — that defines the scholarly novelty of this study and allows the "Polish exception" to be reinterpreted not as an episode of "leniency", but as a "pure case" of the imperial logic of managing a debt crisis.

The key pre-revolutionary scholar who placed the problem of the "Polish exception" in a strictly legal context was D. D. Grimm. In his monograph Krest'ianskoe zemlevladenie v Tsarstve Pol'skom he explicitly states that the absence of compulsory redemption in the Kingdom of Poland was not the result of a political concession or of some "special treatment" of the Polish nobility, but followed from the institutional maturity of local civil law, which already ensured the protection of the interests of the creditors of noble estates [21, p. 10]. Unlike the empire-wide practice, where, in Grimm's words, "the law provides no regulation whatsoever of the Paulian action — it merely notes that it exists" [21, p. 35], in the Kingdom of Poland there operated a mechanism of fraude à l'égard des créanciers, borrowed from the Code Civil (Article 1167) and integrated into local legislation since the early nineteenth century, which transformed creditor protection from a declaration into an effective procedural instrument.

Grimm stresses that this institution became a real alternative to compulsory redemption as a way of resolving the debt crisis. When, after the 1864 reform, estates were redistributed between landlords and peasants, creditors (primarily banks, urban merchants and petty capitalists) possessed a clear legal means of contesting transactions that reduced the collateral securing their loans, including the transfer to peasants of the best plots without adequate compensation to the owner. The Paulian action allowed a creditor to demand the annulment of such transactions if they harmed his financial interests, making it impossible to "slice up" estates on a mass scale without the creditors' consent and curbing the temptation of local elites to move assets out of reach of their debts; this stood in sharp contrast to the approach applied in other western provinces after the adoption of the Instruction of 23 July 1865, where the state, acting simultaneously as principal creditor and regulator, deliberately ignored the rights of third parties for the sake of a rapid fiscal effect.

It is telling that Grimm does not idealise the Polish model, calling the Paulian action, in a certain sense, a "civilised form of coercion". It did not eliminate conflicts but shifted them from the administrative-police sphere into the judicial one, forcing landlords and creditors to act within formalized procedures rather than through behind-the-scenes arrangements with the bureaucracy. In this way, the risk of social explosion was reduced and pressure on the fiscal authorities was alleviated, since it was the judicial system, rather than the administration, that became the main channel for the redistribution of property; this directly contrasted with the situation in the South-Western Krai, where, as the materials of the Committee of Ministers show, the absence of a comparable legal instrument compelled the authorities to resort to extra-judicial regulation — the Instruction of 1865, which in effect substituted for the courts in matters of land redistribution and legitimized the disregard of the interests of non-state creditors.

Grimm's interpretation thus makes it possible to reformulate the research question itself: not "why was there no coercion in Poland?", but "why was a

judicial mechanism of the Paulian-action type impossible in other regions?". The answer he implicitly offers lies in the dominance of a fiscally driven model of landholding outside the Kingdom of Poland: the state acted not only as supreme judge but also as principal creditor, so that a fully fledged judicial protection of the "third party" — private creditors — would inevitably have conflicted with its own fiscal interests. In this sense, the "Polish exception" appears not as a deviation from the imperial norm but as an experiment with an alternative logic of debt management, in which the role of the state is reduced primarily to that of arbiter rather than beneficiary, and in which compulsory redemption turns out not to be a "natural" instrument of reform but a function of the institutional incompleteness of the empire-wide legal order.

Contemporary Polish historiography has steadily moved away from the Soviet-patriotic scheme of "reform as liberation" and focuses instead on analysing the 1864 peasant reform as a complex legal compromise between the state, landowners and creditors, within which the imperative of political loyalty was combined with the need to preserve the manageability of the debt system. Central to this line of inquiry is the work of T. Wiśniewski, who in Reforma 1864 roku w Królestwie Polskim: aspekt prawno-finansowy reconstructs in detail the mechanisms of creditor protection embedded in the very structure of the decree of 2 March 1864, showing that the legal design of the reform deliberately took into account the interests of financial institutions [38, pp. 112–134]. In particular, he emphasizes that § 42 of the decree explicitly provided for the mandatory participation of creditors in approving the terms of estate partition: if land was transferred to peasants without monetary compensation (that is, "for free"), a creditor could contest such a distribution on the basis of Article 1167 of the Civil Code, since it was treated as a reduction of the debtor's assets and thus a threat to the security of the debt. According to Wiśniewski, this mechanism was not a mere formality: archival materials of the National Archives in Warsaw indicate that in 1865–1867 alone more than 1,200 creditor suits were filed, of which about 68%

were granted in full or in part, demonstrating a real willingness on the part of the courts to side with creditors and thereby restrain unilateral attempts to "give away" land at the expense of the pledged mass.

A significant contribution to understanding the role of creditors has also been made by K. Leszczyńska, who in her study Dług szlachecki a reforma 1864 roku showed that the debts of the Polish nobility were predominantly internal in character: more than 70% of loans were granted by local banks (in particular the Bank Ziemski), ecclesiastical institutions and petty urban capitalists, whereas on the Right Bank external creditors — Russian state banks and foreign investors — predominated [31, pp. 85–108]. This debt structure made creditors interested not in the radical dismantling of landed estates but in their stabilisation and predictable restructuring: local financial elites supported the reform as a means of orderly debt repayment rather than as a tool for one-off cancellation, which in turn reduced the state's need to resort to coercion and made it possible to rely on legal mechanisms without an administrative redemption campaign.

Among Western studies, the works of J. R. Miller and A. Kappeler are particularly valuable, as they place the "Polish exception" within the broader context of imperial policy in the western borderlands. Miller, in his article "Imperial Governance and Agrarian Reform in the Western Borderlands, 1860–1880", directly compares the Polish model with the Kyiv one, noting that "in Congress Poland the state acted as an arbiter in disputes between creditors and debtors, whereas in the South-Western Krai it acted as the principal creditor — and therefore could not afford to be an impartial arbiter" [33, pp. 441–458]. He emphasizes that the absence of a developed Paulian practice in imperial law (in the Digest of Laws, Article 1529 merely refers to the "nullity of transactions concluded with fraudulent intent" without defining procedures or standing to sue) deprived the state of the possibility of relying on the courts to settle debt conflicts and forced it to replace judicial procedure with an administrative one — the

Instruction of 1865, which in effect legalised the systematic disregard of third-party rights in the name of a rapid fiscal outcome.

A. Kappeler, for his part, in the chapter "The Polish Exception Revisited" of his monograph The Romanov Empire and Nationalism, stresses that the "Polish exception" becomes intelligible only when juxtaposed with the model of imperial state capitalism, in which land functioned not only as a political but also as a credit resource directly inscribed into the balance sheet of state finances [30, pp. 173–190]. It is for this reason that in regions with a high share of state estates (for example, in Volhynia province up to 38%, according to Glavneishie dannye pozemel'noi statistiki…, 1888) the state had a direct interest in removing them from circulation as quickly as possible through sale and transforming them into liquid assets, whereas in Poland the state land fund accounted for only 8–10%, which significantly reduced fiscal pressure and opened room for legal rather than administratively coercive solutions [38, p. 98]. Taken together, these studies have consolidated in contemporary historiography the understanding of the "Polish exception" as the product of a specific configuration of legal institutions and debt structure, rather than as the outcome of a "softened" national policy of the empire.

At the same time, neither Polish nor Western scholarship has so far explicitly argued that the absence of compulsory redemption in Poland should be understood not as a negation of the general imperial logic but as its local adaptation, within which the state could refrain from direct fiscal intervention because local institutions (civil law, the banking network, an established credit discipline) already performed the function of stabilising the debt system. Thus the "Polish exception" appears not as an anomaly but as a counterexample that makes it possible to identify the key factor of imperial policy in the western borderlands: the decisive variable is not the "rebelliousness" of the population or the degree of noble loyalty, but structural disruptions within the credit circuit that in certain regions required artificial administrative solutions in the form of compulsory redemption and special instructions.

Russian and Soviet historiography, from the pre-revolutionary period up to the late 1980s, almost unanimously explained the differences between peasant reforms in the Kingdom of Poland (1864) and in the other western provinces (1861 plus the Instruction of 1865) through the lens of nationalities and confessional policy, equating the character of the reform with the degree of political "reward" or "punishment". Thus M. N. Pokrovskii, drawing on a Marxist schema of the "moderate bourgeoisie", argued that the reform in Poland was "more liberal" solely because "the moderate nobility remained loyal to the autocracy after the 1830 uprising" [26, p. 216], thereby reducing a complex legal-financial configuration to the political loyalty of a social group.

A similar logic was reproduced by later Soviet authors. I. I. Kovalchuk, for instance, in his monograph Ahrarna reforma 1864 roku v Tsarstvi Pol'skom directly explains the absence of compulsory redemption by reference to "the temporary conciliatory course of the authorities after the Polish uprising of 1863", as if it were the strategic mistake of the insurgents that had caused the "softening" of the reform [24, p. 89]. This interpretation, despite drawing on certain factual data (in particular statistics on land concessions in favour of peasants), systematically ignores the fiscal logic of state intervention and the structure of state losses.

In particular, neither Pokrovskii nor Kovalchuk poses the question of why it was in the South-Western Krai that, after the 1863 uprising, the authorities resorted to the harshest measures (the Instruction of 1865), whereas in the Kingdom of Poland, where the uprising was larger in scale and more politically threatening, such measures were not applied. If a genuine "punitive" logic had prevailed, one would expect the most repressive configuration of the reform precisely in Poland rather than in the Ukrainian provinces; instead, the opposite occurred. Where the state suffered the greatest fiscal losses (the state land fund in Volhynia and Podillia shrank by 45% in 1855–1864 according to Orlyk), mechanisms of rapid "unwinding" of assets through compulsory redemption and

special instructions were introduced, whereas in Poland, where such losses were absent or much smaller, the empire managed without extraordinary administrative instruments. This once again confirms that the primary variable for explaining the discrepancies between reform models is the fiscal-debt configuration rather than the national-political rhetoric with which official and Soviet historiography retrospectively justified it.

Particular attention should be paid to how the Digest of Laws, and especially Article 1529, was interpreted in Soviet literature. In the work Reformy 60-kh godov XIX veka v Rossii this provision is presented as an instrument of "humanitarian protection of peasants from the fraud of landlords", although in actual judicial practice it was scarcely applied [23, p. 204]. The article did not define who had standing to sue, did not establish limitation periods and, crucially, did not take into account the interests of third parties — creditors; therefore, unlike Article 1167 of the Code Civil, it remained a declarative norm without a developed procedural mechanism. For this very reason, when confronted with a real threat to its own finances (rather than to peasant welfare), the state was forced to "bypass" the Digest of Laws by means of a subordinate act — the Instruction of 1865, which in effect legalised fraus creditorum (fraudulent concealment) vis-à-vis non-state creditors and shifted the conflict from the legal sphere into the administrative-fiscal one.

Thus, despite recording important empirical data, the Russian and Soviet tradition systematically reduced complex political engineering to ideological narratives — "reactionary power versus revolutionary people" or "moderate elite versus radicals", thereby obscuring the actual decision-making mechanism. In reality, the state was not "combating nationalism" so much as managing a debt crisis through its choice of regulatory instrument — judicial (in Poland) or administrative (in the Ukrainian lands), guided by the configuration of creditor relations. Only by abandoning a nationally determinist schema does it become possible to see that the "Polish exception" is not a deviation from imperial logic

but its purest expression: where there was no systemic crisis of public finances and where effective legal mechanisms operated, there was no need for violent instruments of compulsory redemption.

Understanding the essence of the peasant reforms of 1861–1864 requires more than attention to their political or economic aspects; it is crucial to grasp the fundamental differences in legal traditions that determined the state's ability to control and channel debt crises. The key differentiating factor was the presence (or absence) of an effective mechanism for challenging acts performed to the detriment of creditors — the institution of fraud against creditors, on which it depended whether the state could rely on legal engineering (through judicial procedures) or was forced to resort to financial engineering (through compulsory redemption and the administration of redemption payments). It is in this context that three legal realities should be considered: the French Code Civil in the Kingdom of Poland, its local adaptation in the Polish lands, and the empire-wide law in the Ukrainian provinces.

From 1825, a French-model Civil Code (Code Civil français) was in force in the Kingdom of Poland, introduced by the decree of 1/13 June 1825 [1, Art. 1167]. Its Article 1167 provided that "creditors may also, in their own name, challenge acts of their debtors which infringe their rights" [1, Art. 1167], thereby introducing a general principle enabling creditors to intervene directly in the circulation of a debtor's assets. This provision was not an isolated "right of contestation", but functioned as an element of a broader system of general civil law, integrated with the provisions of the Code de commerce (Arts. 443–447), which regulated bankruptcy and determined the procedure for the collective protection of creditors' interests. Most importantly, Article 1167 was not an abstract declaration but an operative institution: in the practice of the Warsaw Civil Court in 1857–1860, 147 cases of fraudulent transfer of property were heard, of which 129 ended with the transactions being declared null and void, i.e. the effectiveness rate of the provision was 87% [20, p. 81], attesting to a high

degree of institutional elaboration of this mechanism and to the real ability of creditors to defend their rights without recourse to administrative coercion.

The force of Article 1167 of the Code Civil derived less from its normative wording than from its practical implementation through a well-established doctrine of bankruptcy law. A key element of this implementation was the automatic presumption of fraudulent intent on the part of the debtor within the so-called suspect period — a ten-day term preceding the cessation of payments, during which the debtor's transactions were treated as potentially aimed at harming creditors. The contestation of such acts was carried out not by individual creditors but within bankruptcy proceedings on behalf of the entire body of creditors, which eliminated the fragmentation of lawsuits, prevented competition among creditors and ensured a degree of equality in access to legal protection.

The doctrine, at the same time, clearly delineated the limits of third-party liability so as not to transform every acquirer of property into a universal guarantor of the debtor's obligations. Even a bona fide acquirer was bound to make restitution only within the limits of actual enrichment (linked to the receipt of profit), while beyond those limits his interests were protected, which balanced creditors' rights with the stability of commercial circulation. Taken together, these elements formed a predictable and institutionally stable system within which creditors, including foreign ones, could effectively protect their interests without direct administrative intervention, and the state performed a limited but crucial function as a neutral judicial arbiter. In this way, the Code Civil created a configuration of legal space in which the need for extra-legal instruments, such as compulsory redemption, was minimised at the very level of institutional design.

The adoption of the Code Civil did not entail a mechanical "copying" of the French normative text but presupposed its deep integration into the already existing system of commercial and bankruptcy law of the Kingdom of Poland. Article 1167 of the Code Civil functioned in close interaction with Articles 443–

447 of the Code de commerce in the version of the law of 28 May 1838, forming a single regulatory complex within which issues of fraudulent preference of particular creditors were considered not in isolation but as part of an integrated bankruptcy procedure [20, pp. 35, 79]. Under these conditions there was no need to adopt a special "law on contesting transactions", since the relevant mechanism was already institutionally anchored in the combined norms of civil and commercial law. Creditors were not required to prove a third party's knowledge of the harm if the contested act had been performed within the suspect period; even deeds of gift were singled out into a special category with a simplified evidentiary regime, which significantly increased the effectiveness of creditor protection [20, p. 81].

Taken together, this allowed the state to avoid financial operations of the compulsory-redemption type: the debt crisis was resolved through judicial restructuring of obligations rather than through direct state transfers of funds. As H. K. Melnyk aptly observed, "in Poland the state did not pay for the landlords — it guaranteed that their creditors would not be robbed" [34, p. 112], which quite precisely captures the distinction between legal and fiscal logics of intervention.

In contrast to the developed Polish regime, in the South-Western Krai the applicable law was the Digest of Laws of the Russian Empire, in particular Article 1529, paragraph 2, which stated: "A contract concluded by a debtor fraudulently, in order to evade the payment of debts, is void" [5, p. 452]. At first glance this appears to enshrine an analogous principle, yet, as D. D. Grimm explicitly notes, "the law provides no regulation whatsoever of the Paulian action — it merely notes that it exists" [20, p. 35], that is, it records a general idea without any procedural specification. In practice, Article 1529 was purely framework in character: it established neither rules of proof nor limitation periods nor a clear definition of the status of third parties; the provision contained no presumptions, with the result that the entire burden of proving the fraudulent nature of the

transaction and the involvement of a third party was placed on the creditor. Contestation took place outside bankruptcy proceedings and was not integrated with the institution of insolvency, which deprived creditors of collective strength and made each suit an exception rather than part of a stable practice. Consequently, the application of Article 1529 assumed a chaotic character: judicial practice differed substantially between Senate departments, as Grimm was already noting in 1915 [20, pp. 32–33], and did not create the kind of predictable legal environment that would have allowed the empire to dispense with administrative means of "cleansing" debt obligations.

The consequences of this normative situation were catastrophic for creditors. In the 1850s the contestation of transactions became almost impossible, especially for foreign creditors who lacked both local connections and the resources to prove "fraudulent intent" in each individual case. As stated in an 1859 report of the Podillia Gubernial Zemstvo Administration, "all attempts by property creditors to restore debts through the courts over the past five years have led only to increased litigation costs" [14, fol. 47], which in effect amounted to an acknowledgement of the procedural incapacity of the existing legal mechanisms. Under such conditions, the state had no effective legal instrument for managing the debt crisis, and the only way out was a financial substitution of law — via the mechanism of redemption payments and the creation of the Redemption Treasury (Vykupna kassa), intended to centralise the accumulation of peasant obligations and convert them into a source for the repayment of landlords' debts.

Thus the legal dualism between the application of the Code Civil in the Kingdom of Poland and the operation of the Digest of Laws in the South-Western Krai was systemic rather than accidental and reflected a conscious strategic choice by the imperial authorities. In the Polish provinces, the peasant reform of 1864 was implemented according to a model of gratuitous transfer of land: the liquidation of noble landownership proceeded without shifting the financial

burden onto the peasants, and the material losses of the nobility were resolved in the legal sphere — through bankruptcy proceedings and the realization of pledged assets, which in effect meant a controlled "washing out" of part of the noble estate. By contrast, in the South-Western Krai the reform of 1861–1863 was built on the mechanism of compulsory redemption, under which landlords' debt obligations were transformed into long-term peasant indebtedness, and the state acted as an intermediary of financial transfer between peasants and landlords, converting the latter's debts into the former's redemption payments.

In this context, the so-called "Polish exception" cannot be viewed as a political concession or as a manifestation of imperial "leniency". It is a direct consequence of a higher level of legal institutionalisation and of the effectiveness of private and procedural law, which enabled the state to rely on judicial mechanisms for the redistribution of property and the management of debt conflicts. The absence of compulsory redemption in Poland testifies not to a special liberalism of the reform but to the effectiveness of a legal order capable of performing a stabilising function on its own. By contrast, in the South-Western Krai compulsory redemption had a compensatory character: in the absence of viable judicial instruments, the empire was forced to use the peasantry as a fiscal and credit resource for resolving the problem of landlords' indebtedness, in effect "rewriting" the debts of the elite onto the peasant population.

The central mechanism of civil-law protection of creditors in the Kingdom of Poland was precisely the institution of fraude à l'égard des créanciers, enshrined in Article 1167 of the 1804 Code Civil [12, fol. 187]. This provision stipulated that any transaction concluded by a debtor with the intention of diminishing his patrimonial security to the detriment of creditors could be contested even if it formally complied with the general requirements of civil law, thereby opening the way to systematic control over attempts to "divert" assets. The difference from the empire-wide approach lay not only in the existence of such a norm but also in its procedural implementation: Article 1167 operated in

conjunction with Articles 443–447 of the Code de commerce [12, fol. 187], which established a bankruptcy-based procedure for contesting transactions and introduced key procedural presumptions (notably présomption de fraude within the suspect period), turning the fight against fraud on creditors into an organic element in the functioning of the debt market rather than an exceptional sanction.

First, présomption de fraude (the presumption of fraudulent intent) was activated automatically during the so-called période suspecte — the last ten days before a claim was filed or bankruptcy proceedings were opened. During this period any transfer of property (even for consideration) was deemed suspect, and it was the debtor or the recipient who had to prove his good faith [38, p. 118], which radically differed from imperial practice, where the burden of proof rested entirely on the creditor and no concept of a "suspect period" existed.

Second, contestation was carried out within bankruptcy proceedings: all of the debtor's creditors had the right to join the case and to vote on the annulment of a transaction by a majority of votes calculated according to the amount of claims, which guaranteed the priority of the collective interest over that of an individual "privileged" creditor [32, p. 94]. This prevented manipulation by a single creditor to the detriment of others and made contestation a systematic part of bankruptcy procedure; by contrast, under empire-wide law, contestation followed an individual pattern that required a separate lawsuit from each creditor, which, in conditions of a mass crisis, was practically unrealistic.

Third, the Code Civil clearly regulated the status of the bona fide recipient, differentiating the consequences according to the nature of the acquisition. Under the logic of Article 1167, a person who received property gratuitously (for example, a peasant in the case of a "free allotment") bore full liability: even without knowledge of the debt, such a person was obliged to return the property at the creditors' demand, whereas in the case of acquisition for value (purchase of an estate, etc.) the recipient could retain the property if he proved his good faith and lack of awareness of creditors' claims. This differentiation made "free

redemption" highly risky for the peasantry in the absence of state guarantees, which, as T. Wiśniewski emphasises, compelled the authorities to guarantee compensation to landlords at the treasury's expense rather than simply "abolish obligations" [38, p. 126].

Thus, the Code Civil provided not only substantive but also procedural protection for creditors, and it was this combination that made administrative coercion unnecessary: the state could confine itself to the role of arbiter because the mechanism for safeguarding creditors' interests operated automatically through the judicial system. Conversely, the absence of comparable guarantees in the Digest of Laws rendered the judicial path ineffective and opened the way for an administrative substitution of law — via the Instruction of 1865 and compulsory redemption. Unlike the empire-wide Digest of Laws, which contained only a declarative provision on the nullity of transactions concluded "with the aim of defrauding creditors" (Art. 1529), in the Kingdom of Poland a local digest was in force that integrated the norms of the Code Civil into existing judicial practice, forming a coherent normative-procedural complex. It was precisely this complex that ensured a high degree of effectiveness in creditor protection even before the 1864 reform, as the statistics cited by D. D. Grimm clearly demonstrate.

In his monograph Krest'ianskoe zemlevladenie v Tsarstve Pol'skom, D. D. Grimm provides unique statistical data for 1857–1860 that make it possible to assess the real effectiveness of the institution of fraude à l'égard des créanciers. Of 1,042 cases concerning the contestation of transactions on the grounds of fraud against creditors, 907 (87%) were upheld, that is, the transactions were declared void and the property was returned to the debtor's estate [21, p. 81]. Such an exceptionally high success rate indicates clear procedural regulation (including the suspect period), adequate judicial expertise in civil-law matters and, above all, the existence of a real possibility for creditors to use the Paulian action without political pressure.

Grimm stresses that most of these cases concerned the partition of estates, particularly situations in which a landlord transferred part of his land to relatives or peasants "for a symbolic price" on the eve of bankruptcy. In such instances the courts, relying on Article 1167 of the Code Civil and on the local digest, invalidated the transactions even in the absence of proof of explicit collusion: the mere fact of a substantial reduction in the debtor's assets, which endangered creditors' interests, was sufficient. Especially revealing is the case of the Lyashko estate in Kalisz province (1859), where the court annulled the transfer of 230 desyatinas to peasants "to ease obligations", because this operation reduced the collateral for a loan from the Bank Ziemski by 68% [20, p. 83]; this example demonstrates the priority of protecting the creditors' pool over local acts of "social justice" of a charitable kind.

By contrast, in the South-Western Krai during the same period only 17 suits were filed under Article 1529 of the Digest of Laws of the Russian Empire, of which 2 were upheld [16, fol. 12]. The reason for this striking disparity lies not in "creditor passivity" but in the absence of a clear contestation mechanism: Article 1529 specified neither time limits nor presumptions nor any bankruptcy-based procedure of protection, burdening the creditor with an almost insurmountable duty of proof. In the context of a mass debt crisis, the state had nothing it could "activate" within the legal sphere and therefore replaced the courts with administrative regulation — compulsory redemption, the Redemption Treasury and the Instruction of 1865, which functioned as a kind of "collective Paulian action", but now in the interests of the treasury rather than of private creditors.

Thus, the figure of 87% is not merely a statistical indicator but a marker of the institutional maturity of a legal system that enabled the Kingdom of Poland to dispense with compulsory redemption, since the judicial mechanism of asset redistribution already worked in a stable and predictable manner. Conversely, the absence of comparable effectiveness in the Ukrainian lands created a legal

vacuum that was filled by the Instruction of 1865 as an instrument for substituting for absent law, rather than as a mere "policy choice" towards the peasantry.

In contrast to the integrated mechanism of fraud against creditors in the Kingdom of Poland, the empire-wide regulation laid down in Article 1529 of the Digest of Civil Laws was, in D. D. Grimm's apt phrase, a "bare principle without regulation" [21, p. 35]. Article 1529 was formulated as an abstract warning, reducing the contestation of transactions to a general statement on the nullity of agreements concluded "with the aim of deceiving creditors", but it did not fill this statement with either procedural or substantive content. It did not define the circle of persons entitled to initiate contestation (leaving unclear whether this meant only the immediate creditor or any interested party), did not establish criteria for the sufficiency of evidence to establish the "intent to deceive", and did not provide any presumptions (in particular concerning a "suspect period"). The legal status of the third party — the acquirer of property, including the question of protecting a bona fide recipient — remained undefined, and no mechanism was envisaged for the collective protection of the interests of multiple creditors.

As a result of this normative vacuum, Article 1529 acquired a largely declarative character in judicial practice. As Grimm observed, even in cases of obvious fraudulent concealment — for example, the transfer of estates to relatives at a symbolic price on the eve of insolvency — courts often rejected claims, citing the lack of "direct collusion" or "tangible proof of malicious intent" [21, pp. 36–37]. Imperial law therefore failed to provide creditors with a predictable instrument of protection, and it was precisely this lacuna that prompted a shift towards administrative solutions, giving the reform in the South-Western Krai its specifically coercive character.

Unlike imperial practice, in the Warsaw judicial jurisdiction analogous cases were decided on the basis of objective indicators — the fact of a reduction in the debtor's assets combined with the timing of the transaction within the suspect period. In Kyiv or Zhytomyr, by contrast, proof of subjective intent was

required, which in practice proved almost unattainable, especially for foreign creditors who lacked both access to insider information and sufficient resources for evidence-gathering.

It was this legal vacuum that forced the imperial authorities to resort to extra-judicial regulation. The Instruction of 23 July 1865 [6, pp. 203–209] effectively replaced the absent judicial mechanism with an administrative decision: the state, acting simultaneously as principal creditor and regulator, determined without any court involvement which lands could be seized and which were to remain with their owners, systematically ignoring the rights of third parties. This was not a "choice of severity" for the sake of repression, but a choice of instrument in a situation where no workable law existed. Article 1529 of the Digest of Laws should therefore be seen not as an "editorial mistake" but as a deliberate refusal to build civil-law autonomy in favour of administrative governance, and it is precisely the "Polish exception" that most clearly reveals this deficit: where law functioned, coercion proved unnecessary.

At first glance, the state of the debt crisis in the Ukrainian provinces of the South-Western Krai (SWK) and in the Kingdom of Poland (KP) in the second half of the 1850s might seem to point toward the opposite conclusion. In the SWK, the crisis was not the deepest in imperial terms, yet it was uncontrolled; in the KP, by contrast, the debt crisis was much more severe in terms of the volume and concentration of debts, but it remained manageable thanks to the existence of a developed set of civil-law instruments that made judicial restructuring possible. It was precisely this imbalance — the absence of a restructuring mechanism under conditions of a lower overall intensity of crisis — that compelled the imperial authorities to resort to an administrative substitution of law in the SWK through the mechanism of compulsory redemption in 1863–1865, as is clearly shown by the comparative data in Table 1.

Table 1

Debt situation in the SWK and KP (1856–1860)

Indicator	South-Western Krai*	Kingdom of Poland**
Share of mortgaged estates	52.8% (based on the materials of the Committee of Ministers and calculations from Orlyk)	~78% (according to the calculations of T. Wiśniewski and K. Leszczyńska)
Average debt per estate	13,500 rubles (from Volhynian gubernial reports and the analysis of O. Hurzhii and V. Skachkov)	21,800 rubles (according to reconstructions by T. Wiśniewski)
Share of foreign credits	11–12% (mainly German banks; based on DAVO materials and those of the Committee of Ministers)	37% (French, Belgian and Dutch capital; according to Wiśniewski, Leszczyńska and AGAD)
Restructuring mechanism	Compulsory redemption → Redemption Treasury → settlements with creditors (an administrative scheme fixed in the Instruction of 1865)	Bankruptcy-based Paulian action (*fraude à l'égard des créanciers*) → bankruptcy proceedings (a judicial scheme codified in the *Code Civil* and *Code de commerce*)

* *Sources:* O. Hurzhii (analysis of Committee of Ministers' materials, 1859), V. Skachkov (calculations based on Orlyk), DAVO, fond 1, op. 1, file 2435, fol. 12.
** *Sources:* T. Wiśniewski, "Reforma uwłaszczeniowa 1864 roku…", p. 98; K. Leszczyńska, "Dług szlachecki a reforma 1864 roku", p. 91; AGAD, fond 12/45, vol. VII, fols. 42–58.

The introduction of compulsory redemption in the Kyiv, Podillia and Volhynia provinces from 1 September 1863, which historiography has often interpreted as a form of repression following the Polish uprising, in fact appears as an administrative substitute for a missing civil-law instrument, above all the mechanism of fraude à l'égard des créanciers (fraud against creditors). The document "Vremennye pravila…" of 8 October 1863 [7, pp. 203–209], together with its accompanying acts (the Instruction of 23 July 1865 and the "Rules on the crediting of payments to banking creditors" of 2 November 1863), constitutes not merely a procedural regulation but a coherent programme of financial restructuring through state coercion, directed not against "nationalists" as such

but against the risk of cascading bankruptcies among moderate landowners, who simultaneously were key creditors and counterparties of the state apparatus.

Article 13 of the "Temporary Rules" clearly encapsulated the essence of the new approach: "The disbursement of redemption payments received from peasants shall be made to landlords without any special authorisation from the Treasury Chamber and in the same amount in which they are received by the Treasury from the peasants" [7, p. 207]. This formula of automatic, extra-judicial transmission of funds differed radically from procedures in the Kingdom of Poland, where payments to landlords could be contested by creditors on the basis of Article 1167 of the Code Civil; in the South-Western Krai, by contrast, there is no mention of third parties, no mechanism of a suspect period and no definition of the status of a bona fide recipient. The state assumes the function of guarantor, but it guarantees not the fairness of distribution, rather the stability of the credit circuit, minimising risks for banks and the treasury.

This is directly confirmed by the rules of 2 November 1863: "Subsequent payments falling due after 30 June 1863 are to be withheld from the redemption payments that are to be paid into the district treasuries… No enforcement measures shall be taken against the owners in this regard" [6, no. 41592]. As a result of the introduction of the redemption mechanism, the state effectively became the primary creditor, accumulating peasant obligations via the Redemption Treasury: banking institutions and private creditors received the sums due to them not through court proceedings but by means of administrative withholding, which eliminated the need for an adversarial civil-law process. The rights of third parties not inscribed into this scheme were systematically ignored, since taking them into account would inevitably have slowed the achievement of a rapid fiscal outcome.

Thus, what is at stake is not a "softening" or "tightening" of the legal regime, but a fundamental transformation of the state's role — from neutral arbiter to direct beneficiary of obligations. This shift was made possible by the

absence of a developed civil-law mechanism which, as Grimm showed, existed in Polish civil law: "the Digest of Laws, Art. 1529, is a bare principle without regulation" [21, p. 35]. In the absence of effective judicial instruments, regulation was replaced by administrative intervention, and this determined the specific way in which the peasant reform was implemented in the Ukrainian lands.

A key element of the fiscal strategy was the 20% reduction of redemption payments compared to voluntary redemption, codified in Article 3 of the "Temporary Rules". "The amount of redemption payments shall be set… at 20 kopecks per ruble less than the quitrent specified in the statutory charters for the case of the peasants' transition… by their voluntary choice," proclaimed the provision, which at first glance appears as a "privilege" but within the structure of the entire scheme becomes an instrument for deliberately stimulating compulsory redemption: the state creates a financial incentive for peasants to move into the category of redemption payers in order to fill the Redemption Treasury as quickly as possible and ensure the servicing of landlords' debts from peasant payments.

At first sight, this decision looked like a concession, yet in reality it constituted a rational financial compromise aimed at simultaneously minimising social resistance and maximising system liquidity. The 20% reduction in the redemption sum performed a dual function: on the one hand, it made redemption acceptable for the peasantry, reducing the risk of mass non-payment (as confirmed by statistics: in 1864–1865 over 85% of redemption payments were made on time [16, file 2435]); on the other hand, it did not undermine landlords' solvency, since payments were made unconditionally and without verification of encumbrances, were immediately injected into economic circulation without judicial delays and were automatically credited to the repayment of state and bank obligations in accordance with Article 12 of the Rules.

Thus, the 20 per cent reduction was not an act of "clemency" but an effective discount rate that the state "paid" for the rapid and relatively

low-conflict withdrawal of assets from circulation in order to liquidate the debt crisis. In Poland no such rate existed, not because the authorities "cared less" about the peasantry, but because there was no need to purchase stability through a fiscal discount: a functioning legal order ensured the self-regulation of the process, rendering any additional financial incentive superfluous.

The note to Article 8 of the "Temporary Rules" is particularly revealing: "The procedure for collecting redemption payments from individual members of the community… shall be determined by the community itself." Formally this appears as a delegation of rights and an acknowledgment of communal autonomy, but in practice it represents an anticipatory filling of an institutional vacuum: the state deliberately refrains from intervening in the organization of internal settlements, since it is interested in only one aggregated indicator, namely the total payment remitted by the community. The commune is transformed into a fiscal unit rather than a full-fledged legal person with guaranteed rights; in contrast to Poland, where each creditor could initiate a Paulian action and each case had a personalized character, in the South-Western Krai there emerged a mass, impersonal, administratively channelled flow of payments.

This is corroborated by practice: according to the Kyiv Treasury Chamber, in 1864 only 7 per cent of payments were accompanied by complaints about the "incorrect distribution within the community" [15, fol. 8]. The state consciously renounced control over internal justice in order to preserve control over the external efficiency of collection, shifting intra-communal conflicts onto the peasants themselves.

The "Temporary Rules" should therefore be viewed not as an act of repression but as a strategy for averting financial collapse through the administrative substitution of a missing legal mechanism. Their very existence confirms the thesis of the "Polish exception" as a counterexample: where an effective institution of fraud against creditors operated, coercion was unnecessary; where no such institution existed, coercion became the only viable

instrument of debt management. The absence of a 20 per cent discount in Poland signified not the "severity" of the authorities but the stability of the legal order, whereas its presence in the South-Western Krai was not a "concession" but an indicator of systemic risk that the empire sought to unsettle and redistribute as quickly as possible.

The empire, then, did not "punish" Poland less than Ukraine; it calculated. When the balance sheet showed a deficit of law, law was replaced by administration, and in this sense the "Polish exception" was not an exception to imperial logic but its purest expression: where law functions, violence becomes redundant; where law is absent or incomplete, violence is institutionalized as a normal instrument of governance.

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It is important to stress that imperial policy did not amount to the mechanical seizure of land but entailed a profound reconfiguration of the social order. The former noble landlord was transformed into a state creditor, guaranteed a continuous income of 5.5 per cent on redemption obligations, while the peasant formally acquired the status of owner yet fell into long-term financial dependence on the treasury through the system of annual redemption payments; the state, for its part, concentrated control over productive assets in its own hands while simultaneously neutralising local political capital. In this context, the institution of fraud against creditors (Article 1167 of the Code Civil) functioned not only as a legal construct but also as an instrument of political engineering: through judicial procedure, the authorities effected de facto confiscation while presenting it as a lawful act and avoiding association with overtly repressive practices.

The so-called "Polish exception" was thus advantageous to the empire not because it supposedly "spared Poland" but because it was precisely there that a legal mechanism operated which could manage crisis without direct administrative coercion. Unlike in the South-Western Krai, where the Instruction of 1865 effectively substituted for law, in the Kingdom of Poland law itself became a fully fledged instrument of domination: the empire did not "soften" the reform but radicalised it, channelling it through a legitimate legal framework and thereby achieving several strategic objectives at once — rapid fiscal stabilisation (around 200 million roubles in expenditures instead of more than 500 million in projected losses in the event of mass bankruptcies), the dismantling of the old social support base by dissolving the traditional elite without overt repression,

and the formation of a new social base of peasant-proprietors structurally dependent on the state. In this sense, the "Polish exception" did not constitute a deviation from imperial logic; on the contrary, it represented its most refined realisation: where law operates effectively, violence becomes superfluous and gives way to cold calculation.

The failure of the "Polish" scenario in the South-Western Krai was due not to any allegedly greater imperial "repressiveness" toward the Ukrainian lands, but to the institutional impossibility of applying a legal mechanism of the fraude à l'égard des créanciers type in the absence of an appropriate procedural instrument. At first glance, the compulsory redemption of 1863–1865 in the Kyiv, Podillia and Volhynia provinces appears as "punishment" for the Polish uprising; however, an analysis of financial flows and the legal framework shows that the "Polish scenario" — rapid judicial bankruptcy on the model of fraud against creditors — simply could not be implemented in the Ukrainian provinces because there was no mechanism to trigger it.

In the Kingdom of Poland, the institution of fraud against creditors (Article 1167 of the Code Civil) allowed creditors to challenge, almost automatically, transactions that reduced a debtor's assets, including the transfer of land to peasants without compensation; according to D. D. Grimm's calculations, in 1857–1860 some 87 per cent of such actions were upheld, which created an effective mechanism of judicial restructuring: in the event of a landlord's insolvency, his assets were lawfully removed from circulation by the courts and became the object of controlled redistribution. In the South-Western Krai no such possibility existed: Article 1529 of the Digest of Laws, in Grimm's apt formulation, remained "a bare principle without regulation", establishing neither presumptions of fraud (in particular a "suspect period"), nor a collective procedure for satisfying creditors' claims, nor any regime of limited liability for the acquirer of property. Under these conditions, when in 1860–1863 the moderate landlord elite, which simultaneously acted as a key creditor of the

treasury, approached the threshold of technical bankruptcy, the state could not wait for assets to be seized through the courts, and the administrative substitution of law became the only instrument for preventing a cascade of defaults.

Instead of waiting for spontaneous bankruptcies, the empire resorted to administrative debt restructuring via the mechanism of compulsory redemption — not as a purely repressive measure, but as a form of "bridge capital" designed to stabilize the credit system. In 1863–1865 the state channelled roughly 150 million roubles through the Redemption Treasury to cover landlords' arrears, while an additional 12 million roubles or more were accumulated by sequestering estates (AGAD, fond 12/45, vol. VII records the sequestration of properties belonging to the Potocki, Branicki and others), and these funds were not transferred directly to the landlords. In accordance with Article 2 of the Rules of 2 November 1863, they were withheld from peasants' redemption payments and directed towards servicing obligations to the State Bank, land banks and foreign creditors, thereby turning peasant payments into the central link in the servicing of elite debts.

In the end, the state did not so much "liquidate" the landlord estate as transform it: from a relatively autonomous actor in credit relations it became a controlled and loyal debtor. A potentially chaotic wave of judicial bankruptcies was replaced by a managed chain of obligations — "peasant → Redemption Treasury → landlord → State Bank → state budget" — in which administrative coercion and fiscal logic entirely substituted for the missing civil-law mechanism of the kind that operated in the Kingdom of Poland.

Such a mechanism ensured financial stability (the avoidance of defaults on government loans), political loyalty among the moderate elite (the preservation of capital in the form of 5½-per-cent perpetual certificates) and a measure of social equilibrium by avoiding mass formal confiscations. It is thus appropriate to formulate a generalization of fundamental scholarly significance: the "Polish exception" and the "South-Western Krai scenario" do not constitute two opposing

models of imperial policy but rather different forms of implementing one and the same imperial logic within dissimilar institutional environments.

In the Kingdom of Poland, a fully fledged market operated in the full institutional sense: a developed body of civil law was in force, credit discipline was maintained, the courts preserved a relative autonomy, and the institution of fraud against creditors provided a predictable mechanism for the redistribution of assets. Under these conditions, the state could confine itself to the role of arbiter, and the displacement of the noble elite was effected through the legal mechanisms of "fraud against creditors" without direct administrative coercion.

In the South-Western Krai, by contrast, the market as an institution was non-functional: presumptions of fraud were lacking, the judiciary remained weak, and the circle of creditors was dispersed and unstructured. In this situation, the state was forced to move from arbitration to active intervention and to assume the role of a market-maker, artificially constructing a market through an administratively fixed discount (20 per cent), guaranteed payments (Article 7 of the decree of 30 July 1863) and the systematic exclusion of third parties from the circle of creditors.

What is at stake, therefore, is not a "deviation" from imperial logic but its most consistent implementation: where the market is capable of self-regulation, the state retreats; where no market exists, it is recreated by administrative means. For this reason, the application of the "Polish" scenario in the South-Western Krai was not so much politically undesirable as institutionally impossible: in this case, the administrative substitution of law was not a choice of greater severity but the choice of the only available mechanism for stabilising the debt system.

The key difference between the Kingdom of Poland and the South-Western Krai thus lay not in any divergence of "will" at the centre but in the presence or absence of the institution of fraud against creditors — a mechanism that transformed the threat of bankruptcy into a predictable instrument of restructuring. A counterfactual question arises: what would have happened if the

imperial authorities had tried to transpose the "Polish model" onto the Ukrainian lands, limiting themselves to the formal introduction of Code Civil norms? Archival evidence suggests that even under a hypothetical extension of the relevant civil-law provisions, the lack of institutional underpinnings — developed insolvency law, established judicial practice, and a structured circle of creditors — would have rendered such a scenario unrealizable, reproducing the empire's already familiar effect of a "bare principle without regulation."

In the Kingdom of Poland, the institution of "fraud against creditors" (Article 1167 of the Code Civil) functioned not merely formally but substantively, owing to a combination of three interrelated preconditions. First, there was a presumption of fraud in respect of transactions concluded within the so-called suspect period, which automatically shifted the burden of proof from the creditor to the debtor. Second, creditors could protect their interests collectively within a bankruptcy (insolvency) procedure, which prevented the fragmentation of claims and ensured a coordinated mechanism for the redistribution of assets. Third, the judiciary played an active role and possessed ex officio powers to initiate the seizure of a debtor's assets without waiting for an individual creditor to come forward. It was precisely this institutional configuration that transformed Article 1167 from a declarative clause into a genuine instrument for managing a debt crisis.

In the South-Western Krai, none of these conditions was present. Archival materials record the systemic incapacity of private creditors: "Landed loans in the Podillia and Volhynia provinces were most often formalized orally or by private notes. Bringing a civil action required the involvement of a county advocate, which cost from 50 to 100 roubles, that is, more than the average annual income of a small creditor. Therefore actions alleging fraud were rare and were brought mainly by the State Bank alone" [13, fol. 8 verso]. This empirically confirms D. D. Grimm's conclusion that Article 1529 of the Digest of Laws in the South-Western Krai remained "a bare principle without regulation" [21, p. 35]:

in the absence of a presumption of fraud, even the hypothetical extension of the Code Civil's formal provisions would not have created effective mechanisms for counteracting the evasion of debt obligations. The burden of proof rested entirely on the economically weak creditor, while the courts lacked procedural initiative.

Under these circumstances, the state could not rely on a "natural" cleansing of the market through judicial bankruptcies. In the 1864 financial model of the State Bank, recorded in [13, fol. 13], it was stated explicitly: "With an average delay in payments exceeding 18 months, the Bank's losses will amount to 23 million roubles on loans in Kyiv province, 14 million in Podillia and 5 million in Volhynia, for a total of 42 million roubles, representing 31 per cent of all loans granted in the region." These calculations correlate with Danilovich's observation that by 1862 the level of arrears in Podillia province had already reached 47 per cent [19, p. 68]. Refusal to employ the mechanism of compulsory redemption would therefore have meant not merely a delay in agrarian reform but a systemic financial collapse: the state would have lost liquidity faster than the judicial system could restore it, which determined the choice of administrative substitution of law as the only workable instrument.

A counterfactual scenario in which a presumption of fraud against creditors (suspect period) operated in the South-Western Krai makes it possible to experimentally disentangle the legal form from the functional content of imperial land policy. Empirical data suggest that, had such a presumption existed, the mechanism of fraud against creditors would have acquired a mass character. According to Danilovich, by 1859 some 68 per cent of landlords in Podillia province had arrears of more than two years [19, p. 59], that is, were objectively in a state of technical bankruptcy; in such circumstances, their transactions with peasants (even oral ones) would automatically have fallen under the indicia of fraud against creditors and thus become contestable without any need to prove collusion.

This would have had radical consequences. First, the decree of 30 July 1863 would have lost its functional necessity: its purpose — to secure the rapid administrative withdrawal of land from the orbit of landlord ownership — could have been achieved through judicial decisions, as was practised in the Kingdom of Poland after 1831 [21, p. 78]. Even with limited autonomy, the courts would have been obliged to respond to creditors' claims, while the presumption itself would have relieved them of the burden of proving subjective intent, making reference to the duration of arrears sufficient.

Second, the Instruction of 23 July 1865 would have lacked any rational foundation: its key regulatory instrument — the differentiation between "moderate" and "immoderate" landowners by the marker of "non-Polish origin" — existed only because there was no automatic mechanism for filtering out insolvent debtors. In a hypothetical scenario governed by fraud against creditors, there would have been no need to sort the elite by political loyalty; financial discipline, rather than ideology, would have become the criterion for access to state resources.

The emergence of the 1863 decree and the 1865 Instruction thus testifies less to the severity of imperial policy than to its adaptability. When an institutional instrument (fraud against creditors) is absent, the state constructs its analogue — not by abandoning legal logic, but by replacing it with an administrative surrogate. In this sense, the "Polish exception" is not an exception in the political sense; it is the baseline case, whereas the South-Western Krai scenario is its adaptation to the institutional poverty of the region, and administrative substitution of law appears not as a violation of imperial logic but as its most consistent expression.

Compulsory redemption in the South-Western Krai was therefore not the product of ideological hostility toward the Polish nobility, nor an act of "punishment" for the 1863 uprising, nor straightforward evidence of some "special harshness" in imperial policy. On the contrary, it was a technical

necessity rooted in the institutional backwardness of local law: in the absence of key mechanisms of civil circulation — the suspect period, creditor insolvency proceedings, collective protection — the state lacked the means for rapid and predictable judicial restructuring of debts and was therefore compelled to construct an administrative analogue of civil-law instruments. The decree of 1863 functionally replaced the institution of fraud against creditors, the 1865 Instruction substituted for judicial asset-seizure procedures, and the Redemption Treasury replaced the credit market; what is at issue is not a departure from law, but its functional imitation under conditions of institutional incapacity. The "Polish exception" thus does not negate the unity of imperial logic; it confirms it: the state acts as arbiter where law functions, and as market-maker where law falls silent.

Conclusion.

The analysis of imperial land policy in the Kingdom of Poland and the South-Western Krai in the 1860s–1880s supports three key conclusions that revise the conventional understanding of the peasant reform as an act of social justice or political punishment.

First, the "Polish exception" was neither accidental nor the product of a softer imperial stance; it was the clearest expression of imperial rationality. Wherever an effective legal mechanism for creditor protection operated — above all the institution of fraudulent conveyance with a presumption of fraude (Article 1167 of the Code Civil) — the state could confine itself to the role of arbiter: it did not intervene directly in financial flows because the courts automatically ensured the seizure of the assets of insolvent debtors. As a result, there was no need for compulsory redemption, the decree of 1863 or the Instruction of 1865; empirical evidence shows that in 1857–1860 some 87 per cent of actions alleging fraud were upheld [21, p. 81], which meant that the market could regulate the risks of a debt crisis on its own.

Second, in the South-Western Krai the absence of this mechanism — in particular the suspect period, collective procedures for creditor protection and shared liability — made administrative substitution of law the only viable strategy. Compulsory redemption was not an ideological choice "against Poland" but a technical necessity dictated by the institutional backwardness of local law. The state did not so much "destroy" the landlord elite as transform it from a relatively independent creditor stratum into a controlled debtor class by constructing an artificial financial chain — peasant → Redemption Treasury → landlord → State Bank → state budget — which guaranteed the stability of public finances, the political loyalty of the "moderate" elite and a degree of social calm without which the reform would scarcely have been feasible [13, fol. 13].

Third, redemption payments should not be interpreted as "compensation to the state for land"; rather, they functioned as an instrument of fiscal transfer directed toward financing precisely those landlords who remained loyal to the government. The Instruction of 1865 codified this mechanism explicitly: access to funds from the Redemption Treasury depended on "non-Polish origin" and "maintenance of loyalty" [4, pp. 628–635, § 2], which confirms the thesis that the peasant reform operated as a mode of managing a debt crisis through political engineering rather than as the implementation of an abstract principle of social justice.

The "Polish exception" therefore does not undermine the unity of imperial policy; it reveals it. The empire did not follow a single, uniform model; it adapted its instruments to the institutional environment: where law functioned, the state arbitrated; where law was silent, the state acted as market-maker. The question "why was there no compulsory redemption in the Kingdom of Poland?" is thus resolved not in the sphere of ideology but in the sphere of institutions: the presence of an effective institution of fraud against creditors in Poland, and its absence in the South-Western Krai, produced opposite reform trajectories under an unchanged logic of imperial calculation.

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