

I. The objective of the project and basic research to be carried out

The project is assumed to research into the field connected with the topic of Polish criminal proceedings and its costs, as well as their mutual relations. A research project which is the object of this motion can be characterized as innovative and pioneering in the field of criminal procedure law. So far, there has been no complete and proper methodological analysis conducted with regard to the case accounting, as well as the research leading to the establishment of a relationship between the costs of the case and the procedural efficiency. Consequently, not only could the results of the research prove helpful to the criminal law studies but also they could be profitable within the legal praxis, including legislation work (the influence on the potential efficiency of the process and effective reforms).

In reference to the theoretical and legal aspects, one has to indicate that in case of both the doctrine and the judiciary, there is no agreement over the scope and the definition of the concept of efficiency of criminal procedure. Some of the authors regard the postulate in question as the ultimate procedural rule or classify it as the rule of concentration. Others, however, determine it as an element of the right to a fair trial rule. The lack of agreement is reflected also in the nomenclature, because there is a disagreement over the case: if it is right to use the term of speed or the efficiency of the criminal procedure. It implies a thesis claiming that the state of vagueness, contradiction and controversy concerning the legal conditioning of the postulate in question should be organized and defined as precisely as possible.

Obtaining expert knowledge (based on research conducted by Delphi Method) may prove criminal law studies and estimate the cost impact on the efficiency of criminal proceedings in the long term. The research included in the project can become helpful to the practices of creating and applying the law. The investigation into the current legal regulations and legal practices based on those regulations should facilitate the improvement of their quality, as well as increase the efficiency of criminal trials. These steps as well as an innovative purpose of the research define it within the framework of pure research.

The primary objective of the project is to develop a model (methods) of the calculation of the costs in the Court of First Instance proceedings (including the costs of the pre-trial proceedings) and also to establish the influence those costs wield on the efficiency of the proceedings. The process of case cost calculations and the conclusions that are consequently drawn are complex to such an extent that in order to achieve the main objective it is necessary to set the secondary objectives i.e. to establish:

- the range of the definition of the 'efficiency of the proceedings',
- the importance and role of the costs in the proceedings and their impact on the decisions taken by the judicial bodies (the form and type of the proceedings),
- the cost groups and their estimation,
- the scope and types of the proceedings that constitute each separate process in order to determine when they become prolonged without justification and the unnecessary costs are generated (taking also into account the geographical location of the court),
- the interrelations between the examined variables.

The research, both quantitative and qualitative, will be carried out for the purpose of the project. However, due to their sophisticated and complex character the triangulation of research methods will be employed. Its aim is to achieve the most comprehensive representation of the analysed problem and its appropriate argumentation. The triangulation of methods is based on the collection of data using several research methods, then comparing them and combining the results.

- **quantitative-documentary method of researching court records and documents** - analysis and verifying individual lawsuits will make them carried out, their duration and associated costs,
- **qualitative method - survey with the so-called Delphi Method** - appropriate surveys will be conducted among the experts who create and apply the law on a daily basis, including the representation of the Government Legislation Center, Criminal Law Code Commission, Ministry of Justice, Ministry of Finance, judges, prosecutors, court directors and solicitors with the use of the Delphi Method. The aim of the research is to elicit the opinions and prognoses of the experts regarding the role and the meaning of the procedural costs for criminal procedure as well as the efficiency of its proceedings of the mutual relations. The Delphi Method surveys are based on the process of distributing the questionnaires and receive the answers (a few rounds). On this basis the initial conclusions are formulated and the analysis is conducted. Then, the conclusions together with the new questions are resent to the respondents,
- **desk research - It is based on a method of critical analysis of the subject literature and of the reports** of the Institute of Justice, Ministry of Justice (Department of Strategy and Deregulation of the Court Departments, Organization and Analysis Department of the Judiciary, Budget and Finance Department), the European Commission for the Efficiency of Justice, National Justice Board, organisations, foundations and associations that are researching the subject matter, Polish and foreign literature and also of other existing and available data, then their synthesis and processing,
- **quantitative method - Case Study** - this method will be used to analyse selected criminal proceedings that represent both standard and extreme cases. The objective is to establish recurring regularities and irregularities as well as potential errors.

II. Reasons for choosing the research topic

As a justification of the choice of the topic, one has to emphasize the fact that because the law should be treated as a phenomenon of a special kind, it is necessary to conduct the research into the factors influencing the creation of the legal regulations as well as the way the relation to the practices of their application. The basic task of the legislator is to adopt the currently functioning legal regulations to the changes in the social, political and economic life which happen permanently. Additionally, because of the fact that the legal phenomena have a mass character, one can perceive their repetitiveness, and on that basis evaluate their regularities, which can be expressed in a form of statistical hypotheses on the basis of a random sample.

The research of the current legal regulations and the practice emerged on their foundation, eventually are supposed to serve the improvement of their quality and the efficiency of the trial proceedings. The insufficient data, and consequently also the deficiency of objective analyses of the complete procedural costs result in the lack of influence on the prospective case efficiency. What is the efficiency of the procedure and how should we measure it? Is the criminal case, as some academics would say, too costly and ineffective? And if so, what are the reasons for it? Observing the current problems of not only the criminal law, but the judicature in general, one has to state decisively that **one of the biggest and the most severe of them all is the duration of the case.** Only the efficient actions of the judicial bodies create the possibility of the just examination of a case, with the preservation of the constitutional law of an individual to be judged fairly during a criminal case. At present, **there is no agreement in the literature, over the scope, role and legal basis for the concept of procedural efficiency.** In addition, not only is a lengthy procedure a denial of the justice dispensation ("*Delayed justice - no justice*"), but it is also a procedure which generates high costs. In addition, these aspects should also be analyzed from the point of *Economic analysis of law - Law & Economics (EAP)*, which aims to recognize the efficiency of legal solutions recognized right under the assumption to minimize waste.

Financial aspects both come within the scope of the assessment of the regulatory consequences and constitute a priority element of introducing new legal solutions and predictions of the consequences, as well as are an inseparable element of the judicatory functioning, and therefore the judicial case. This issue on the other hand is of a remarkable importance when it comes to the criminal procedure, because the key cause here is that who and in which scope should bear the consequences. **The problem of costs is especially important, when the State Treasury is encumbered with the procedural costs, which in result focuses on the society instead of the convicted one, whose actions were the reason for the cost generation in the first place.** In this context, the issue referring to the methods applied by the judicial bodies is also extremely significant, because the budget determined for the conduct of the proceedings determines the form and the way of the undertaken actions. **Therefore, it influences their quality (artificially undervalued expenses can have a detrimental effect on the further proceedings and the final result).** One should also consider answering the question: if the exhibited costs coincide with the real ones.

In this place, one has to indicate, that the methods of cost estimation have not been worked out until now and the methods of efficiency measurement remain to be improved. Right now, there is an ongoing discussion in the Ministry of Justice regarding the inevitable need to create the method of cost calculation with reference to the individual criminal cases, known as case accounting, as well as methods which would determine the actions included in the procedure, which is bound to facilitate the cost estimation and the reserves planning. Because of the inevitable need to find the estimation methods as well as the specification of the concept of procedural efficiency and also because of the fact that these issues have never been the subjects of academic research but only a reason for discussion, it seems justified to initiate a more extensive analysis of the issues in question. **As per the following rules "*We can only change, what we can measure*" and "*We cannot influence something which do not know about*", in order to introduce significant changes and improvements, the sufficient data needs to be gathered.** This can be achieved with the help of a statistic analysis and the proper data processing. **Only on this basis would it be possible to formulate accurate conclusions, and in the future postulate effective reforms, improving the procedures and diminishing the costs. In this light one has to claim that the lack of sufficient data, and therefore, objective analyses referring the total procedural costs results in the lack of influence on the potential procedural efficiency.**

Consequently, the proposed research project can prove to be helpful not only from the theoretical perspective but also it can improve the practice of creating and applying the law. The analysis of the current legal regulations and the praxis which emerged on their basis, should be of use when it comes to the improvement of the quality and procedural efficiency as well as the reduction of its costs.