

The legal nature and role of the legal theses issued by the Polish (non-German) appellate courts in the General Government during World War II

With the creation of the General Government (hereafter: the GG) the occupiers made two very important decisions from a legal point of view. First of all, the pre-war Polish law remains in power. It was in power in the sense that it "did not oppose the takeover of the administration by the German Reich". Secondly, the occupiers introduce a dualistic model of the general judiciary. In addition to the established German judiciary, the Polish (non-German) judiciary functioned, whose organization was based on the pre-war system of the common courts. The most important change was the liquidation of the Supreme Court. The structure of the Polish (non-German) judiciary was limited to municipal courts (sądy grodzkie), district courts (sądy okręgowe) and appellate courts (sądy apelacyjne).

As a result of preliminary research, it was found that the appellate courts had the power to issue legal theses. The Principal Investigator assumes that this institution replaced the legal principals existing in the Second Polish Republic, issued by the Supreme Court for the purpose of exercising juridical supervision over lower courts. Both of these legal institutions will therefore be compared. The examination will cover the procedure of passing legal theses, in what situations they were formulated, how and whether they were published at all, and whether the theses were passed to the courts in the other districts. Another accepted hypothesis is that, in each district, the issuing procedure and the role of legal theses were similar. Despite the polycentric system introduced, the courts were informed about the theses issued in other districts, which led to the unification of law throughout the GG. It is also presumed that legal theses were purely juridical and were not used to politicize the law in the accordance to the Nazi policy aims. The above research objectives will serve to determine the status of the legal theses and their role in the GG "legal" system. If the right number of the legal theses can be determined, they will be developed using quantitative, statistical methods. These methods will reveal which appellate courts issued more theses in which cases, and what the subject was of the legal theses.

Preliminary research also shows that legal theses were probably regulated by the so-called: "duplication law", not published normative acts issued by the public administration. This forces the principal investigator to conduct an archival query to find the legal basis of the examined institution and the legal theses itself. Scientific literature on these issues will be used, as well as other helpful sources. The legislation found will be analyzed in a relevant, historical context.

The organization and functioning of the Polish (non-German) judiciary in the GG has not been subject to detailed research. Individual works characterized only the organizational basis of the Polish (non-German) judiciary using only the general governor's regulations. The results of the project will fill a significant gap in the understanding of the "legal" system and the judiciary in the GG, while at the same time the results will be some kind of an introduction to the further study of Polish judicial law in the GG.

In a broader context, the research findings, especially the found legal theses, can serve as a basis for researchers of dogmatic law. It will enrich research material with examples and demonstrate ways to interpret certain legal institutions in specific, yet significantly different, socio-economic conditions.