

The role of facts in determination of normative grounds for the acts of application of law

The thesis raises up the subject of relationship between reasoning based on facts and reasoning based on legal norms, conducted throughout the process of law application. The analysis is supposed to exhibit – according to the initial assumption – the influence of fact finding activities on the shape of a normative grounds of the act issued by a court or public authority. Above all, the dissertation aims to show, that such findings are not independent but are being conducted in parallel, having a mutual impact on each other.

The dissertation combines descriptive and normative elements. The theory of interpretation and law application model presented in it can be used as a source of assessment criteria for specific acts of application of law – in order to confirm their compliance with law and proper qualification of factual circumstances, based on the relevant legal regulations.

The normative elements determine assessing-prescriptive aspect of the theory described in this dissertation and are supported by the conclusions regarding the assigned meaning of legal text. The way I lay down the meaning of legal provisions in this dissertation determines the final shaped of the theory of interpretation I created – normative elements are influenced by descriptive elements.

While searching for a relevant theory regarding the meaning of legal provisions – from the perspective of so-called operative interpretation – I was inspired by the philosophy of Charles Sanders Peirce, James Dewey, Ludwig Wittgenstein and Robert B. Brandom. The outlined philosophical background had allowed me to try building a concept of operative interpretation, which would:

1. reflect the dynamics of mutual impacts between factual and legal findings that occur in the process of law application and
2. allow to construct the basis of law application model of both procedural and substantive character.

My aim is to include in this concept the influence of individual activities of public authorities and participants in the proceedings on the process of interpretation during the law application. The model of law application was constructed in such way, that not only it explains the

substance of the final decision, but also to explain the course of the proceeding and a specificity and impact of individual activities. It also considers hypothetical nature of findings within the process of law application.

I have put forward two main hypotheses:

1. concerning evidence, that relates to the existence of two legally relevant facts, crucial for particular case
2. concerning interpretation, that relates to the scope of application and the scope of norming of legal rules relevant for particular case, as determined by the hypothesis No. 1.

These hypotheses are constantly being verified in order to confirm or revise them. Such process requires to constantly move from facts to law and from law to facts to ensure that both hypotheses are mutually confirmed by each other or to choose the proper base of law application from competing hypotheses, formed during the proceeding.

My considerations show the importance of factual circumstances of particular case and their influence on the normative grounds. The factual grounds are a go-between all three legal grounds (empowering, procedural and normative) and impact the way legal provisions determine a resolution of a case. It is conditioned of factual circumstances of particular case, understood as specificity of conditions occurring outside of the text: laws of nature, social rules etc., leading to the constitution of catalogue of legal provisions that become a normative grounds for the law application act.