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„The Participation of the Prosecutor in the Civil Proceedings”

Abstract of the doctoral thesis

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The subject of the dissertation is a comprehensive analysis of the public prosecutor's participation in civil proceedings. The aim of the work is to examine whether the prosecutor's involvement remains justified in contemporary civil proceedings and, if so, to define the appropriate scope of their powers. The dissertation posits the initial hypothesis: the prosecutor's participation in civil proceedings is not inherently inconsistent with the current axiological assumptions of civil procedure. However, it can be assumed that the prosecutor's powers are excessive, and thus their authority to initiate proceedings and to participate in them should be limited and concentrated on cases where the public interest is of particular importance. These include non-litigious cases, family law cases, and proceedings before the Supreme Court.

The dissertation consists of four chapters, preceded by an introduction and concluded with final findings.

Chapter I presents the key issues that serve as a basis for further detailed observations. The starting point for these considerations is the origin of the public prosecutor's office in general and the prosecutor's powers in civil proceedings under Polish law. After presenting the institution in its historical context, its current regulation is compared with constitutional values and the fundamental principles of civil procedure, which constitute the most important factors to consider when assessing the prosecutor's role in the civil procedural system, also *de lege ferenda*. This chapter concludes with a review of legal systems where the prosecutor has at least limited powers in civil proceedings.

Chapter II presents the prosecutor as an entity in civil proceedings. The starting point in this chapter is an explanation of the prosecutor's role in light of constitutional principles, followed by an analysis of the prosecutor's procedural status as a party (participant in the proceedings). This analysis is conducted in relation to basic civil procedural institutions, such as legal capacity, procedural capacity, and standing, as well as a characterization of the prosecutor's procedural actions compared to those of other entities in civil proceedings.

Chapter III addresses the various forms of the prosecutor's participation in civil proceedings (independent and dependent claims, joining proceedings initiated by another entity, motions to initiate non-litigious proceedings, prosecutor's involvement in securing proceedings, enforcement, bankruptcy, and restructuring). Each form of the prosecutor's action is analyzed in relation to the existing legal doctrine and case law, with particular emphasis on contentious issues and practical applications. Each of these forms is then assessed *de lege ferenda*, attempting to determine whether they align with the current axiological assumptions of civil procedure and how they should be shaped.

Chapter IV provides a comprehensive analysis of the participation of the public prosecutor and the Prosecutor General in proceedings before the Supreme Court. The analysis focuses primarily on the Prosecutor General's powers to file cassation complaints, complaints of

violation of law by a final judgment, extraordinary complaints, and motions to annul a final judgment, as well as their involvement in proceedings before the Supreme Court.

The conclusions of the dissertation confirm the initial hypothesis that the prosecutor's participation in civil proceedings—though it applies to a limited number of cases—is a necessary institution that aligns with one of the protective functions of civil procedure, namely the protection of the public interest. However, adjusting the regulations governing the prosecutor's participation in civil proceedings to current constitutional standards and the modern understanding of the fundamental principles of civil procedure requires significant amendments.

Keywords:

civil proceedings, public prosecutor, claim, non-litigious proceedings, principles of civil procedure, Supreme Court