

mgr Przemysław Jadłowski

## Jurisdiction of the Court in Polish Civil Litigious Proceedings

*Summary of a doctoral dissertation written under supervision of prof. dr hab. Sławomir Cieślak,  
Chair of Civil Procedure I, University of Lodz*

The doctoral dissertation delves into the subject of court jurisdiction in civil proceedings. While previous scholarly discussions in Polish procedural law have approached this matter in a fragmented manner, a comprehensive and cohesive exploration of this topic has been lacking. However, it bears significant practical relevance, given the multitude of decisions regarding the lack of court jurisdiction made by civil courts each year (statistics indicate that approximately 2% of civil cases end with a ruling on the court's lack of jurisdiction). The research conducted for this dissertation aims to confirm the research hypothesis, which can be summarized as follows: "The fundamental criterion for evaluating the rationality of the legislator when creating regulations concerning the jurisdiction of courts in civil proceedings is the proper balance of two sets of values: (1) the right to a court, understood as geographic access to the court, and the right to a court, understood as access to a quality justice system, and (2) the equitable distribution of tasks among courts and judges and ensuring an adequate level of specialization".

In the course of examining this hypothesis, the research will revolve five general research questions:

1. What is the nature of norms defining court jurisdiction?
2. Do norms defining jurisdiction serve as the fulfilment and guarantee of case adjudication by the competent court as understood in the Constitution of the Republic of Poland?
3. To what extent and in what manner do civil procedure rules implement norms defining jurisdiction?
4. What are the fundamental rationes governing the determination and interpretation of norms defining substantive jurisdiction?
5. What are the fundamental rationes governing the determination and interpretation of norms defining territorial jurisdiction?

Each research question corresponds to one chapter of the dissertation.

**Chapter one** lays the groundwork for the comprehensive analysis of jurisdiction norms by scrutinizing their inherent complexity. These norms occupy a unique legal niche, defying easy categorization as either substantive or procedural. Instead, they function as a pivotal linkage between the structural framework of the justice system and the procedural legal sphere. The research seeks to elucidate the distinct attributes of these norms, illuminating their role as a jurisprudential bridge within the legal landscape concerning civil proceedings.

Specific research Questions for Chapter 1:

- 1a. "What are the criteria for distinguishing between substantive and procedural norms?"
- 1b. "Is it possible to assign norms defining jurisdiction to this distinction?"

1c. "What is the relationship between norms defining jurisdiction and procedural, organizational, and competence norms?"

**Chapter two** delves into the constitutional framework of court jurisdiction, examining the legal basis for such authority. It thoroughly examines the constitutional provision granting access to a court, alongside the concept of a court's competency. The chapter scrutinizes the matter of legislative discretion in delineating the norms that regulate court jurisdiction. An exploration is conducted into the foundational legal principles that define court competence and jurisdictional limits.

Specific research Questions for Chapter 2:

2a. "Does Article 45, paragraph 1 of the Constitution of the Republic of Poland, in the part where it provides for the adjudication of cases by a competent court, constitute a substantive norm?"

2b. "What characteristics must a court have to be considered competent under Article 45, paragraph 1 of the Constitution?"

2c. "To what extent does the legislator have freedom in regulating court jurisdiction?"

2d. "Can regulations establishing specific judicial organizational units be delegated through ministry of justice regulations?"

**Chapter three** encompasses an examination of civil procedure rules and the placement of norms defining jurisdiction within them, specifically identifying which of these norms are applied by jurisdictional provisions and in what manner. To achieve this, the author first delves into the definition and subject matter of legal principles within the legal system in general and civil procedure rules in particular, drawing from the concepts proposed by Dworkin and Alexy. Subsequently, selected legal principles are contextualized within the framework of jurisdiction-regulating provisions.

Specific research Questions for Chapter 3:

3a. "How are legal principles defined in general and procedural law, and how do they relate to principles of civil procedure?"

3b. "How can principles of civil procedure be categorized?"

**Chapter four** pertains to substantive jurisdiction. The author engages in an analysis of the historical evolution of regulations concerning substantive jurisdiction and examines their status within three selected legal systems: German, Swiss, and French. Subsequently, the chapter delves into a comprehensive discussion of substantive jurisdiction regulations, with a particular focus on the ratio legis of each individual substantive jurisdiction regulation.

Specific research Questions for Chapter 4:

4a. "How does the structure of the justice system influence the determination of substantive jurisdiction?"

4b. "How did the institution of substantive jurisdiction evolve in the historical development of law in Poland?"

4c. "Is it possible to determine an optimal threshold justifying the jurisdiction of a court (ratio valoris)?"

4d. "What are the underlying ratio materiae justifications in contemporary Polish regulations?"

**Chapter five** of the thesis concerns territorial jurisdiction, and its structure closely mirrors that of the chapter on substantive jurisdiction. In this chapter as well, the author places paramount importance on the quest for legislative rationality in the formulation of territorial jurisdiction criteria, exploring the foundational principles underpinning each of these criteria. The aim is to meticulously analyse and assess the legislative reasoning and the jurisprudential basis for these territorial jurisdiction provisions.

Specific research Questions for Chapter 5:

5a. "What is the scope of the concept of territorial jurisdiction and what does it encompass?"

5b. "What are the justifications for exclusive and non-exclusive territorial jurisdiction, both in principle and in specific cases?"

5c. "How should the new bases for delegative territorial jurisdiction be assessed?"

**In the conclusion**, the author synthesizes the findings from the extensive research conducted throughout the dissertation. The central research hypothesis, asserting the pivotal role of balancing geographic access to the court and access to a quality justice system, as well as ensuring equitable distribution of tasks and specialization, is reaffirmed. The research has yielded valuable insights into the complex landscape of court jurisdiction, with implications for the development of procedural law and the broader justice system. This dissertation underscores the need for a more comprehensive, nuanced, and well-balanced approach to court jurisdiction within civil proceedings.

Lodz, 18<sup>th</sup> October, 2023