

INSTITUTE OF LAW STUDIES OF THE POLISH ACADEMY OF SCIENCES - 45 YEARS OF ACTIVITY

Five years have passed from the moment when we celebrated 40 years of existence of the Institute of Law Studies of the Polish Academy of Sciences. These five years of our history were marked by both continuation and development. Both these processes have had their positive results. Continuation is a proof of maturity, stability and correctness of the direction in which we are heading, while development, which, by the nature of things, stands for dynamism and growth, is a feature that favours change, looking for new and better ways, higher efficiency, deeper knowledge and creative potential, increasing public usefulness. If we add on top of this - and we cannot but do so - that these five years have also been a difficult period in financial terms, then the final balance sheet allows the Institute and its personnel to look back at these past years with quite some satisfaction and optimism.

Five years ago Prof. Andrzej Wasilkowski, who was the head of the Institute of Law Studies of the Polish Academy of Sciences at that time, presented a summary and description of its activities during the whole 40 years of its existence. He underlined certain special features of the Institute as a scientific centre that deserved special attention. Thanks to the fact that it represents all basic branches of law, criminology and sociology of law, which constitute the basis for complementary analysis of any phenomenon and for the possibility of conducting interdisciplinary research, the Institute attempted to attract collaborators from among all the lawyers in this country, not only academics, but also practitioners from the judiciary, law-making centres, public authorities. A symbolic manifestation of the conception of the Institute being not only a research unit of the Polish Academy of Sciences, but also a centre of scientific co-operation, is the tradition of appointing, beside members of the Academy and professors employed by the Institute, representatives of other university centres, particularly from the Faculty of Law and Administration of the Warsaw University as a natural and closest partner in scientific activity, as members of the Scientific Council of the Institute.

For many years, the Institute even played the role of a national co-ordinator of research considered to be of particular importance for the development of the State and its institutions and for jurisprudence itself.

The situation changed in the Nineties with the system of financing scientific activity, which does not favour the Institute initiating and conducting programmes that bring together researchers from other scientific centres, which is not to say that such co-operation is disappearing. The Institute organises many scientific conferences on a national scale, joint undertakings of authors, sometimes very large-scale undertakings,

such as the system of private law, labour law and criminal law, participation of colleagues from other centres in implementing the grants awarded to workers of the Institute, as well as jointly preparing comprehensive expert opinions. Researchers of the Institute are also often and readily invited to co-operate with many various scientific institutions in joint projects, publications and conferences. The tradition of the Institute's active participation, as the initiator, co-ordinator or participant, in research work is therefore such a strong feature in its characteristic that it became a kind of "trade-mark" of the place and role of the Institute of Law Studies in Polish and international scientific life.

Just as the whole country, the legal sciences - and maybe even the legal sciences in the first place - underwent the evolution of the turn of the Eighties and Nineties. Here, it is worthwhile to refer again to a statement made five years ago — that the juridical sciences, for the most part, do not have an abstract character, that they refer to the existing law and if the law is subject to constant transformations, the legal sciences face special tasks: they have to serve as an expert to a considerable degree introducing, at the same time, a certain order based on experience and realistic evaluation of the possibility of achieving certain objectives with the help of the law. This fitting comment by Prof. A. Wasilkowski may be, from the perspective of the further five years of activity of the Institute of Law Studies of the Polish Academy of Sciences, complemented with yet another comment that legal sciences can and should also inspire such transformations of law and that in favourable, democratic conditions of functioning of the State they really perform this scientific mission.

In a general summary of the role played by the Institute in the light of the tasks set before the legal sciences we can see a lot of lasting, positive achievements and - despite the changing conditions or passing circumstances — consistency in studying important and difficult problems of the State, the law, the society and the economy.

Scientific Research

It is in the last of these spheres that comprehensive studies of the legal functioning, organization and economic reforms had been conducted consistently since the Seventies and had contributed significantly to its transformation.

The Team for Legal Issues of the National Economy that existed at the time, which invited lawyers, economists and sociologists from various centres to participate in its works, was involved in developing the legal bases for the economic reform, drafting the fundamental statutes that defined the reforms in management of the national economy and introduction of democratic elements in its structures, including spheres which then were just beginning to develop in Poland, such as anti-monopoly law.

Studies of the Labour Law Team, which were conducted at the same time, focused on creating the theoretical foundations of contemporary labour law in relation to international and foreign standards. The Civil Law Team, in the studies of the classical issues of this branch of law, focused its attention on the most important problems of an individual (a. o.

in the field of inheritance law and inheriting farms, protection of personal goods, ownership law, the status of an individual in relation to mass media, consumer law).

The merger of these three teams, in the beginning of the Nineties, into the Private Law Team, added a new dimension of comprehensiveness to these research problems. At the same time, the Team started dealing with the most urgent questions relating to transformation of the economic system and to new - in the Polish reality - legal phenomena and institutions: company and partnership law, anti-monopoly law, industrial and intellectual property law, advertising law, collective labour relations law, electronic economy (the law on charge cards, electronic signature) and others, in response to the most recent challenges of the development of contemporary world. While continuing the classical research on civil law and the questions of modernising the labour law, the Team is also putting the Polish system of private law into the orbit of European law where, owing to the achievements of Polish science among other things, it is already gaining a strong position.

The fact that the Institute of Law Studies is open to new trends in the development of science is confirmed, *inter alia*, by the establishment of the first agricultural law centre in Poland, such law being treated as an autonomous discipline. The research devoted to this - always special — branch of economy has been of considerable importance among the achievements of the Institute. Moreover, the Team became a centre integrating the lawyers-agrarians all over the country. Dealing with the problems of agricultural law is of particular importance now, when Poland is facing European integration. The research conducted by the Agricultural Law Team covers the full scope of agricultural regulations of the European Community and harmonising the solutions applied in Polish law with Community legislation.

One of the oldest research units of the Institute of Law Studies of the Polish Academy of Sciences is the Criminology Section established in 1955 by the initiative of Prof. Stanisław Batawia, an eminent scholar and founder of the Polish school of criminology. Such a great tradition obliged the Section to keep the highest level of scientific activity, which has been its distinctive feature until this day. Having been, for many years, the leading centre of criminology in Poland and in Central and Eastern Europe, the Section undertook tasks that appeared during the systemic transformations setting a new research perspective.

Basing its scientific searches on empirical studies, on comparative material, on extensive international co-operation, the Criminology Section analysed first of all the social phenomena that caused anxiety and required solutions. It means analysing new forms of criminality, changes in the scope of common criminality and youth criminality, and contemporary models of preventing crime. This research is conducted following a novel approach and in co-operation with scholars of the countries which, as a result of transformation, found themselves in the same situation.

The Criminal Law Team is characterised by a similar approach oriented towards the needs of the present time. This Team conducted research on substantive criminal law in a systematic manner and carried out a broad spectre of work on comprehensive commentaries to the Penal Code. It also undertook studies in the field of basic theoretical problems

of criminal law. A significant domain of studies was the problems of petty offences, including the law on petty offences, criminal policy, research on crime victims and theoretical problems of victimology, as well as studies in the field of international standards of human rights in criminal law and the issue of responsibility for medical operations.

The Team has made considerable contribution in the work on codification of criminal law (the Penal Code and the Law on Petty Offences) and on the statutes concerning secrecy, medical law and protection of rights of crime victims.

Public law has always had broad representation in the Institute. The studies in the field of constitutional law, public administration, local government and territorial self-government, international and European law (Community institutions and law), which were initially conducted separately, in the Nineties were grouped in two teams: the Team of Public Law and European Studies and the International Law Team.

For a long time, the studies on the State system and constitutional systems have been conducted along parallel tracks: both of Polish law and comparative law, including not only socialist law, but, to a considerable extent, the law of democratic States of Western Europe and America. This was why in the lead-up to systemic transformations and during the transformation period itself the Institute was one of the centres which were fully prepared for the development of a new model of political system of the State. Scientific collaborators of the Institute of Law Studies of the Polish Academy of Sciences were "in the front line" of preparatory works in the field of constitutional amendments, developing the new Polish Constitution, laying down the principles of democratic law and constitutional practice, both in the theoretical aspect and acting as experts, since the Institute was the representative of the opinion of the Polish Academy of Sciences in the process of adopting the constitution. Another related domain of studies of this Team is the system of sources of law and the quality and creation of law. As early as in the beginning of the Eighties the Team started dealing with matters relating to the Community, especially in the field of institutions and sources of law, which was later developed into a more thorough domain of European studies.

Also in the sphere of administrative law, for a long time, all the trends marking the future role and character of the public administration have been being worked upon. The main ones included transparency of actions, response to the citizens' right to information, law relating to civil servants, the status of the civil service. Additionally, a very special element appeared in the sphere of administrative law science: the administration of science and protection of monuments and national heritage, which is a rare occurrence in the field of legal sciences and therefore constitutes a certain characteristic feature of the Institute.

Its ally in systemic research, and especially the legal system, has been the International Law Team. In a sort of response to the constitutional conception of sources of law, which incorporated international law into domestic law, both these disciplines became complementary and co-operation between them has produced measurable effects in the form of not only jointly prepared elaborations, but - first of all - breaking the long isolation of international law and domestic law.

International law studies conducted at the Institute cover a very broad range of issues: many aspects of treaty law, Community law, jurisprudence of international and Community courts, the issues of territorial changes in Central and Eastern Europe, space research of the Earth, to name just a few examples. Their common feature is that they are always focused on new problems, general ones of fundamental significance. This is probably why the works of this Team receive prizes so often and in such a spectacular way.

The Institute of Law Studies does not limit its activities to Warsaw: its organisational structure includes units in Poznań and Wrocław, and previously also in Cracow, where now there remain independent researchers only. The characteristic feature of these units, apart from being integrally linked with the Warsaw unit, is the fact that they do not double the trends in research conducted in the capital, but develop different types of problem-oriented research, which is a considerable enrichment of the scope of scientific interests of the Institute.

In Poznań there is a unique Human Rights Centre, which started its activity, with considerable impetus, in 1976, that is, in a period which was not very favourable to developing the idea of human rights, and quickly gained a high position on the international scale. It was thanks to the work of the Centre that Polish doctrine, and what is more - Polish politics, became aware of the enormous importance of such problems. It was in the Centre that the human rights Deposit Library of the Council of Europe was created. A vast regulation of human rights in the Polish Constitution is - to a large extent - owed to the Poznań unit of the Institute.

The second research centre in Poznań is the Team of Family Law and the Rights of the Child. Apart from civil law studies in the field of classical family law, the Team also conducts studies on the rights of an individual, specialising in the field of the rights of the child. It was here that the draft Convention on the Rights of the Child was prepared. In 1979 the Polish Government sent it to the UN Commission on Human Rights. Its basic theses remained in the final version of the Convention.

It is in the two centres in Poznań that Polish and international institutions and organisations look for good specialists, experts and officials.

The profile of studies conducted in Wrocław is related to the natural environment. Contemporary world cannot exist without these problems being treated seriously, which is why the law and the legal sciences have an important role to play here. The Team of Legal Problems of Environmental Protection and Formation was established in 1976 and its history is inseparably linked with the development of environmental protection in Poland and with the evolution of Polish law in this respect. Apart from theoretical studies and participation in international programmes, the Team plays an active part in legislative work. By preparing numerous expert opinions for the State authorities, public organisations and economic entities, the Team members exert far-reaching influence on the public and administrative awareness of the issues of environmental protection.

In Cracow, research is conducted in the field of sociology of law. Additionally, a number of Institute's professors are conducting their studies independently, outside of the organizational structure of the Teams, e.g. studies in the field of the theory of State and the law, consumer law and others. They have devoted much attention to the demo-

cratic judiciary, both in its institutional aspect and as regards jurisprudence, and to functioning of the courts.

The above brief description of selected trends in studies of the particular Teams of the Institute clearly indicates several fundamental features of its scientific activities. Firstly, dealing with the key social, political and economic issues. Secondly, applying, to a large degree, modern research methodology based on empirical research in the field of efficiency of law, its practical functioning, its perception by the general public. Thirdly, representing the attitude which favours the development of democratic institutions and human rights, though obviously within the objective limitations. Fourthly, concentration on keeping the highest scientific and intellectual levels, culture, honesty and scientific reliability. Finally, being widely open to comparative law studies, international co-operation, academic contacts with other domestic units and with scientific centres all over the world, within the framework of large projects, such as Tempus, bilateral projects, such as the one with IRCID in France, and through other forms of academic exchange, within the framework of world-wide scientific associations of, among others, international law, criminal law or constitutional law, and through countless individual academic contacts.

Didactic Activities

The Institute has never isolated itself from didactic activities. On the one hand, it was the organiser of courses, training sessions and studies of various types, on the other, many collaborators of the Institute, from assistants to professors, conducted didactic activities at many universities and in many schools of higher education in Poland and abroad. This activity has become more intensive in the recent years. Under an agreement with the Association of Polish Lawyers, the institute became a partner of the European School of Law and Administration, helping to determine the profile of studies and providing part of the academic personnel. Additionally, the Institute's researchers are also teachers of other schools of higher education, such as the Faculty of Law of the Cardinal Stefan Wyszyński University, in many new non-state owned law schools, in centres located outside of Warsaw, e.g. in Lublin, Płock, Pułtusk, Olsztyn and Siedlce.

The arguments for undertaking this kind of work is not only the financial needs, but also the awareness of a special kind of social role of transferring knowledge and educating the others. As a by-product of this process, a certain new dimension of co-operation in these circles appeared: the Institute's collaborators teaching at various schools of law are acting as a kind of link, a factor integrating the academic staff in Warsaw.

The scope of post-graduate studies conducted in the Institute is also growing. Within the framework of various types of self-government studies, studies of European banking law, studies for the civil service, the Institute participates in raising the qualifications of hundreds of people working in different sectors of the economy and administration.

The latest undertaking of the Institute is the organisation of doctoral studies.

Expert Opinions and Academic Studies, Participation in Law-making, Public Functions

Both the profile of scientific research and its legal and empirical methodology are the reasons why the academic potential of the Institute is in great demand among the political circles, the highest public authorities, economic institutions, the judiciary, legal firms and international organisations.

The most common form of using the knowledge and experience of the scientific personnel of the Institute is through expert opinions. These are countless and probably there is no single Institute's researcher who would not have prepared a considerable portfolio of such opinions. It was particularly during the last decade of transformations of the political and economic system that the activity in this field became more intensive. The transforming State and its institutions needed the scientific background, especially as regards the legal doctrine and information about the solutions applied in other States.

Although the choice is difficult, we should mention several of the most important expert opinions: about the drafts of the Polish Constitution (1994) and about its consolidated draft (1997); about the legal, economic and social effects of incorporating Community directives into the agricultural legislation (1999); about the effects of interpretation declarations relating to treaties for the States — Parties and their obligations under treaties (e.g. about the Concordat in 1996); about the compliance of the Concordat with the Constitution (1997); about the draft of the general part of the Petty Offences Code (1998) and the Code of Procedure in Matters of Petty Offences; about the new Penal Codes (1997); about the draft of amendments to the Family and Guardianship Code (1996, 1999); about the draft Act on Separation of Spouses (1998); about the stage of preparations for accession to the EU in the labour and social field (2001).

A similar type of activity was the participation in creating legal acts, including the most important ones, ones of a fundamental and systemic character, beginning from the Constitution (two researchers of the Institute were members of the team of permanent experts of the Constitutional Commission), the Penal Code (participation in the work of the Codification Commission.) and, similarly, of the Commission for Civil Law Codification and the Commission for the Reform of Labour Law. Researchers of the Institute were among the authors of the Code of Commercial Companies and Partnerships, participated in the reform of marriage law, in the creation of the Convention of the Rights of the Child, the Act on Electronic Signature and many others.

The Institute's workers also work in, or are members of, institutions involved in law-making, especially in the Government's Legislative Centre and the Legislative Council at the Chairman of the Council of Ministers. In the current term of office, Prof. A. Szajkowski is the head of the Legislative Council; Prof. A. Bierć has been, for many years, director of its Department of Studies and Analyses. Prof. W. Sokolewicz for many years has been advising the highest State authorities, including the Chancellery of the Sejm, while Prof. J. Wawrzyniak - the Chancellery of the President.

Many of the highest officials of State authorities come from the Institute: Prime Minister H. Suchocka, ministers: A. Łopatka, K. Skubiszewski, L. Kubicki, H. Su-

chocka; the first Ombudsman, E. Łętowska, and her successors, A. Zieliński and T. Zieliński, who were members of the Scientific Council of the Institute; judges: of the Supreme Court - J. Łętowski, L. Kubicki, of the Constitutional Tribunal - W. Sokolewicz, J. Zakrzewska, J. Cierniewski, of the Chief Administrative Court - E. Łętowska, I. Białecka-Wiszniewska, of the Court of Human Rights in Strasbourg - J. Makarczyk, and earlier of the Hague Tribunal - M. Lachs; Z. Kędzia is the head of a Department in the Office of the UN High Commissioner for Human Rights; Z. Wieruszewski was the head of the Mission in the former Yugoslavia and member of the UN Commission on Human Rights.

Periodicals and Regular Publications

Several prestigious scientific periodicals are linked with the Institute. Among them, for many years, the most renowned *Państwo i Prawo* [The State and the Law]. The Institute also publishes *Studia Prawnicze* [Juridical Studies], *Polska Bibliografia Prawnicza* [Polish Juridical Bibliography], which is the only periodical of this kind in Poland used by all Polish lawyers, and *Orzecznictwo Sądów Polskich* [Polish Courts ' Case Law], which is also unique and indispensable for this profession. For 60 years, the Institute has been issuing the oldest criminological magazine in Poland - *Archiwum Kryminologii* [Archives of Criminology]. There are also two periodicals in foreign languages: the French and English *Droit Polonais Contemporain-Polish Contemporary Law* and *Polish Yearbook of International Law*.

Both *Studia Prawnicze* and the two periodicals in foreign languages are open to the academic circles in the country, while among the authors of *Yearbook* there are more and more authors from other countries of Central and Eastern Europe.

Library

A modest room houses an enormous collection of books. Over 43,000 books and collections of documents, including a collection of judgments of the European Court of Justice, a collection of documents of the European Commission of Human Rights and the European Court of Human Rights, a unique collection of criminological literature, documentation of the Council of Europe (in Poznań) make the library of the Institute of Law Studies of the Polish Academy of Sciences one of the best juridical libraries in the country.

Foundations

The Institute's researchers initiated the establishment of two foundations. One of them is the Human Rights Foundation (with seat in Poznań), the other is the Foundation for the Promotion of European Law (in Warsaw). The foundations closely co-operate

with the Institute, however their activities cover the entire territory of Poland and the whole legal profession. The foundations sponsor scientific research, publications, conferences, practice periods of young academic workers. The Foundation for the Promotion of European Law gives awards for outstanding book publications in the field of European law.

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In the end of this short description of the Institute of Law Studies over 45 years of its activity, there still are topics we have not discussed here. Excellent scientific personnel with several dozen professors and doctors habilitated, among whom we can find the names of many distinguished scholars, a group of gifted and committed young scientific workers and a large group of those who, though working in other institutions, acquire their scientific degrees and titles at the Institute, as well as the small group of reliable and hard-working administrative staff - this is one of such topics, undoubtedly an important one, because it is the people who determine the value and the authority of a given institution. Other topics might cover grants, projects, co-ordination of projects, participation in large international undertakings. The next one: publications, which are so numerous and varied that it is impossible to describe them (part of them is mentioned below in the bibliography of book publications). Other topics are numerous awards, prizes, invitations to foreign lectures at the most famous universities of the world, functions performed in international scientific organisations, a large group of eminent foreign friends of the Institute. And finally, the problem which is not supposed to be exposed on the occasion of an anniversary, but which is part of everyday life of the Institute, namely lack of financial independence, lack of funds to cover the costs of all studies the Institute intended to carry out, the fact that it is impossible to give the workers higher remuneration, which results in a situation where they work, especially the young ones, out of their inner need and passion for this very kind of work.

But it is impossible to present all these topics. And behind what has been presented there was an intention to show what is probably the single most important feature of the Institute: that all those who form the Institute focus on constant development of its public usefulness and scientific potential. It is just like Prof. A. Wasilkowski wrote in his presentation of the Institute five years ago: "the aim is to climb onto a yet higher floor, from which you can see further. ."

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