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Summary of the thesis

Road Traffic Management System in Poland and Select Countries

The thesis focuses on researching the methods and legal acts used to manage road traffic. The starting point of this dissertation is the characterization of the existing traffic management system on Polish roads based on the regulations provided by article 10 of the Road Traffic Act as well as the provisions of the Regulation of the Infrastructure Minister issued on September 23 2003 concerning the detailed conditions of road traffic management and the supervision thereof. The research published in the thesis is based on the author's eight years' experience in the field of road traffic management and his personal involvement in the workings and functioning of the Polish road traffic management system, as he has personally been engaged in the process of creating and consulting numerous traffic signing and striping plans. In consequence, the main focus of this thesis are road traffic signing and striping plans – the fundamental legal acts through which road traffic is managed in Poland. The dissertation reveals many improprieties in the functioning of the Polish road traffic management system which may lead to question the legal effectiveness of the approved traffic signing and striping plans. Thus, the author has formulated the following hypothesis: The legal acts which are used for the purposes of road traffic management in Poland do not correspond with any recognized source of law in Poland, which results in numerous improprieties in the functioning of the road traffic management system, and are thus putting the actions taken by particular public administration agencies at risk of being ruled null and void.

In order to prove the hypothesis, the entire road traffic management system in Poland has been analyzed. This task consisted of presenting current regulations governing road traffic management in Poland, the practical aspect of managing road traffic by public administration agencies, as well as identifying the legal grounds on which agencies are executing tasks. Furthermore, the author evaluates the Polish road traffic management system. The dissertation also includes a brief overview and comparative analysis of road traffic management systems in the Federal Republic of Germany and the United States of America, which has allowed the author to better emphasize the nature of the problem in the Polish road traffic management system stated in the hypothesis.

The paper discusses the issues of the legal character of procedures leading to changes in road traffic management, the legality of executive power delegation or the authorization to issue decisions in matters concerning road traffic management. The thesis also presents the author's evaluation of the accessibility for public inspection in matters of road traffic management. Additionally, the thesis outlines the possibilities of appeal in cases of unfavorable decisions of traffic management authorities.

The dissertation comprises nine chapters. The first chapter (Chapter 1) contains the characterization of the current traffic management system on Polish roads in order to define the scope of the research. Chapter 2 presents the public administration agencies involved in road traffic management in Poland and provides examples of decisions regarding the approval of traffic signing and striping plans (Chapter 2). The third chapter (Chapter 3) contains a characteristic and an in-depth description of traffic signing and striping plans – the fundamental legal acts with which road traffic is being managed in Poland. Chapters 2 and 3 are crucial for the research hypothesis, since those chapters attempt to categorize traffic signing and striping plans as one of the legal forms of acting by the public administration. Traffic signing and striping plans, which are universally binding legal acts and are the basis for changes in road traffic management have been vaguely classified as “*organizational and technical procedures*” under the Regulation of the Infrastructure Minister issued on September 23 2003 concerning the detailed conditions of road traffic management and the supervision thereof. Those procedures are impossible to categorize as one of the forms of universally binding law under article 87 of The Constitution of The Polish Republic or as any other form of legal procedures of the public administration. Furthermore, Chapters 2 and 3 of the thesis prove that traffic signing and striping plans have been deprived of their normative quality, even though their content is defined and they serve as the basis for changing universally binding regulations on public roads. Then, the chapters proceed to discuss the unique *procedures of making changes in road traffic management* which are a unique occurrence in the Polish legal system. Chapters 2 and 3 also outline the main legal difficulties connected to the publication of the approval of traffic signing and striping plans and the assurance of public access to them. Moreover, it has been thoroughly analyzed whether the agencies tasked with road traffic management follow proper procedures (when delegating executive power and granting authorizations) in light of existing court rulings, the Code of Administrative Proceedings Act as well as acts issued by local governments.

The fourth Chapter (Chapter 4) discusses the significance of temporary restrictions and interdicts in the road traffic management system. The fifth chapter (Chapter 5) relates to issues of supervision over road traffic management and judicial oversight of approved traffic signing and

striping plans. This chapter, an important part of the thesis, shows the problems in classifying approved traffic signing and striping plans in light of the Act – Law on Proceedings Before Administrative Courts. This chapter confronts the discrepancies in Polish court rulings in the subject matter. Chapters 6 and 7 analyze the manner in which road traffic is being managed on internal roads and lists agencies and institutions supporting the functioning of road traffic management (The General Directorate for National Roads and Motorways, The National Council of Road Traffic Safety and the road traffic safety audit). Chapter 8 summarizes the functioning of the current road traffic management system and propounds the implementation of certain changes in Polish law. The author postulates that, above all, the legal classification of traffic signing and striping plans be changed and that the practice of delegating executive power and authorizing employees to approve traffic signing and striping plans be legalized. The last chapter presents methods and organizational frameworks for road traffic management in the legal systems of the Federal Republic of Germany and the United States of America (Chapter 9). In respect to the research hypothesis, the legal forms of road traffic management in those countries have been referenced and confronted with the Polish system. The chapter concludes with a synthesis of the research conducted presenting final conclusions that reinforce the validity of the hypothesis (Conclusions and Ending).

Almost every chapter of the dissertation includes practical examples (cases) that the author has encountered in his professional career. They are of great significance, as there is a lack of available literature on the practical and legal aspects of road traffic management. These examples enrich the dissertation and reinforce the validity of the conclusions formulated.

The conducted research leads to the following conclusions:

- 1. Approved traffic signing and striping plans, which are basic legal acts used to manage road traffic in Poland do not fit into the existing legal system and therefore cannot be treated (from a legalistic standpoint) as universally binding law. Traffic signing and striping plan have been deprived of their normative quality even though that is definitely a feature of these acts.**
- 2. The “proceedings of changing road traffic management” are not subject to regulations regarding administrative proceedings under the Code of Administrative Proceedings Act. It remains questionable whether general tenets formulated in chapter 2 of the Code of Administrative Proceedings Act are being adhered to.**
- 3. The practice of delegating executive power for the purposes of approving traffic signing**

and striping plans and authorizing employees to approve traffic signing and striping plans violates the regulations of the Traffic Law Act, the Administrative Proceedings Code Act, as well as acts issued by local governments and puts the approved traffic signing and striping plans at risk of being ruled null and void.

4. The failure to properly publish approved traffic signing and striping plans results in the introduction of universally binding laws on roads without a proper publication prior to their implementation (the “physical” placement of road signs, traffic signals and traffic control devices).

5. The existing road traffic management system does not *explicitly* provide any means of public inspection of the approved traffic signing and striping plans, despite the fact that they effectively constitute changes in local law.

6. A significant number of legal regulations remains “dead letter”. In particular cases, parties involved in road traffic management have established practices different from those required by law (concerning implementation, supervision, procedures of changing road traffic management etc.)

7. An overly wide “administrative discretion” exercised by agencies involved in road traffic management results in discrepancies between decisions made in corresponding situations by respective road traffic management agencies, which does not conduce consistency and transparency in the road traffic management system.

8. The unnecessary separation of “road management” and “road traffic management” leads to an increased ambiguity in the road traffic management system in Poland.

9. The proceedings of the road traffic management systems in the Federal Republic of Germany and the United States of America further highlight the irregularities of the Polish road traffic management system and are interesting models to analyze for the Polish legislator, who will soon have to reform the Polish road traffic management system (the procedure of changing road traffic management, the publications of changes in road traffic management, the legal status of road signs and traffic signing and striping plans)