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# The model of preparatory proceedings in the polish criminal process

## SUMMARY

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The model of preparatory proceedings in Polish criminal law in a comparative legal context has not yet been the subject of a comprehensive study based on the current Code of Criminal Procedure. The scientific problem addressed in this study is the examination of the existing criminal procedural regulations against an objectively defined standard. This standard is intended to be objective, as it is detached from existing legal systems.

The research thesis adopted in the study is that Polish criminal proceedings, in terms of preparatory proceedings regulation, are inconsistent both internally and in relation to an objective standard.

The hypothesis of the study is the assumption that the model of preparatory proceedings in Polish criminal law exhibits certain inconsistencies. A reconstructed model of preparatory proceedings will demonstrate such legislative inconsistencies. Another hypothesis is that it is possible to reconstruct a theoretical model of preparatory proceedings. The premises for this hypothesis are the existing *de lege lata* regulations of preparatory proceedings, which aim to address the same social need and serve the same purpose, albeit in different ways. The second premise is that common features of these normative structures can be identified.

This approach to the research problem also requires certain assumptions. It must be assumed that there are permanent components of preparatory proceedings that can be developed. These elements are present in every criminal process, regardless of the system, as they are necessary to achieve the goals of this stage. It will also be crucial to find among European countries the most representative solutions.

The main research question of the study is: what is the Polish model of preparatory proceedings. To answer this, it is necessary to create a reference model onto which Polish preparatory proceedings regulations will be mapped. It is therefore necessary to obtain a theoretical, abstract model of preparatory proceedings. Such a model has not yet been developed in the field of science. Until now, preparatory proceedings models have been described as concrete systems, such as the French or German models.

This study will aim, through the use of the comparative method, to reconstruct a model of preparatory proceedings *in abstracto*. It will be developed based on the identification of model features found in the most representative models within the civil law tradition. Accordingly, the first step will be to consider preparatory proceedings in selected legal systems and then describe the models. After identifying the model features of the most representative legal systems, a reconstruction of the abstract model of preparatory proceedings will be undertaken, combining selected solutions.

Subsequently, having obtained this theoretical model, the preparatory proceedings in the Polish Code of Criminal Procedure will be described using formal-dogmatic methods. To ultimately answer the main question, the Polish model will be compared to the abstract model. Only this comparison will provide the answer to what the model of preparatory proceedings in the Polish Code of Criminal Procedure is and whether it is consistent. This offers a metadogmatic perspective, as the question is not about what kind of model arises from the provisions but rather what model emerges when compared to another (abstract) model.

The analysis is divided into six chapters. Chapter I is devoted to the legal and historical outline of preparatory proceedings models, beginning from the Middle Ages to the adoption of the current criminal procedural regulations.

Chapter II focuses on definitional and methodological issues, explaining the concept of the model and presenting a preliminary comparative legal analysis aimed at selecting the most representative regulations within the civil law tradition.

Chapter III is devoted to the formal-dogmatic analysis of criminal procedural regulations adopted in France, while Chapter IV examines the Federal Republic of Germany.

Chapter V identifies model features from the French and German models and then reconstructs the abstract model.

Chapter VI conducts a formal-dogmatic analysis of Polish preparatory proceedings and evaluates them against the abstract model, along with concluding remarks.

The final conclusions lead to the assertion that the hypothesis of this study has been verified, namely that the regulation of Polish preparatory proceedings is inconsistent. This inconsistency is both internal and external, i.e., in relation to the created abstract standard. Confirmation of the main research thesis was the result of verifying other hypotheses. It was proven that it is possible to identify two representative regulations of preparatory proceedings. Then, it was shown that common features of normative structures can be identified within them. Based on this, permanent components of each structure were identified, leading to the reconstruction of the model of preparatory proceedings in abstract terms. In terms of *de lege lata* conclusions regarding the revealed inconsistencies, it should be noted that they concern the vast majority of components.