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Polish contemporary legal system in court shows and courtroom dramas

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1. All but unknown, so why bother?

Human creativity taking form of music, fashion or sports has always been present in everyday life; it can be commonly accepted (mainstream) or be a minuscule phenomenon (subcultures, countercultures). The mainstream culture is usually called the popular culture. Pop culture is heavily influenced by mass media, in the 21st century that mostly being television, cinema and the Internet. The effect is a media culture that shapes opinions, tastes and values of many (if not majority of) people. Media culture is a culture of image. Sometimes the subject of this image is law.

Popular culture can use different means to present legal problems, one of the most known is film. Aspects of law in the movies are widely researched within other countries and are the subject of a rapidly developing interdisciplinary scientific field: Law-and-Film¹.

¹ Since the 1980's there has been more and more publications integrating the science of law with study of film, Anglo-American and Continental research on law and film is an emerging interdisciplinary field of study: Law-and-Film. Some of the most interesting and influential publications are: D. A. Black, *Law in film: resonance and representation*, University of Illinois Press 1999; R. K. Sherwin, *When law*

Relations between law and the film are not commonly researched by scientists in Poland². Should a Polish lawyer write about movies portraying lawyers, justice system or legal problems? Why bother? Well, for starters I think law is not really for lawyers but it is mostly for people who need to deal with it on everyday basis. People go through life not worrying about it, sometimes even not noticing it. We "see" law when we are in direct contact with it, and that is usually when we need legal help. Secondly, I believe the image of law

goes pop: the vanishing line between law and popular culture, University of Chicago Press 2000; K. Laster, K. Breckweg, J. King, *The drama of the courtroom*, Federation Press 2000; S. Machura, P. Robson (eds.), *Law and Film: Representing Law in Movies*, Cambridge 2001; A. Chase, *Movies on trial: the legal system on the silver screen*, New York 2002; P. Bergman, M. Asimov, *Reel justice: the courtroom goes to the movies*, Kansas City 2006; G. Osborn, S. Greenfield (eds.), *Readings in law and popular culture*, Routledge 2006.

² There are very few scientific publications on law and film e.g.: S. Wojtczak, *Czy prawnikom potrzebna jest mitologia?* (in:) *Etyka, deontologia, prawo*, P. Steczkowski (eds.), Rzeszów 2008, p. 384–396; P. Grabarczyk, T. Stempowski (eds.), *Prawo w filmie*, Warszawa 2009; J. Kuisz, *Między Płami a Długiem*, „Res Publica Nowa” no. 1/2009; E. Ciszewska, B. Lewandowski, *Prawo jako reprezentant zła w polskim kinie*, „Edukacja Prawnicza” 11/2011, p. 22–26.

existing in society influences the level of obedience to law and effectiveness of legal actions. The image of law in society is created by personal experiences and by the stories connected with legal problems we hear about or that we see. And “seeing is believing”. What we see is largely created by the media.

What difference does it make how law is portrayed in pop culture? Does it matter for a lawyer? A film or a TV show constructs the perception of law by enhancing or distorting the image of law and lawyers. It can be a great social tool and may help in understanding legal issues. It may also create certain expectations for future lawyers or their clients. Analysis of relations between law and film (and literature) may be quite meaningful for shaping legal ethics, for both present and future lawyers. Besides, stories presenting legal cases may be encouraging or discouraging for future or present students of law. The audience nowadays includes everyone.

Besides, lawyers participate in entertainment show business not only as actors (e.g. John Cleese, Gerard Butler), but also show presenters (Jerry Springer), scriptwriters (e.g. Krzysztof Piesiewicz³, David E. Kelly⁴) or consultants⁵ (e.g. John Mortimer⁶, Hilary Bonney⁷). Not to mention the whole showbusiness connected with law and influencing it directly⁸. In the

spring of 2013 the Polish Bar Council together with Wajda Studio organized a contest for the best legal script, and an advocate won it, so maybe there will an interesting film to see, some time soon.

2. Polish law – general remarks

Poland belongs to the civil law tradition⁹. Sources of universally binding law¹⁰ in Polish law include: Constitution of the Republic of Poland¹¹, ratified international agreements, EU secondary legislation, statutes, regulations having the force of statute, regulations and local legal acts. Legislative power is exercised by Sejm and Senate¹². Legal acts are published in public journals¹³. There is a division of power in Polish legal system, therefore court rulings are binding only in each case, and there are no precedents. Most of the major law branches are codified¹⁴. Polish judicial system

³ Polish advocate, Krzysztof Piesiewicz, write scripts for films directed by K. Kiesłowski, such as: *Bez końca* (1984); *Krótki film o zabijaniu* (1987); *Dekalog* (1988); *Krótki film o miłości* (1988); *Podwójne życie Weroniki* (1991); *Trzy kolory. Niebieski* (1993); *Trzy kolory. Białe* (1993); *Trzy kolory. Czerwone* (1994); His scripts were also basis for the films: *Cisza* dir. M. Rosa, 2001; *Niebo*, dir. T. Tykwer, 2002; *Piekło*, dir. D. Tanović, 2005; *Nadzieja*, dir. S. Mucha, 2007.

⁴ American Ph.D. lawyer, David E. Kelley, is a writer and a producer of such courtroom dramas as: *L.A. Law* (1986–1994), *The Practice* (1997–2004), *Ally McBeal* (1997–2002), *Boston Legal* (2004–2008), *Harry's Law* (2011–2012).

⁵ Consulting with specialists while making a genre program seems to be the key to success – there were physicians as consultants during the productions of *ER*, *House M.D.* or *Grey's Anatomy*, and David Saltzberg, a Ph.D. in physics, has served as a science consultant for *The Big Bang Theory* (2007–) one of the most entertaining shows on one of the most “unentertaining” subjects – physics.

⁶ John Mortimer, English barrister, worked as a law consultant for *Boston Legal*, USA courtroom drama.

⁷ Hilary Bonney, Australian barrister, worked as a story consultant and associate producer on the ABC's legal drama, *Crownies* (2011).

⁸ E.g.: in 2010 New Zealand's parliament has passed legislation amending labour laws to keep the production of the *Hobbit* films in the country – s.f.: *Hobbit legislation*

passed in New Zealand, BBC News 29.10.2010, <http://www.bbc.co.uk/news/world-asia-pacific-11649734> [11.06.2014].

⁹ Therefore in Polish legal system one can find legal institutions similar to those in other civil law countries. But legal tradition is not the only factor shaping Polish legal system. Poland is part of European and international community, thus international legal environment influences legal institutions.

¹⁰ A catalogue of the sources of Polish law is presented in the articles 87, 91 and 234 of the *Constitution*.

¹¹ *The Constitution of the Republic of Poland* (J.L. of 1997, No. 78, item 483, as amended), English version is available at: <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm> [01.03.2014]. The *Constitution* is the supreme law of the Republic of Poland.

¹² S.f.: <http://www.sejm.gov.pl/english/prace/prace.html> [11.03.2014].

¹³ Dziennik Ustaw [The Journal of Laws of the Republic of Poland] – there is an official website: <http://dziennikustaw.gov.pl/> [01.03.2014] and Dziennik Urzędowy Rzeczypospolitej Polskiej “Monitor Polski” [the Official Gazette of the Republic of Poland] – there is an official website: <http://monitorpolski.gov.pl/> [01.03.2014]. The published text of a legal act is an authentic text, that can be amended by later legal acts by amendment (or amendments) and published in consolidated form as an uniform text.

¹⁴ Branches of Polish law depending on the subject of regulation include *inter alia*: constitutional law, administrative law, civil law, criminal law, financial law, tax law, commercial law, international private law, maritime law, labor law, family law.

(in a wide sense) consists of courts¹⁵ and tribunals¹⁶. Law enforcement agencies are: the public Prosecution¹⁷, the police, Military Gendarmerie, Central Anticorruption Bureau (CBA), Internal Security Agency (ABW), Polish Border Guard, Customs Service. To become a practicing lawyer in Poland a person should become a Master of Laws and finish a legal training. Most common legal professions are: the judge, an assistant to a judge, a court referendary, the public prosecutor, the advocate, the legal counsel, the notary, the bailiff.

The main problems with legislation are its excess (there are approximately 200 acts enacted per year), instability, elaborateness, and incoherence leading to juridisation of life, distortions in the application of law, increasing bureaucracy, and the lack of understanding law by the citizens resulting with their declining participation¹⁸.

3. Law on TV¹⁹

There has been very few television shows about law in Poland²⁰:

- court shows:
 - *Werdykt / Verdict* (Polonia1, 1998; Tele 5, 2002)
 - *Sędzia Anna Maria Wesołowska / Judge Anna Maria Wesołowska* (TVN, 2006–2011)
 - *Sąd rodzinny / Family court* (TVN, 2008–2011)
 - *Czyja wina? / Whose fault is it?* (Polsat, 2013)
 - *Masz prawo znać prawo / You have the right to know law* (TVP, 2013)
- courtroom dramas:
 - *Zespół adwokacki / Law office* (TVP, 1993–1994)
 - *Magda M. / Magda M.* (TVN, 2005–2007)
 - *Prawo Agaty / Agata's Law* (TVN, 2012–).

Court shows are mostly para-documentaries. People that take part in it can be professionals (real lawyers and actors) but majority of them are untrained actors, and there is live audience. The cases are based on real events, and the verdicts are fictional. Para-documentaries are supposed to pretend to show the truth. It's a lot like a theater play. As M. Hodak²¹ points out, court shows play important part in educating society and popularizing law.

a) *Werdykt [Verdict]*²²

It is an example of a show that has almost nothing to do with reality of Polish justice system, it's more of a talk-show on law, than typical court show²³. Legal terminology is almost non-existent, actual provisions of law or even types of offences of legal acts, actions or

¹⁵ Polish judiciary is formed by: the Supreme Court, common courts (i.e. district courts, regional courts, courts of appeal), administrative courts (i.e. voivodeship administrative courts, the Supreme Administrative Court), military courts (i.e. military garrison courts, military regional courts).

¹⁶ Constitutional Tribunal and State Tribunal.

¹⁷ Public Prosecution in Poland consists of: the Public Prosecutor General, common prosecutors (i.e. prosecutors of General Public Prosecutor's Office, regional prosecutions, district prosecutions and appellate prosecutions), military prosecutors (i.e. prosecutors of Chief Military Prosecutor Office, military garrison prosecutions and military regional prosecutions), and the prosecutors of the Institute of National Remembrance (i.e. prosecutors of the Chief Commission for the Prosecution of Crimes against the Polish Nation, delegation commissions for the Prosecution of Crimes against the Polish Nation, the Vetting Office, and delegation vetting offices).

¹⁸ S.f.: K. Goetz, R. Zubek, *Stanowienie prawa w Polsce. Reguły legislacyjne a jakość ustawodawstwa, Raport Sprawne Państwo – Program Ernst & Young*, Warszawa 2005; *System stanowienia Prawa w Polsce; Zielona Księga, Kancelaria Prezydenta Rzeczypospolitej Polskiej*, Warszawa 2013.

¹⁹ Legal system existing in Poland between 1944 and 1989 as well as a bit different conception of popular culture during that time would demand more in-depth analysis, therefore such court shows and courtroom dramas are omitted in this article, as I concentrate on contemporary law and culture. S.f. K. Stańczak-Wislicz (ed.), *Kultura popularna w Polsce lat 1944–1989*, Warszawa 2012.

²⁰ The list includes all the shows since 1989. The beginning of court rooms shows in Polish TV could be

noted since 1960's, when *Wszyscy jesteśmy sędziami [We are all judges]*, *Bez apelacji [No appeal]* or *Paragraf i fajka [The paragraph and a smoking pipe]* were aired. Continuation of court shows in 1970's and 1980's were e.g.: *Proszę wstać, sąd idzie [All rise...]*, or *Ośądźmy sami [Let's judge for ourselves]*. *We are all judges* was a program with audience, presenting legal problems based on real cases. *The paragraph and a smoking pipe* was a lecture-type program hosted by Jerzy Sawicki, professor of penal law. S.f.: K. Stępińska, *Prof. dr Jerzy Stępiński*, „Zeszyty Prasoznawcze”, R8 (1967), no. 2, p. 161–163; M. Bogucka-Arctowa, *Popularyzacja prawa środkami masowego przekazu*, „Zeszyty Prasoznawcze”, R 8 (1967), no. 3, p. 9; A. Kozieł, *Za chwilę dalszy ciąg programu: Telewizja Polska czterech dekad 1952–1989*, Warszawa 2003, p. 77, 148, 244.

²¹ M. Hodak, *Court-show jako gatunek telewizyjny*, „Kultura – Media – Teologia”, 2010 (3) no. 3, p. 8–20.

²² Polonia 1 (1998), Tele 5 (2002).

²³ I suppose it has a lot to do with the fact that it was produced on Italian licence (Italian equivalent is *Forum*, prod. Italo felici, still airing since 1985).

institutions are rarely addressed to, except for the final verdict given by the judge. There is a host introducing the case, and explaining some issues. The audience participates in the show – people give their opinions about presented problems, ask questions and vote for one of the parties, they give “social” verdict. Conversations are mostly social and ethical, not legal, as there are no lawyers, except for the judge. The set barely reminds a courtroom. The judge is not dressed in typical court-dress (just a black robe), and constantly uses the gavel and the bell²⁴. Presence of hosts, conversations with the audience and the fact that the audience takes part in the decisive process by voting suggests it was more of a talk-show mimicking a trial than a typical court show.

**b) *Sędzia Anna Maria Wesołowska*
[Judge Anna Maria Wesołowska]²⁵**

Judge Anna Maria Wesołowska was a typical court show, with fictional cases (although often based on real cases or media covered offences) and verdicts, but with real lawyers – advocates and a judge (Anna Wesołowska, a regional court judge). There were 634 episodes, all of them portrayed cases on penal law. The show was highly popular and is widely known²⁶. The court room reminds Polish ones although it is adjusted to the needs of television. There are some technical or procedural errors, some elements of proceedings are significantly shortened or omitted. For example: in episode 610 defendants of the accused are wearing court dresses with grey jabot instead of green (since they said they are advocates it should be green²⁷), the weapon the judge weaving about is unsecured, not even in the bag, the same evidence is called a proof by the court and a circumstantial evidence by an advocate. The disadvantage is also that a prosecutor is always played by an advocate. Every episode had similar structure, was

devoted to one case, and ended with the verdict with justification having social value of explaining law and its application to the audience²⁸.

c) *Sąd rodzinny [Family court]*²⁹

Family court was a typical court show, with fictional cases and verdicts, but with real lawyers – advocates and a judge (Artur Lipiński, a regional court judge). There were 214 episodes, all of them portrayed cases on family law. The show was highly popular and is widely known³⁰.

The cases presented in the show depict contemporary issues, such as divorces, alimony, parental rights, or crimes committed by minors. The disadvantage of the show is a lack of a real prosecutor (that part was played by an advocate). In real life in family law cases no public is allowed in the courtroom except for witnesses. What is unrepresentative is the fact that a judge in the show is a man, while majority of family court judges are women³¹. Advantages of the show are interesting everyday cases, good pace (slow enough to catch up with evidences presented, fast enough not to be “bored” or overwhelmed with procedures for the viewer), procedures in accordance with law and short convincing justification of the verdict. It’s believable, engaging show with educational, not lecturing, values.

²⁸ S.f. M. Hodak., *loc.cit.*

²⁹ TVN, 2008–2011.

³⁰ „Sąd rodzinny” przegrywa tylko z Jedyńką 3.03.2008 „Wirtualne Media”, <http://www.wirtualnemedi.pl/artykul/sad-rodzinny-przegrywa-tylko-z-jedynka> [11.03.2014].

³¹ Majority of judges in Polish courts are women (more than 60%, and the number is much higher in family courts), only in military courts more than 90% of judges are men. S.f.: Statistics of Ministry of Justice, <http://isws.ms.gov.pl/pl/> [29.03.2014]; E. Winnicka, *Sędziowie od życia*, 1.05.2009 “Polityka” <http://www.polityka.pl/tygodnikpolityka/kraj/289472,1,sedziowie-od-zycia.read> [29.03.2014]; *Gdzie ci mężczyźni, czyli Temida jest kobietą*, 28.09.2011 “Rzeczpospolita”, <http://prawo.rp.pl/artykul/723938.html> [29.03.2014]; KRS: *sędziami są głównie kobiety*, 19.11.2012 “Lexis.pl”, <http://lexis.lexisnexus.pl/aktualnosci/na-rynku-prawniczym/krs-sedziami-sa-glownie-kobiety-K1jqHn> [29.03.2014]; *Parytet w orzecznictwie czyli niech nas sądzą oni*, 10.04.2013 “Forsal”, http://forsal.pl/artykuly/696359,parytet_w_orzecznictwie_czyli_niech_sadza_nas_oni.html [29.03.2014]; A. Krzyżanowska, *Dla kogo fioletowy żabot*, 22.05.2013 “Gazeta Prawna”, http://serwisy.gazetaprawna.pl/prawnik/artykuly/707048,dla_kogo_fioletowy_zabot.html [29.03.2014]; W. Tumidański, *Sędzia statystyczny*, 10.10.2013 “Wokanda” <http://nawokandzie.ms.gov.pl/numer-18/wokanda-18/sedzia-statystyczny.html> [29.03.2014].

²⁴ Usage of the ceremonial mallet in Polish courts is very rare and the bell is not used at all. The same is true for the time time when the show was aired (1998, 2002).

²⁵ TVN, 2006–2011.

²⁶ “*Ukryta prawda*” w miejsce show “*Sędzia Anna Maria Wesołowska*”, 16.01.2012 „Wirtualne Media”, <http://www.wirtualnemedi.pl/artykul/ukryta-prawda-w-miejsce-show-sedzia-anna-maria-wesolowska> [11.03.2014].

²⁷ The color of a jabot of the court dress indicates legal profession: purple – judges and jurors, red-and-white – judges of the Constitutional Tribunal, red – prosecutors, green – advocates, blue – legal counsels, grey – counsels of the General State Treasury Solicitors’ Office.

d) *Czyja wina? [Whose fault is it?]*³²

Whose fault is it? was aired in 2013, the program was canceled after 60 episodes³³. From the official information from the producer it was supposed to be a para-documentary, with amateurs only, showing controversial cases dealt with by a judge (there are two judges taking turns). Amount of legal errors is immense. Differences between real world and the show are visible even in the set decoration – lacking basic elements, or being combined with the prison cell. Paragraph sign in the title of the show is reversed, to make it look like a question mark. Judges make basic mistakes using legal terminology, are not dressed correctly (they have no eagle-chains) and use gavel in the beginning and at the end of the “session” (that is specific for an American trial, not Polish). Not to mention behavior of majority of the participants of the show – rudeness, screaming, and even fights make it look like *The Jerry Springer Show*. For a para-documentary it shows next to nothing about Polish judiciary system. It seems like a courtroom parody, unfortunately, it is not funny, not even sarcastic, just disappointing. Maybe that was one of the reasons for low viewing figures that eventually led to taking the show off the air³⁴.

e) *Masz prawo znać prawo*
[You have the right to know law]³⁵

In 2013 Polish public television produced and aired a series of educational programs on law prepared with collaboration of National Notaries Council³⁶. This is not a typical court show, although made as para-documentary. In each episode one contemporary legal problem is presented, analyzed, and solutions are given by a notary. Cases concern such issues as: property regimes in a marriage, last wills and testaments, inheritance. Simple language and examples make it interesting and worth watching program.

TV series are usually called courtroom dramas. Those are fictional stories with professional actors, sometimes inspired by events covered by the media.

f) *Zespół adwokacki [Law office]*³⁷

The series³⁸ present professional and family lives of members of a law office from Jabłonowo, a fictional town near Warsaw, in 1990's. Almost every lawyer presented here is a unique character, and it's not just about personalities, but about different attitudes towards law and life that influence legal decisions. For example the head of the office, Witold Janicki³⁹, is a man of honor, traditionalist, patriot, with high moral standards. He is very thorough, persistent and responsible when it comes to working on cases, especially visible on Malak's case. His son, Krzysztof⁴⁰, on the other hand, is an opportunist, and materialist, loving luxury, that is visible as he misses trial dates, defers cases, is late for or omits appointments with clients, spends money on gambling. The lawyer worth noticing is Agata⁴¹, an advocate applicant. She is learning practical usage of legal provisions, sometimes making mistakes, having doubts about the chosen profession. Agata is probably one of the friendliest and most likable lawyers portrayed in Polish television up to day. To some extent the viewers might associate with her, as she is compassionate, sympathetic and seems to be able to do a lot for the client, even bending or breaking law. In the sixth episode she is going to the witness and advises him not to come to court, as his testimony could be aggravating for her client – that sort of behavior is in favor of her client⁴² although illegal⁴³.

³⁷ TVP, 1993–1994.

³⁸ It is one season series consisting of 12 episodes.

³⁹ Played by Gustaw Lutkiewicz.

⁴⁰ Played by Tomasz Stockinger.

⁴¹ Played by Magdalena Wójcik.

⁴² An advocate should act in accordance with the benefit of the person represented. S.f. P. Kruszyński, *Stanowisko prawne obrońcy w procesie karnym*, Białystok 1991, p. 38–50.

⁴³ In 1993 so called *Andrejew's Code* was in force. Ustawa z dnia 19 kwietnia 1969 r. Kodeks karny, Dz.U. nr 13, poz. 94 ze zm [*the act of 19 April 1969 – the Penal Code*, J.L. No. 13, item 94, as amended] was in force between 1970 and 1998. Under articles 18 and 19 in connection with 247 of that code it was an offence to incite a person to withhold truth in legal proceedings. A witness withholding truth while testifying is committing an offence as his testimony may be used as evidence during legal proceedings (article 247 of the Penal Code). Any person inciting another to commit an offence also commits an offence (articles 18 and

³² Polsat, 2013.

³³ S.f.: *Czyja wina? serial paradokumentalny*, http://www.polsat.pl/Nasze_Programy,2846/Czyja_Wina,1323263/index.html [11.04.2014]

³⁴ *Sądowy show “Czyja wina?” znika z Polsatu*, „Wirtualne Media”, <http://www.wirtualnemedia.pl/artykul/sadowy-show-czyja-wina-znika-z-polsatu> [11.04.2014].

³⁵ TVP, 2013.

³⁶ *KRN press release*, 01.10.2013 KRN, <http://www.krn.org.pl/plik/sysPlik/664> [11.04.2014].

Extensive talking to clients and witnesses is also a special feature of another *Agata*, portrayed almost two decades later in *Agata's Law*. I do not know whether *Agata from Law office* was an inspiration for creation of *Agata in Agata's Law*, but I would say the characters are to some extent similar.

Length of procedures is shown quite realistic. In the first episode there is a client saying that two hearings of the court took up two months. A murder case of Malak is shown throughout all the instances that took ten episodes of the show. The series also shows that although from the client's point of view every case is "important", from the lawyer's point of view there are cases more and less important, and it seems to be subjective⁴⁴. A rare thing in such shows is usage of slang, both legal and prison⁴⁵. Specifics of Polish justice system can be visible in the court room when a judge reads the verdict or instructs witnesses, when parties petition for motions, or how the case is recorded.

The series presents variety of crucial moral and social issues connected with legal provisions such as: guilt, desertion, home violence, mental health, prisoner's rights, euthanasia, or death penalty. There are also cameras in the court room, reporters taking interviews with lawyers. It stresses influential role of the mass media in creating the image of the justice system and particular crimes or offenders. I haven't noticed significant legal discrepancies, perhaps it's due to a legal consultant working on the show⁴⁶. *Law office* is an interesting, realistic, well played courtroom drama.

g) *Magda M.*⁴⁷

The main character of *Magda M.* – Magdalena Miłowicz⁴⁸ – is a young lawyer, living and working in Warsaw, but most of all, looking for love. The show concentrates on professional and personal lives of the main character and her friends. The series is of

great quality visually, unfortunately aesthetics trump everything here. If only the creators would take the same passion whilst checking the facts and legal accuracy. Stereotypical woman and lawyers without personalities happen in real life, but would you like to see them on screen? The most convincing lawyer is Bartek⁴⁹, a witty, determined, and highly effective advocate. Weakness of main characters is not the only flaw⁵⁰, ironically, it's also depict of law.

Legal mistakes vary from unprofessional behavior (e.g. Magda fraternizes with clients) through nonexistent terminology to flagrant errors in law. For example, Magda says: advocative law (*prawo adwokackie*⁵¹) instead of *Law on the Bar* (*Prawo o adwokaturze*⁵²). Some of her friends are shown as working simultaneously as legal counsels and advocates, which couldn't really happen. To practice law as a counsel in Poland one needs to be on the list of legal counsels. The same is true about advocates with advocate's list. Under article 28 of *Legal Counsels Act*⁵³ legal counsel's right to pursue a profession is suspended in case of entering advocate's list. Hence, one may enter both lists and can "switch" between professions, that is quite complicated yet possible, but working simultaneously as a legal counsel and an advocate is simply impossible. There are also procedural errors (e.g. divorce case is heard by one judge⁵⁴), although court procedures are in general closer

⁴⁹ Played by Szymon Bobrowski.

⁵⁰ There's a lot of stereotypical woman and very little of actual successful lawyer in the image of Magda M. I find it hard to believe that such a weak, overwhelmed with everyday issues, and helpless creature could actually win a case. I wouldn't want her to carry my legal affairs. Personally, I do not think she is sweet or lovable, she is just annoying, and acts like a child. I believe that even if she would somehow manage to practice law, it is rather unlikely for her to be as successful as presented in the show.

⁵¹ That term does not exist.

⁵² Ustawa z dnia 26 maja 1982 r. Prawo o adwokaturze. T.j. Dz.U. z 2009 r., nr 146, poz. 1188 [The act of 26 May 1982 – Law on the Bar, uniform text J.L. of 2009, No. 146, item 1188, as amended]. *Prawo o adwokaturze* is a statute and can be translated as *Law on the Bar* or *Advocates' Profession Act of 1982*.

⁵³ Ustawa z dnia 6 lipca 1982 r. o radcach prawnych, t.j. Dz.U. z 2010 r., nr 10, poz. 65 ze zm. [the Act of 6 July 1982 – the Legal Counsels Act, uniform text J.L. of 2010, No. 10, item 65, as amended].

⁵⁴ Under articles 47 § 2 and 367 § 3 of the Code of Civil Procedure (Ustawa z dnia 17 listopada 1964 r. – Kodeks postępowania cywilnego, t.j. Dz.U. z 2014 r. poz. 101 – the Act of 17 November 1964 – the Code of Civil Procedure, uniform text J.L. of 2014, items 101) divorce cases are heard

19 of the Penal Code).

⁴⁴ S.f. the first episode.

⁴⁵ E.g.: rozwódówka [divorce case]; o której sprawa poszła? [what time was the court hearing?]; połyk [swallowing an object in order to inflict harm and be transported to a hospital]; zasyпка [self-infliction of an eye usually by glass or iron filings].

⁴⁶ *Zespół adwokacki*, <http://www.filmpolski.pl/fp/index.php?film=125805> [11.03.2014].

⁴⁷ TVN, 2005–2007.

⁴⁸ Played by Joanna Brodzik.

to the truth than in *Agata's Law*. Low level of legal knowledge in the show can be summed up in a sentence said by Piotr, Magda's boyfriend: "if law allowed it I would have sued and sentenced myself"⁵⁵. First of law lawsuit (*pozew*) is specific for civil law procedures and sentencing (*skazanie*) for penal process. It's impossible to have two in one⁵⁶. He was probably thinking about criminal trial, so he should have said that he had been charged (*oskarżony*). He is right, though, that he couldn't press formal charges nor he could sentence himself, as that would require him to be a prosecutor and a judge at the same time⁵⁷. And, as far as I know, typical inquisition trials ended couple of centuries ago. Amount of legal errors combined in that one line is quite representative for the whole show. Maybe hiring a consultant on legal matters would have solved a problem?

Multitude of legal mistakes, superficial characters, and unrealistic world – those are main characteristic that come to mind when thinking about that series. I would say that *Magda M.* is more of a love soap-opera with lawyers in it than actual legal drama.

h) *Prawo Agaty [Agata's Law]* ⁵⁸

Agata Przybysz⁵⁹, an advocate in *Agata's Law*⁶⁰, after losing a job in a security company starts a practice with Dorota⁶¹ and Marek⁶², in Warsaw. The series presents professional and personal lives of the main character, her friends and co-workers.

Lack of legal accuracy is the first visible thing, especially in the first two seasons. The series is filled with American trial elements. Objections constantly

carried by the advocates or prosecutor during witnesses' testimonies are typical for common law procedures⁶³, but unknown in Polish procedure. Occasionally parties use correct phrases such as petition for the dismissal of the complaint or petition for the dismissal of a question. Any witness in Polish procedures is summoned by the court or prosecution, but in the series the judge demands that a witness is found and delivered to the court by the defense⁶⁴, that is specifics of American procedures. The gavel in the series is often used after the verdict, as a "finishing touch". As dramatic as it is on screen, that kind of usage is exotic for Polish legal culture. In Poland the ceremonial mallet is used occasionally and only to quiet down the public gathered in the courtroom, as it is provided in § 82 of *Rules governing the operation of common courts*⁶⁵. The same is true for lawyers walking around the courtroom. This is not even common in American courts, although it is shown in many American films and TV series. In the USA lawyers may move around "the well" only if given permission by the judge. In Polish courtroom representatives of both sides sit behind the tables, stand up when taking to the court are talked to by the court, but do not walk around the room, and do not approach witnesses during interrogations⁶⁶. Hence there are factual or procedural mistakes taken directly from American law, or even from fictional shows on common law.

Legal mistakes vary from using non-existing terminology to ignorant portrayal of illegal acts. There is "creating" of new legal institutions or acts in the series e.g. wills unknown in Polish succession law. The testament written on a computer and signed by the testator is basis for succession approved by court in the 4th episode of the 1st season. A testator may make a testament by writing it by hand – it is called a holographic will in Polish law. Under article 949 of *the Civil Code*⁶⁷ a holographic

by three-person bench, there is a judge and two jurors in the district court (the first instance), and there are three judges in the appeal court (second instance).

⁵⁵ Season 2, episode 15 – "gdyby prawo przewidywało taką możliwość, pozwałbym siebie samego i skazał".

⁵⁶ I'm not talking about adhesion procedure as the character is clearly stating he would be on trial, there are no basis for compensation.

⁵⁷ *Nemo iudex in causa sua*. About self-incrimination and the rule *nemo se ipsum accusare tenetur* s.f.: Z. Sobolewski, *Samooskarżenie w świetle prawa karnego (nemo se ipsum accusare tenetur)*, Warszawa 1982.

⁵⁸ TVN, since 2012.

⁵⁹ Played by Agnieszka Dygant.

⁶⁰ Official website: <http://prawoagaty.tvn.pl/>.

⁶¹ Played by Daria Widawska.

⁶² Played by Leszek Lichota.

⁶³ S.f.: M.H. Bright, *Objections at Trial*, Lexis Law 1998; C.L. Montz, *Trial Objections from Beginning to End: The Handbook for Civil and Criminal Trials*, 29 Pepperdine Law Review 2 (2002); Ch.B. Gibbons, *A Student Guide to Trial Objections*, West 2010.

⁶⁴ E.g. season 4 episode 11.

⁶⁵ Rozporządzenie Ministra Sprawiedliwości z dnia 23 lutego 2007 r. Regulamin urzędowania sądów powszechnych, Dz.U. nr 38, poz. 249 [The Regulation of the Minister of Justice of 23 February 2007 – Rules governing the operation of common courts, J.L. No. 38, item 249].

⁶⁶ S.f.: *Rules governing the operation of common courts* and any internal regulation of any Polish court.

⁶⁷ Ustawa z dnia 23 kwietnia 1964 r. – Kodeks cywilny, t.j. Dz. U. z 2014 r. Nr 0, poz. 121 [The Act of 23 April

will must be entirely written by hand by the testator, signed and dated. Such document will be void if, even partially, is written by someone else or with the use of computer, typewriter or any other device. Therefore a will described in the abovementioned episode couldn't be basis for succession as it wouldn't have been valid. The correct form of such will is, however, shown in the 8th episode of the 3rd season, so there is a progress and some correction of mistakes in the series. In the 4th episode of the 3rd season a successor had left money to his daughter and a grocery shop to his son. Such division is possible in American law, but there is no dividing testament in Polish succession law⁶⁸. Procedural errors are visible when it comes to motions, placement of the parties, or inadequate benches⁶⁹. The prosecutor or plaintiff should always sit on the right side of the court and accused or defendant on the left side of the court as it is provided in § 80 of *Rules governing the operation of common courts* – parties in the series sometimes are placed conversely. In accordance with article 28 § 4 of *the Code of Penal Procedure*⁷⁰ a murder case with possible lifetime imprisonment should be tried by two judges and three jurors, and under article 47 § 1 of *the Code of Civil Procedure* cases concerning denial of paternity should be tried by one judge, whilst in both cases there were a judge and two jurors. Not to mention the fact that, in accordance with articles 62–72 of *the Family and Guardianship Code*, a biological father cannot petition for establishment of fatherhood of a child already having legal father⁷¹. In family law cases no public is allowed in the courtroom except for witnesses. Rulings are given in the name of the Republic of Poland by courts not by judges⁷². Even most basic terminology or correct discrimination between legal codes seems to be a problem, too. Lawyers in the show say: “hidden contract

clause” (ukryta klauzula umowna) instead of “abusive clause” (niedozwolona klauzul umowna)⁷³, “kodeks k.p.k.” instead of “k.p.k.”⁷⁴, or “gwałt” (violence) instead of “zgwałcenie” (rape)⁷⁵, disciplinary court is described as a regional court⁷⁶ and the judge orders prosecutor to calm down the “client”⁷⁷. Under article 898 § 1 of the *Civil Code* a donor may revoke a donation if the donee manifests gross ingratitude towards him. In the 5th episode of the 2nd series a donor quotes the *Code of Civil Procedure* instead of the *Civil Code* when talking about gross ingratitude, and lawyers discuss withdrawal of a donation (cofnięcie darowizny) instead of revoking of a donation (odwołanie darowizny). In the 2nd episode of the 4th season Agata is conducting a lecture⁷⁸ on penal law at the university and mistakes article 172 of the *Penal Code* with article 172 of *the Code of Penal Procedure*. It really matters whether it's substantive law or procedural law, but obviously not for creators of the show. These are just some random examples.

Some goofs are only ridiculous (e.g. using the gavel by the judges, postponing trial date for the next day, or hiring a private detective by the advocate to get information in almost any case) but others are plain illegal yet often showed as legit, e.g.: talking on the phone while driving a car⁷⁹, blackmailing and lying to witnesses⁸⁰, or even losing the case on purpose. In the third episode of the second season in a rape case Agata

⁷³ Season 3 episode 7. Such term (ukryta klauzula umowna) does not exist.

⁷⁴ This pleonasm appears in the season 3 episode 13. K.p.k. is commonly used acronym derived from the title of the *Code of Penal Procedure* (kodeks postępowania karnego = k.p.k.).

⁷⁵ Season 4 episode 11.

⁷⁶ Season 3 episodes 12 and 13.

⁷⁷ Season 4 episode 11. Prosecution is a public officer, so that usage of terminology is inappropriate.

⁷⁸ The simply unrealistic situation of getting a work at the university day by day is one thing. Not being aware of legal and practical requirements when it comes to higher education system is something else. A replacement of a professor of law by a master of law to give a lecture is quite impossible and changing a lecture into tutorials would be in violation of the course program.

⁷⁹ E.g. in the season 2 episode 9 and 13 or season 3 episode 8. S. f.: article 45 of *Road Traffic Law* (ustawa z dnia 20 czerwca 1997 r. – Prawo o ruchu drogowym, t.j. Dz.U. z 2012 r. poz. 1137 – the Act of 20 June 1997 – Road Traffic Law, uniform text J.L. of 2012, item 1137, as amended).

⁸⁰ In the 10th episode of the first season Agata makes up an article of the civil proceedings to force a witness to appear in court. And in 2nd episode of the fourth season she is convincing her clients to lie in court.

1964 – the Civil Code, uniform text J.L. of 2014, No. 0, item 121].

⁶⁸ An option would be a specific bequest provided in articles 981¹–981⁶ of *the Civil Code*.

⁶⁹ E.g. divorce motion in season 3 episode 10.

⁷⁰ Ustawa z 6 czerwca 1997 r. – Kodeks postępowania karnego, Dz.U. nr 89, poz.555 ze zm. [the Act of 6 June 1997 – the Code of Penal Procedure, J.L. No. 89, item 555, as amended].

⁷¹ Ustawa z dnia 25 lutego 1964 r. – Kodeks rodzinny i opiekuńczy, t.j. Dz. U. z 2012 r. Nr 0, poz. 788 ze zm. [the Act of 25 February 1964 – The Family and Guardianship Code, uniform text J.L. of 2012, item 788 as amended].

⁷² E.g. in the 12th episode of the second season when the judge reads the verdict he should say “it is hereby adjudged” or “the court rules”, not “I decide”.

acts contrary to the benefit of a person she represents (the victim) after it turns out the charge was false. The prosecutor, Maria⁸¹, says that acting in favor of the accused “is making a fool out of herself”. It’s not just that. It’s illegal. Under article 80 of *the Law on the Bar* an advocate is legally responsible for breaching professional duties, and that is what happens when Agata is acting against the victim she represents in the court. As far as I could accept walking in the courtroom or searching for evidence by the advocate⁸², for the sake of the show, I find it unnecessary and misleading to present offences as legal behavior. I understand if writers want to show the lawyer breaking the law. It’s their *licentia poetica*. But they should be honest about it, make sure everyone understands it’s illicit. Telling the audience breaking the law is allowed is simply wrong.

There are also some general discrepancies that make the whole series even less believable, such as the fact that Agata wins almost all of her cases, and if she loses it’s not just ordinary lost case, it ends in disaster (e.g. a case lost to Bitner), strangers agree to testify as witnesses despite possible humiliation, financial loss or even a job loss, and cases are dealt with within days, not months or years as it actually is in Polish justice system⁸³. Besides, a trial should be a fight, not an execution, and that what happens when many cases are predictable.

TV series or movies can break actual legal rules for the sake of drama without losing credibility if the rest of the show seems authentic. If the film or series lack authenticity nothing is forgiven. *Agata’s Law* is not exactly a TV series about lawyers, it’s a show about how filmmakers imagine lawyers and legal cases. The additional problem is that this illusion is not even taken from Polish reality, it is taken from American

courtroom drama and placed in a Polish city. That show do not present a perfected image of Polish law, it’s a fairytale-like wishful thinking. Legal image is not just inaccurate or distorted, is simply absurd, when you add somewhat unrealistic world it happens in, you realize it’s not a legal drama, it’s a legal fantasy.

Television dramas could be useful tutorials for students as they have the advantage of presenting legal scenarios in a more engaging format than a lecture or case course at the university. *Agata’s Law* could have been quite handy educational tool if the law presented there would exist. So far the most useful training for students is to search for legal mistakes, especially in the first two seasons. Legal consultants were working on the show during the third season and it seemed to improve certain matters, but the series still need enhancing. *Agata’s Law* is still airing and I hope that it will get better, as the show has great potential, and I wish it could use it in a better way. If law was on the same level as the rest of the show it would be a really great legal drama.

Legal television series as *Magda M.* or *Agata’s Law* are fictional shows, so, I hope, no one expects them to be detailed or exact when it comes to law. I do not believe viewers would like to hear quotes from the Civil Code or any handbook of law. I also don’t think exact portraying of Polish court procedures would be interesting for the viewer as they are very strict and lengthy. I do not suggest making a boring show out of it, just believable.

There are also merits that make this series interesting. There are good actors, multiplicity and diversity of characters and cases, fast pace of storytelling, interesting settings, pleasant music, humor, correct presentation of some legal cases (e.g. class action⁸⁴, divorce case⁸⁵, fraud⁸⁶), and many elements of lawyer’s lives are close to the truth in *Agata’s Law*. Despite showing personal problems of main characters law is still the central point of the show. That’s a rare value, especially after five seasons of the show.

It’s a mediocre drama on law, but a good drama on advocates, it promotes positive image of the profession. Amount of time spent on the case is quite realistic, lawyers do work around the clock, as many other independent professionals do. Legal work is not just knowing the

⁸¹ Played by Małgorzata Kozuchowska.

⁸² I do not reproach makers of this show for presenting that issue, it’s interesting and already appeared in Polish legal drama, on a smaller scale, though, as Agata in *Law office* was also talking to witness. I believe that legal dramas do have educational impact, hence such problems should be explained in more in-depth way in the show (see remarks on *Law office*).

⁸³ Average case takes almost 5 months to be examined (counted till the date of judgment validation). S.f.: Ł. Kurnicki, *Mierniki czasu trwania postępowań sądowych w Polsce*, Iustitia 4(10)/2012; Ministry of Justice Statistics, <http://bip.ms.gov.pl/pl/dzialalnosc/statystyki/statystyki-2013/> [11.04.2014]. I do not expect the cases to be taken the same amount of time, that would be unreasonable, but it’s not a court show, where the cases need to be tried in one episode.

⁸⁴ Some of very few correctly presented cases are class action lawsuits presented in season 1 episode 14, season 3 episode 7.

⁸⁵ Season 3 episode 10.

⁸⁶ Szalbierstwo – in season 4 episode 5.

provisions by heart, it is also putting in to use. What I really like about the series is that it shows that it takes time to prepare the case and lots of it is actually paper work. So any aspiring lawyer lured with income myths should ask himself, whether he really like to read, memorize and analyze all day long? *Agata's Law* also shows that relation lawyer-client is crucial to winning the case, that not everything depends on the advocate, and sometimes lying to your lawyer or omitting facts may backfire, and result in losing the case.

Lawyers shown as human beings are worth pinpointing. Advocates and prosecutors in the series have families and love life as well as problems similar to any other person living in Poland (broken cars, common diseases in families, children that do not obey parents, lack of communication between partners, jealousy) which helps the audience to associate. In many aspects Agata in *Agata's Law* is quite stereotypical, but at least she is presented as more professional, stabile, and tougher than Magda in *Magda M.* Main characters (Agata, Marek, Dorota, Maria, Bartek) in *Agata's Law*, are believable, charismatic, and likeable lawyers. They might be role-models for future professionals. We can watch nice people who are neither spoiled brats nor geniuses, just humans, working in a demanding stressful environment.

Law in the series is dynamics of its own. Legal system is portrayed as a fascinating, engaging, vivid reality. The world here is a bit more pleasant than real one, simply entertaining, what I find an advantage. From the legal point of view it's a legal fantasy, but also sort of "improved" world, maybe even *de lege ferenda*. Positive image of Polish lawyers is a nice change to see in national pop culture.

It's not just the laymen that watch court shows, legal dramas, or crime movies, lawyers⁸⁷ and law students are viewers, too. There were more than 3 million viewers of the first season of *Agata's Law* and more than 2 million watching next three seasons⁸⁸. Millions of viewers might suggest that there is a need for such series.

⁸⁷ S.f.: A. Zwara, *Prawo serialu*, 11.10.2013, „Adwokatura.pl”, <http://adwokatura.pl/?p=10959> [11.03.2014] K. Borowska, *Prawnik w serialowym zwierciadle*, 12.01.2014 „Rzeczpospolita” <http://prawo.rp.pl/artykul/757738,1078303-Obraz-adwokata-prokuratora-i-notariusza-w-serialach.html?p=1> [11.03.2014].

⁸⁸ 3 mln widzów Prawa Agaty, 5.5.2012 „Wirtualne Media”, <http://www.wirtualnemedi.pl/artykul/3-mln-widzow-prawa-agaty-jesienia-druga-seria#> [11.04.2014]; 2,4 milionów widzów Prawa Agaty, 5.5.2012 „Wirtualne Media”, <http://www.wirtualnemedi.pl/artykul/2-4-mln-widzow-prawa-agaty-28-mln-zl-wplywow-z-reklam> [11.04.2014].

4. Conclusions

The first overall conclusion is that TV presents positive image of Polish law and lawyers. Judges are patient, lawyers competent and prepared, trials fast and verdicts imminent. But all is not so perfect.

Court shows are constructed like a theater play, and are supposed to be educational for the audience. Some para-documentaries have hardly anything to do with reality whilst others are based on real cases and are quite believable. Two of Polish court shows (*Judge Anna Maria Wesółowska*, *Family Court*) had been very popular and seem to be quite influential, there are some discrepancies when it comes to law, but they are interesting and useful.

There have been only three Polish courtroom dramas so far. Legal television series are fictional shows, not supposed to be documentary, but legal drama should be in consistence with basic legal rules, procedures and provisions, at least to some extent. Most close to the truth at the time is *Law office*. Due to significant law changes it's not consistent with contemporary legislative status, but after two decades it's still a good show when it comes to basic rules of Polish legal environment. The problem with *Magda M.* and *Agata's Law* is not about some inconsistencies or polishing details, it's not even about omissions or substantial mistakes, it's about amount of absurdity when it comes to law. *Agata's Law* has great potential, good actors, interesting cases, positive image of justice system, and could be a good legal drama if there were fewer errors in law.

Image of lawyers on screen includes creative vision of law and its social assessment, it portrays what society thinks about justice system or how wishes it to be. Legal dramas can shape the perception of law, as people watching it might be inclined to believe the image is close to the truth. It's not just the laymen that watch television or go to the movies, lawyers and law students are viewers, too. TV series could have educational values, they can promote positive image of justice system and popularize legal knowledge, therefore it matters what they actually show.

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