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Justice of the Peace Courts in Poland. Legal and Linguistic Considerations on a Legal Transplant in Progress (or Gone Wrong?)

Sądy pokoju w Polsce. Prawne i językowe rozważania na temat trwającego (nieudanego?) przeszczepu prawnego

ABSTRACT

The present research paper is a case study of the attempted introduction of justice of the peace courts in Poland. It takes the English prototype of this institution as a reference point. The paper seeks to analyse the above idea using the conceptual framework of comparative law's legal transplants paradigm, seldom invoked in Polish legal scholarship, and also to delve into the meaning of the very term "justice of the peace." In this way, it emphasises the need to pay attention to what content various legislative proposals veil behind this catchphrase and how much they depart from the English prototype, especially concerning the justices' legal background and their related representativeness for the local community. Furthermore, using the toolkit offered by the legal transplants paradigm, the paper attempts to draw some lessons that can be useful if the transplant process is resumed in the future, at the same time pointing to the usefulness of this approach for analysing transfers of foreign law elements into the Polish legal system.

Keywords: justice of the peace; legal transplant; Alan Watson; comparative law; Polish legal system

INTRODUCTION

While multiple contributions referring to the idea of introducing justice of the peace courts into the Polish legal system or the operation of such institutions in other jurisdictions have been published in recent years – accompanying a lively public debate – it seems this idea has not been analysed¹ through the lens offered by the rich literature on legal transplants, even though its nature as representing such a phenomenon is noted. Namely, it is, in particular, recognised that, despite some experience with justice of the peace courts during the Partitions of Poland and in the Second Polish Republic,² the institution is rooted in Anglo-Saxon law.³ Moreover, the potential introduction of justice of the peace courts has been, rather pejoratively, referred to as their “implantation” into the Polish court system.⁴ “Grafting” such institutions, seen as peculiar to the common law tradition, is claimed to be risky due to this legal tradition being genetically different from the Polish legal system.⁵

The legal transplant phenomenon is aptly defined as “a transfer of the normative content in its legal form constituting functional entirety, having considerable load of normative novelty, or a transfer of a new method of legal regulation, not yet present in a legal system, from one system of law (foreign) to another one (host).”⁶ Initiated (or rather revived and put onto a new track) by Alan Watson’s seminal monograph,⁷ the theory of legal transplants can be described as one of the standard

¹ Except for the author’s monograph published after this paper was prepared. See: P. Kusik, *Przeszczepy prawne (legal transplants) z systemów prawnych common law w polskim systemie prawnym. Studium z zakresu prawa porównawczego*, Warszawa 2025.

² See, e.g.: R. Jastrzębski, *Czynnik obywatelski w sądownictwie II Rzeczypospolitej*, “Czasopismo Prawno-Historyczne” 2021, vol. 73(1), pp. 283–324; R. Kmiecik, Z.R. Kmiecik, *Sądy pokoju – anachronizm czy krok ku demokratyzacji wymiaru sprawiedliwości?*, “Prokuratura i Prawo” 2021, no. 7–8, pp. 118–127.

³ See: P. Kuczma, *Sądy pokoju czy sądy niepokoju?*, [in:] *Zagadnienia prawa konstytucyjnego: Księga jubileuszowa dedykowana Profesorowi Krzysztofowi Skotnickiemu w siedemdziesiątą rocznicę urodzin*, vol. 2, ed. A. Domańska, Łódź 2023, p. 420; M. Siedlecki, *Instytucja sędziego pokoju w Wielkiej Brytanii. Czy warto przenieść na grunt prawa polskiego niektóre jej elementy?*, [in:] *Udział obywatela w sprawowaniu wymiaru sprawiedliwości*, ed. R. Piotrowski, Warszawa 2021; A. Wiecezorek, *Ziobro o ustawie o sędziach pokoju: Nigdy nie poprzemy destrukcyjnych projektów*, <https://wydarzenia.interia.pl/kraj/news-ziobro-o-ustawie-o-sedziach-pokoju-nigdy-nie-poprzemy-destru,nId,6683173> [access: 14.02.2025].

⁴ A. Olaś, *Dr Andrzej Olaś: Sądy pokoju nie uzdrowią wymiaru sprawiedliwości*, <https://www.prawo.pl/prawnicy-sady/sedziowie-pokoju-opinia-dr-andrzej-olasia,507424.html> [access: 14.02.2025].

⁵ P. Kuczma, *op. cit.*, p. 420.

⁶ M.Z. Król, *Legal Culture and Legal Transplants*, [in:] *Rapports Polonais: XVIIIe Congrès International de droit comparé, XVIIIth Congress of Comparative Law Washington, 25.VII – I.VIII.2010*, ed. B. Lewaszkiewicz-Petrykowska, Łódź 2010, p. 10.

⁷ A. Watson, *Legal Transplants: An Approach to Comparative Law*, Athens 1993.

approaches,⁸ central paradigms⁹ or classical *topoi*¹⁰ in comparative law. As demonstrated by the present author in earlier research, there are several components of the legal transplants paradigm – emerging from comparative law literature – which can be applied to various instances of legal transplants.¹¹ It is rightly noted that identifying a certain legal transfer as a legal transplant can let one “gain access to the set of analytical tools developed by legal transplant theorists” so as to “better understand the implications of legal transplants.”¹²

From this perspective, the idea of introducing justice of the peace courts in Poland is particularly interesting because it is a legal transplant in progress, or, in fact, a transplant whose process has come to a halt or even gone wrong. Unlike a number of other examples of common law transplants in the Polish legal system,¹³ the one discussed here reached only a certain stage of parliamentary work (in the 9th term of the Sejm, i.e. the lower chamber of the Polish parliament), preceded and accompanied by considerable public and legal debate.

In view of the above, the primary goal of the present paper is to analyse the idea of introducing justice of the peace courts in Poland using the legal transplants paradigm. Additionally, it will enquire into the meaning of the very term “justice of the peace,” given the interplay of legal and linguistic aspects in legal transplantation¹⁴ and the fact that the various proposals for these courts differ so much that one can doubt whether they relate to roughly the same kind of institution. Indeed, it is rightly noted that its introduction primarily requires defining what that concept actually means.¹⁵ Accord-

⁸ See: J.W. Cairns, *Watson, Walton, and the History of Legal Transplants*, “Georgia Journal of International & Comparative Law” 2013, vol. 41, p. 695.

⁹ M. Graziadei, *Comparative Law, Transplants, and Receptions*, [in:] *The Oxford Handbook of Comparative Law*, eds. M. Reimann, R. Zimmermann, Oxford 2019, p. 443.

¹⁰ E. Grande, *Legal Transplants and the Inoculation Effect: How American Criminal Procedure Has Affected Continental Europe*, “The American Journal of Comparative Law” 2016, vol. 64(3), p. 585.

¹¹ P. Kusik, *Teoria przeszczepów prawnych jako paradygmat prawa porównawczego. Próba podsumowania w 50. rocznicę ukazania się monografii pt. Legal Transplants: An Approach to Comparative Law Alana Watsona*, “Forum Prawnicze” 2024, no. 3(83), p. 59. The paper also discusses terminological issues, including the relation between the concepts of “legal transplant” and “reception.”

¹² E. Gillman, *Legal Transplants in Trade and Investment Agreements: Understanding the Exportation of U.S. Law to Latin America*, “Georgetown Journal of International Law” 2009, no. 41, p. 301.

¹³ See: P. Kusik, *Przeszczepy...*

¹⁴ See: M. Graziadei, *op. cit.*, pp. 456–457; N.J. Jamieson, *Legal Transplants: Word-Building and Word-Borrowing in Slavic and South Pacific Legal Discourse*, “Victoria University of Wellington Law Review” 2011, vol. 42(2), pp. 417–458; P. Kusik, *Legal Transplants and Legal Translation: A Case Study of the Borrowing of the U.S. Limited Liability Partnership into the Polish Legal System*, “Perspectives. Studies in Translation Theory and Practice” 2025, vol. 33(5), pp. 930–945, and the literature cited therein.

¹⁵ J. Szymanek, *Kwestia wprowadzenia do polskiego porządku prawnego instytucji sędziego (sądu) pokoju*, [in:] *Sądownictwo pokoju. Rozwiązania zagraniczne z perspektywy krajowej*, eds. P. Mostowik, A. Poglódek, Warszawa 2022, p. 325.

ingly, assuming the source jurisdiction of England and Wales as a point of reference, this paper seeks to answer the following two questions: (1) What are the essential and accidental characteristics of the justice of the peace concept in the English legal system? (2) What lessons can be drawn from the legal transplants paradigm for the potential introduction of justice of the peace courts in Poland?

To accomplish the above goal and answer the research questions, the paper employs, in its linguistic (terminological) part, the conceptual analysis proposed by Susan Šarčević for analysing the degree of equivalence of legal terms¹⁶ and, in its comparative legal part – the legal transplants paradigm. The latter's framework can be seen as containing six components (views on the nature of legal transplants, reasons for legal transplants, actors involved in legal transplants, objects of legal transplants, the course of the transplant processes and the criteria of success in legal transplanting).¹⁷ They are reflected in the individual subsections of "Research and Results." The paper is, at the same time, a case study supported by a literature review. It applies the legal dogmatic method to analyse the respective regulations and draft acts, as well as elements of the economic and sociological analysis of law to consider justice of the peace courts' expected social and economic impact. Comparative law methods are also used to compare the source and target legal solutions.

The present analysis is by no means exhaustive, focusing on the meaning of the justice of the peace concept in the English legal system. Bearing this important limitation in mind, it is particularly worth taking the English model as a reference point. This is because it can be considered the prototypical one – dating back to the Middle Ages and later transplanted to other common law jurisdictions and, following the French Revolution, also to civil law systems.¹⁸

RESEARCH AND RESULTS

1. The Meaning(s) of the Term "Justice of the Peace"

As aptly put by Nigel Jamieson, "all legal transplants, rely more or less on language for their substantive effect."¹⁹ It is thus worth considering the meaning of the very term "justice of the peace." Its Polish equivalent, *sędzia pokoju*, has become a catchphrase in the domestic debate. However, the various proposals to

¹⁶ S. Šarčević, *New Approach to Legal Translation*, The Hague 1997, pp. 237–241.

¹⁷ P. Kusik, *Teoria...* and the literature cited therein.

¹⁸ R. Kmiecik, Z.R. Kmiecik, *op. cit.*, pp. 105–106; A. Nowakowski, *Geneza i rozwój instytucji sędziów pokoju w Anglii*, "Annales Universitatis Mariae Curie-Skłodowska, sectio G" 1983, vol. 30(13), p. 233.

¹⁹ N.J. Jamieson, *op. cit.*, p. 458.

introduce an institution so named into Polish law put forward by the Ministry of Justice,²⁰ the President of the Republic of Poland²¹ and MPs of the Left²² and the Polish People's Party²³ raise doubts about whether the above term is understood uniformly. Symptomatic is a statement by a former Minister of Justice criticising the President's bill as a departure from the common law model and claiming that it was about justices of the peace in name only.²⁴

First, lexical and semantic differences at the level of the respective phrasemes in English and Polish should be noted.²⁵ Namely, while "peace" typically refers to the office holder ("justice of the peace," also known as "magistrate"²⁶), and the institution is called "magistrates' court,"²⁷ the corresponding Polish noun *pokój* is used as an attribute of the court, too (hence *sąd pokoju*). In this way, the Polish name of the court is closer to "justice of the peace court," a term used, for instance, in Scottish law.²⁸ Furthermore, the Polish word *sędzia* is much more generic and blurs the difference between justices of the peace and judges, the latter being a more prestigious position in English law.²⁹ The designation "justices" (lower case) is also contrasted with the capitalised term "Justices," referring to High Court judges.³⁰

Moving on to the conceptual analysis, it should be noted that this method distinguishes between essential characteristics (*essentialia*), i.e. the constituent features or characteristics of a concept that are vital or necessary, and additional characteristics, referred to as the accidental ones (*accidentalia*). Depending on the relation between essential and accidental characteristics, terms in different legal systems can be described as nearly equivalent, partially equivalent or non-equivalent.³¹

²⁰ *Sędziowie pokoju – sprawiedliwość blisko ludzi*, <https://www.gov.pl/web/sprawiedliwosc/szedziowie-pokoju--sprawiedliwosc-blisko-ludzi> [access: 14.02.2025].

²¹ Explanatory Memorandum to the Draft Act on Justice of the Peace Courts, Sejm Paper no. 1760; Explanatory Memorandum to the Draft Act on the Implementing Provisions for the Act on Justice of the Peace Courts, Sejm Paper no. 1761.

²² Explanatory Memorandum to the Draft Act on Justice of the Peace Courts, Sejm Paper no. 1763.

²³ Explanatory Memorandum to the Draft Act on Justice of the Peace Courts and Amending Certain Other Acts, Sejm Paper no. 1762.

²⁴ A. Wieczorek, *op. cit.*

²⁵ See: R. Kmiecik, Z.R. Kmiecik, *op. cit.*, pp. 106–108.

²⁶ There is a slight difference between the two. See: B. Gibson, M. Watkins, *The Magistrates' Court: An Introduction*, Sheffield on Loddon 2009, p. 15.

²⁷ See: *Magistrates*, <https://www.judiciary.uk/about-the-judiciary/who-are-the-judiciary/magistrates/> [access: 14.02.2025].

²⁸ *Justice of the Peace Courts*, <https://www.scotcourts.gov.uk/courts-and-tribunals/sheriff-and-justice-of-the-peace-courts/justice-of-the-peace-courts/> [access: 9.02.2025].

²⁹ R. Kmiecik, Z.R. Kmiecik, *op. cit.*, p. 107.

³⁰ B. Gibson, M. Watkins, *op. cit.*, p. 29.

³¹ S. Šarčević, *op. cit.*, pp. 237–239.

Based on the cultural and historical background as well as the contemporary shape of the justice of the peace institution in English law,³² the following characteristics appear essential to this concept: (1) administration of justice (2) at the local level (3) by representatives of the local community (4) not required to have a legal background. As a side note, it should be mentioned that these characteristics also seem to be met by justices of the peace in most US states,³³ e.g. Arizona,³⁴ referred to in the President's proposal. The accidental characteristics would include, among others: (1) the method of appointment (through Lord Chancellor's Advisory Committees by the Senior Presiding Judge on behalf of the Lord Chief Justice);³⁵ (2) term of appointment (until resignation or retirement at 75); (3) remuneration (unpaid, voluntary position with certain allowances); (4) time commitment (at least 13 days a year plus training); (5) subject-matter jurisdiction (a range of criminal and civil matters).³⁶

Obviously, the justice of the peace office differs between English-speaking countries, as evidenced by its diversity in the United States, where, for instance, its holders are elected in a number of states.³⁷ The features of similarly named institutions in other countries like Portugal (*julgadoz de paz*), Spain (*juez de paz*) or Italy (*giudici di pace*) differ as well.³⁸

While differences in accidental features are more obvious, an essential characteristic that seems to raise controversy and is thus worth a closer look is whether justices of the peace should have a legal background. Notably, it is an aspect on which the debate over this institution is centred in the United States³⁹ and one that reflects differences between European jurisdictions. The Polish ideas differ in this respect, too, with the Ministry of Justice's proposal being the only one where legal education is not required, the Polish People's Party's proposal suggesting the same legal qualifications as those expected of a district court judge and the other two bills mandating legal education and some legal experience.

As discussed above, given the English and most U.S. models, the essence of justice of the peace courts is more than entrusting minor criminal and civil cases

³² B. Gibson, M. Watkins, *op. cit.*, p. 354; *Magistrates...*; H. Riddle, R. Zara, *Essential Magistrates' Courts Law*, Sheffield on Loddon 2019, pp. 15–17.

³³ See: E. Gmurzyńska, *Evolution of the Institution of Justices of the Peace in the United States*, "Studia Iuridica Lublinensia" 2019, vol. 28(1), pp. 58–59.

³⁴ *Justice Courts*, <https://www.azcourts.gov/AZ-Courts/Justice-Courts> [access: 14.02.2025].

³⁵ Ministry of Justice, *Lord Chancellor and Secretary of State's Directions for Advisory Committees on Justices of the Peace*, 2023.

³⁶ *Magistrates...*

³⁷ E. Gmurzyńska, *op. cit.*, p. 42.

³⁸ P. Kruszyński, J. Kil, J. Placek, *Sędzia pokoju i jego rola w rozwiązywaniu problemów polskiego wymiaru sprawiedliwości*, [in:] *Udział obywateli w sprawowaniu wymiaru sprawiedliwości*, ed. R. Piotrowski, Warszawa 2021, pp. 331–332.

³⁹ See: E. Gmurzyńska, *op. cit.*, pp. 39–67.

to citizens not being fully professional judges.⁴⁰ The lack of a legal education requirement is essential in that it seems to be not only about formalities but chiefly about a person's mindset (in the case of lawyers, shaped through education and not infrequently their social background). It affects another essential feature, i.e. representativeness for the local community. It is not a coincidence that English justices are described as "individuals from all walks of life."⁴¹ It is thus rightly noted that if the proposed justice of the peace institution were to represent citizens in the judiciary, such people would generally, in their majority, need to come from outside legal circles. Requiring them to undergo extensive legal training would actually bring them closer to professional judges and thwart one of the basic expectations raised of them.⁴² It might be right that it is impossible for justices of the peace to "simultaneously satisfy desires to represent citizen opinion on tribunals and at the same time satisfy professional standards for performance."⁴³

The terminological considerations above point out that the term "justice of the peace" and its apparent equivalents may carry different meanings and thus be only partially equivalent. This makes it necessary to always enquire into what the proponents of an institution so named mean. The diversity of concepts makes valid the key question of what such courts should look like rather than how they should be introduced.⁴⁴ Clearly, borrowing the term "justice of the peace" into the Polish legal language will not – magically – create an institution fulfilling the expectations the public might have based on their perceptions of how such institutions work abroad.

2. Actors Involved in Introducing Justice of the Peace Courts in Poland

The bearers of legal change may be various actors who collaborate or compete with each other and whose importance varies in time and space.⁴⁵ Those involved in legal transplants include the receiving state's authorities, national and international organisations, invading states and colonisers, private businesses, legal scholars and various individuals.⁴⁶

In the case of the justice of the peace transplant in Poland, the primary actors would be the authorities involved in the legislative process. Indeed, establishing such an institution would be possible only through adopting new or amending the

⁴⁰ Cf. P. Kruszyński, J. Kil, J. Placek, *op. cit.*, p. 326.

⁴¹ *Magistrates...*

⁴² M. Siedlecki, *op. cit.*, p. 423, 427.

⁴³ D.M. Provine, *Judging Credentials: Non-lawyer Judges and the Politics of Professionalism*, Chicago 1986, p. 187, as cited in E. Gmurzyńska, *op. cit.*, p. 53.

⁴⁴ M. Siedlecki, *op. cit.*, p. 429.

⁴⁵ See: D. Nelken, *Towards a Sociology of Legal Adaptation*, [in:] *Adapting Legal Cultures*, eds. J. Feest, D. Nelken, Oxford 2001, pp. 23–24.

⁴⁶ P. Kusik, *Teoria...*, pp. 55–56, and the literature cited therein.

existing statutes and/or the Constitution.⁴⁷ Another category would be community and political groups and organisations advocating the idea. This includes, in particular, the movement led by Paweł Kukiz,⁴⁸ which yielded a white paper on justices of the peace.⁴⁹ One of its editors, Professor Piotr Kruszyński, later became the leader of the team preparing the President's legislative initiative.⁵⁰ The idea is also supported by associations of people harmed by the justice system.⁵¹ An important collective actor is also the wider public, whom politicians try to appeal to. In fact, the driving force behind the various proposals is the public dissatisfaction with the functioning of the justice system, especially the lengthiness of proceedings,⁵² and significant public support for justice of the peace courts.⁵³ Yet another group of actors are various individuals, including officials, clerks, lawyers, experts and activists.

3. Motivations Behind the Introduction of Justice of the Peace Courts in Poland

Jonathan Miller distinguishes four types of legal transplants, which reflect the recipient's motivations: cost-saving transplants, externally-dictated transplants, entrepreneurial transplants and legitimacy-generating transplants.⁵⁴ Two further types that may be added are random transplants, made without any motivation, and historically determined transplants, resulting from path dependence.⁵⁵

Notably, while the particular proposals in Poland vary significantly, the motivations their authors declare are similar. A useful summary is the list of the different aspects of this institution's proximity, a feature considered its key advantage. These

⁴⁷ The Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended).

⁴⁸ *Postulaty Kukiz'15*, <https://kukiz15.org/> [access: 14.02.2025].

⁴⁹ P. Kruszyński, M. Jabłoński (eds.), *Biała księga w sprawie wprowadzenia do polskiego porządku prawnego instytucji sądów (sędziów) pokoju*, 2019.

⁵⁰ K. Sobczak, *Prof. Kruszyński pokieruje pracami nad projektem dotyczącym sędziów pokoju*, <https://www.prawo.pl/prawnicy-sady/sedzia-pokoju-prof-kruszynski-pokieruje-pracami-zespołu-u,507024.html>, 2021 [access: 14.02.2025].

⁵¹ J. Jachnik, J. Sanocki, *Jakich sądów potrzebują Polacy? Wymiar sprawiedliwości w ocenie organizacji społecznych skupiających pokrzywdzonych przez państwo*, "Krajowa Rada Sądownictwa" 2017, no. 4, p. 87.

⁵² K. Pankowski, *Komunikat z badań. Nr 95/2022. Społeczne oceny wymiaru sprawiedliwości*, https://www.cbos.pl/SPISKOM.POL/2022/K_095_22.PDF [access: 13.02.2025].

⁵³ *Sędziowie pokoju...*; G. Osiecki, *Szeroka koalicja PO-PiS-Kukiz'15 dla sędziów pokoju*, <https://forsal.pl/artykuly/1084813,szeroka-koalicja-po-pis-kukiz15-dla-sedziow-pokoju.html> [access: 13.02.2025].

⁵⁴ J. Miller, *A Typology of Legal Transplants: Using Sociology, Legal History and Argentine Examples to Explain the Transplant Process*, "The American Journal of Comparative Law" 2003, vol. 51(4), pp. 839–885.

⁵⁵ P. Kusik, *Teoria...*, pp. 54–55, and the literature cited therein.

include (1) the resolution of cases by adjudicators whose perspective is closer to that of an ordinary citizen, (2) disputes typically related to everyday matters, (3) the speediness of proceedings, (4) the proximity of the parties, often living close by and interacting, (5) the court's jurisdiction over a limited area, (6) minimised court fees and (7) reduction of the symbolic distance between the judiciary and citizens.⁵⁶

The transplant can thus be primarily categorised as cost-saving since it is supposed to remedy the malfunctioning of the justice system and, in the long run, bring positive effects to the state and the economy. It is also legitimacy-generating, in particular by seeking to improve the legitimisation of the judiciary in the eyes of the public, who hold it in enduring distrust.⁵⁷ It could also be an entrepreneurial transplant, potentially augmenting the position of the politicians who would manage to deliver on public expectations concerning this institution.

4. What Justice of the Peace Courts?

The question in the heading relates to the object of a legal transplant. As rightly noted by Celina Nowak, a diversity of forms of legal transplants in various branches of law is commonly recognised in comparative law scholarship.⁵⁸ Accordingly, their objects can be analysed in terms of both substance and form, including the areas of public and private law⁵⁹ and small- and large-scale units, ranging from particular legal provisions to entire regimes or paradigms.⁶⁰

As for the transplantation of justice of the peace courts in Poland, the substance in both source and target jurisdictions would be the law governing the justice system. The transplanted form is rather a certain idea, concept or institution, not the wording of legal provisions (which suggests a mainly substantive legal transplant⁶¹). In terms of the legal formants on the borrowing and receiving ends,⁶² the most conspicuous is statute law⁶³ (legislative formants). Given the references to foreign

⁵⁶ J. Kil, *Model polskiego sądownictwa sędziów pokoju w sprawach karnych – głos w dyskusji*, "Dyskurs Prawniczy i Administracyjny" 2020, no. 1, p. 219.

⁵⁷ P.W. Juchacz, *Trzy tezy o sędziach społecznych i ich udziale w sprawowaniu wymiaru sprawiedliwości w Polsce*, "Filozofia Publiczna i Edukacja Demokratyczna" 2016, vol. 5(1), p. 161.

⁵⁸ C. Nowak, *Przeczepy prawne jako instrument hybrydyzacji prawa*, "Studia Prawnicze" 2014, no. 3(199), p. 12.

⁵⁹ See examples in: B. Dufková, *Success in Legal Transplanting*, Prague 2022, pp. 61–85.

⁶⁰ V. Perju, *Constitutional Transplants, Borrowings and Migrations*, [in:] *The Oxford Handbook of Comparative Constitutional Law*, eds. M. Rosenfeld, A. Sajó, Oxford 2012, pp. 1313–1315.

⁶¹ See: H. Spamann, *Contemporary Legal Transplants: Legal Families and the Diffusion of (Corporate) Law*, "Brigham Young University Law Review" 2009, no. 6, p. 1852.

⁶² On the relationship between legal transplants and legal formants, see: R. Sacco, *Legal Formants: A Dynamic Approach to Comparative Law (Installment II of II)*, "The American Journal of Comparative Law" 1991, vol. 39(1), pp. 394–397.

⁶³ With the notable example of Justices of the Peace Act 1361 (34 Edw. 3. c. 1), still in force.

literature in the Polish debate,⁶⁴ the role of scholarly formants should also be noted. Finally, it must be emphasised that the status of justices of the peace in English law is based not only on legislation but, first and foremost, on a centuries-long tradition and “has almost constitutional significance.”⁶⁵ It is thus difficult to compare it with the scarce and scattered experience of justice of the peace courts in Poland.

Interestingly, some associate the current ideas for this institution with *kolegium do spraw wykroczeń*,⁶⁶ an extrajudicial body hearing petty offence cases during the communist rule and, for some time, also after 1989, the name of which certain translators even (incorrectly) render as “magistrate court.”⁶⁷ This body could be seen as an instance of legal survival. The latter is a metaphorical concept developed by Rafał Mańko – notably a parallel one to legal transplants – which sheds light on legal continuity.⁶⁸ From this perspective, justice of the peace courts would, in fact, resurrect an apparently dead legal survival.

5. The Unfinished Process of Transplanting Justice of the Peace Courts

On the one hand, the process of transplanting justice of the peace courts into Polish law seems to be a typical case, where the initial phase involves the identification of a suitable model and some adjustments so as to combine the transplanted material with the existing rules.⁶⁹

Yet, the search for a model in recent years has not yielded a single answer. A range of proposals have been raised instead, with particular drafters claiming to have considered different legal models, including those of not only England and Wales or the United States but also, for example, Belgium, Switzerland,⁷⁰ Portugal

⁶⁴ See, e.g. A. Grubalska, *Udział czynnika społecznego w orzekaniu w świetle prawa Anglii i Walii*, “Folia Iuridica Universitatis Wratislaviensis” 2021, vol. 10(1), pp. 89–106; K. Kozłowska, *Wizerunek brytyjskiej instytucji sądów pokoju – rys historyczny, krytyka, współczesne wyzwania*, [in:] *Udział obywateli w sprawowaniu wymiaru sprawiedliwości*, ed. R. Piotrowski, Warszawa 2021; P. Króliczek, *Juries and Justices of the Peace in the United States of America*, “Krytyka Prawa. Niezależne Studia nad Prawem” 2020, vol. 12(4), pp. 87–104.

⁶⁵ H. Riddle, R. Zara, *op. cit.*, p. 17.

⁶⁶ M. Siedlecki, *op. cit.*, pp. 419–420; Explanatory Memorandum to the Draft Act on Justice of the Peace Courts, Sejm Paper no. 1763, p. 12.

⁶⁷ *Kolegium do spraw wykroczeń*, <https://www.proz.com/kudoz/polish-to-english/law-general/1366371-kolegium-do-spraw-wykrocze%C5%84.html> [access: 10.02.2025].

⁶⁸ See, e.g. R. Mańko, *Legal Transplants, Legal Survivals, and Legal Revivals: Towards a Reconceptualisation of the Circulation of Legal Forms in Time and Space*, “Acta Universitatis Lodziensis. Folia Iuridica” 2024, no. 109, pp. 93–96.

⁶⁹ See: J. Fedtke, *Legal Transplants*, [in:] *Elgar Encyclopedia of Comparative Law*, ed. J.M. Smits, Cheltenham 2006, p. 435.

⁷⁰ Explanatory Memorandum to the Draft Act on Justice of the Peace Courts, Sejm Paper no. 1760, pp. 3–8.

and Italy.⁷¹ A combination of foreign models may make the transplant a mixed one, i.e. involving elements derived from common law and civil law traditions.⁷² Furthermore, references have also been made to the justice of the peace courts in Poland before the Second World War⁷³ (hence claims of the supposed “restoration” of these courts⁷⁴) and the petty crime adjudicatory bodies,⁷⁵ mentioned above. Moreover, since justice of the peace courts had been transferred to the Polish territory during the Partitions, *inter alia* through French law,⁷⁶ the current transplant could be a peculiar case of “retransplantation.”

The above shows that the transplant in question has taken a complex course in both spatial and temporal dimensions, which reminds one of Margit Cohn’s characterisation of intricate legal transplant scenarios as “legal transplant chronicles.”⁷⁷ At the same time, it must be stressed that, in line with the principle of discontinuation of parliamentary work, the transplant process came to a halt with the end of the 9th term of the Sejm, making the future of this idea uncertain.

6. Does the Transplant Stand a Chance of Success?

Success in legal transplantation is a complex matter,⁷⁸ and there is no agreement about how it should be defined or measured.⁷⁹ Certainly, it is important what baseline is used for measurement.⁸⁰ The various dimensions of legal transplants’ success correspond, broadly speaking, to the dynamic and static perspectives, which refer,

⁷¹ Explanatory Memorandum to the Draft Act on Justice of the Peace Courts and Amending Certain Other Acts, Sejm Paper no. 1762, p. 4; Explanatory Memorandum to the Draft Act on Justice of the Peace Courts, Sejm Paper no. 1763, p. 15.

⁷² See: K. Tran, N.H. Pham, Q.-A.L. Nguyen, *Negotiating Legal Reform through Reception of Law: The Missing Role of Mixed Legal Transplants*, “Asian Journal of Comparative Law” 2019, vol. 14(2), pp.175–209.

⁷³ Explanatory Memorandum to the Draft Act on Justice of the Peace Courts, Sejm Paper no. 1760, pp. 1–3.

⁷⁴ B.T. Bieńkowska, *Sądy pokoju – głos w dyskusji*, [in:] *Udział obywateli w sprawowaniu wymiaru sprawiedliwości*, ed. R. Piotrowski, Warszawa 2021, p. 342, 350.

⁷⁵ Explanatory Memorandum to the Draft Act on Justice of the Peace Courts, Sejm Paper no. 1763, p. 12.

⁷⁶ See: R. Kmiecik, Z.R. Kmiecik, *op. cit.*, pp. 118–127.

⁷⁷ M. Cohn, *Legal Transplant Chronicles: The Evolution of Unreasonableness and Proportionality Review of the Administration in the United Kingdom*, “American Journal of Comparative Law” 2010, vol. 58(3), pp. 601–602.

⁷⁸ See more in B. Dufková, *op. cit.*

⁷⁹ D. Nelken, *Comparatists and Transferability*, [in:] *Comparative Legal Studies: Traditions and Transitions*, eds. P. Legrand, R. Munday, Cambridge 2003, p. 453.

⁸⁰ H. Kanda, C.J. Milhaupt, *Re-Examining Legal Transplants: The Director’s Fiduciary Duty in Japanese Corporate Law*, “American Journal of Comparative Law” 2003, vol. 51(4), p. 890.

respectively, to the effect of the transplanted law in the receiving legal system and to how this law fits into the new setting.⁸¹

Whilst one can only speculate on whether justice of the peace courts would be successful if the transplant were carried through, such predictions are worth a thought. Indeed, various views have been expressed on this matter in the literature. Supposing the achievement of goals is taken as a measure of success,⁸² while the proponents of this institution see it as a remedy for the justice system's malfunctioning, others may claim that it cures symptoms rather than solving the real problems related to personnel and organisational deficits and poor quality of law. Thus, its transplantation can even deteriorate the justice system.⁸³

In terms of fit, attention has been drawn to differences in legal culture and to the long-rooted tradition of justices of the peace in English law.⁸⁴ In Poland, such a solution is said to be risky due to the weakness of local communities, frequent lack of authority figures and sharp political divisions, which could result in a shortage of the necessary respect for justices of the peace.⁸⁵ The justice system's poor condition is also cited as a counterargument.⁸⁶ On the other hand, it is pointed out that Poles' civic engagement and readiness to take greater responsibility for civic matters are rising, so reforms to increase their participation in the administration of justice could find fertile ground.⁸⁷ Justices of the peace could increase citizens' trust in the justice system and limit the professional judiciary's isolationism and cliquishness, with its democratic nature translating into a higher authority and convincing power of decisions.⁸⁸ Moreover, a distinct yet crucial aspect of fit seems to be the debate over the constitutionality of justice of the peace courts. For some, no amendment to the Constitution would be necessary,⁸⁹ whereas others see it as a precondition for this institution to be able to operate.⁹⁰

⁸¹ B. Dufková, *op. cit.*, p. 201.

⁸² See, e.g. A.A. Alshorbagy, *On the Failure of a Legal Transplant: The Case of Egyptian Takeover Law*, "Indiana International & Comparative Law Review" 2012, vol. 22(2), p. 240, 243.

⁸³ A. Olaś, *op. cit.*

⁸⁴ M. Siedlecki, *op. cit.*, pp. 429–430.

⁸⁵ K. Liszewski, *Instytucja sędziów pokoju na przykładzie USA*, [in:] *Specyfika organizacji i funkcjonowania organów władzy publicznej. Analiza porządków prawnych państw współczesnych*, eds. M. Jabłoński, M. Abu Gholeh, Wrocław 2019, p. 87.

⁸⁶ K. Kapica, *Sędziowie pokoju w świetle Konstytucji RP i rozwiązań państw europejskich – analiza proponowanych koncepcji*, [in:] *Udział obywateli w sprawowaniu wymiaru sprawiedliwości*, ed. R. Piotrowski, Warszawa 2021, p. 372.

⁸⁷ See: P.W. Juchacz, *op. cit.*, pp. 164–165.

⁸⁸ J. Kil, *op. cit.*, p. 219.

⁸⁹ See: D. Dudek, *Sędziowie pokoju w prezydenckim projekcie ustawy*, "Consilium Iuridicum" 2023, vol. 1, p. 126.

⁹⁰ See, e.g. M. Grudecki, *Sądy pokoju a prawo do ochrony prawnej – głos w dyskusji*, "Przegląd Prawa Konstytucyjnego" 2022, no. 1(65), p. 139.

7. Justice of the Peace Courts and the Nature of Legal Transplants

An element of the legal transplants paradigm in its own right is the debate on the nature of this phenomenon,⁹¹ ranging across the three main approaches (formalist, instrumentalist and culturalist⁹²) and intermediate positions⁹³ (the latter, generally, demonstrating different degrees of transplantability⁹⁴).

The four major proposals in the Polish debate show that the justice of the peace transplant clearly would not consist of a simple transfer of a particular legal solution from one system to another as an easy tool for reform in the instrumentalist sense. Not only is this due to the drafters relying on different sources and most of the proposals departing from the prototypical institutions (especially in terms of the legal education requirement) but also because of the challenges crossing the barrier between different legal systems entails.

The above is evidenced by the very debate on this institution and the controversies it has sparked. Noteworthy in this respect are also the attempts to adapt justice of the peace courts to the Polish legal system, especially to the existing constitutional order. The novel institution also triggers resistance from some actors in the domestic legal system, which may lead to the so-called entrenchment costs.⁹⁵ Furthermore, one should note the insistence on the need for justices of the peace to have a legal background and the related difficulty in reconciling this requirement with justices' representativeness for the local community.⁹⁶

Nevertheless, the above does not have to be seen as an argument supporting the thesis of the impossibility of legal transplants.⁹⁷ To speak of legal transplants, one does not have to presume the unchanging nature of the legal elements carried across jurisdiction boundaries. Of course, the discussion raises the question of whether it would be possible to find a way to fit justices of the peace into the Polish legal system and, if so, what adaptation measures should be taken with regard to both the institution itself and the system. Some other case studies of legal transplants between common law and civil law jurisdictions show the non-obviousness and problematic nature of the crossing of the barrier between these legal traditions while

⁹¹ P. Kusik, *Teoria...*, pp. 53–54.

⁹² R. Michaels, "One Size Can Fit All" – *Some Heretical Thoughts on the Mass Production of Legal Transplants*, [in:] *Order from Transfer: Comparative Constitutional Design and Legal Culture*, ed. G. Frankenberg, Cheltenham 2013, pp. 63–67.

⁹³ M. Siems, *Comparative Law*, Cambridge 2019, p. 238.

⁹⁴ See, e.g. O. Kahn-Freund, *On Uses and Misuses of Comparative Law*, "Modern Law Review" 1974, vol. 37(1), pp. 1–27.

⁹⁵ N. Garoupa, A. Ogus, *A Strategic Interpretation of Legal Transplants*, "The Journal of Legal Studies" 2006, vol. 35(2), p. 345.

⁹⁶ M. Siedlecki, *op. cit.*, p. 423.

⁹⁷ Cf. P. Legrand, *The Impossibility of 'Legal Transplants'*, "Maastricht Journal of European and Comparative Law" 1997, no. 4, pp. 111–124.

pointing to the possibility of their representatives mutually and creatively drawing on and adapting each other's legal solutions.⁹⁸

DISCUSSION AND CONCLUSIONS

The present research makes it possible to use the interpretive framework offered by the legal transplants paradigm to draw some lessons for the introduction of justices of the peace into the Polish legal system, of course, if this idea is resumed in the future. It may also shed some light on the difficulties it has faced so far.

As noted in the introduction, the reference point for the present discussion is the prototype of the justice of the peace institution as developed in English law. To explain the justice of the peace concept and thus respond to the first research question, its essential and accidental characteristics were determined in Section 1 of "Research and Results." The adoption of a linguistic (terminological) approach is justified, given that the Polish equivalent *sąd pokoju* has become potentially confusing as a catchphrase. If, as per the English model, a justice of the peace court is to (1) administer justice (2) at the local level and (3) be composed of local community representatives (4) not required to have a legal background, a question arises of whether the proposals failing to meet these characteristics (i.e. the lack of a legal education requirement and representativeness) do not provide for justice of the peace courts in name only (and potentially incapable of accomplishing the intentions associated with them). Indeed, it is the social diversification of justices of the peace that is stressed in England and Wales, and even their training focuses more on organisational, teamwork and decision-making competences⁹⁹ than on legal rules.

Moving on to the second research question, i.e. lessons to be drawn from comparative law's legal transplants paradigm, a major issue appears to be adapting justice of the peace courts to the Polish legal system. The above considerations suggest that a necessary aspect to be determined by its proponents is whether an adaptation measure this legal transplant requires is imposing a legal education requirement on the holders of this office. While this aspect is apparently taken for granted by the majority, one can wonder why a justice of the peace in Poland should not or would (allegedly) be unable to adjudicate a certain range of minor cases

⁹⁸ See: S. Boyron, Y. Marique, *Proportionality in English Administrative Law: Resistance and Strategy in Relational Dynamics*, "Review of European Administrative Law" 2021, vol. 14(1), pp. 65–93; G. Cuniberti, *Enhancing Judicial Reputation Through Legal Transplants: Estoppel Travels to France*, "American Journal of Comparative Law" 2012, vol. 60(2), pp. 383–400; G. Kókai, *Legal Transplants: The Example of Trust and Fiduciary Asset Management Contracts*, "Comparative Law Working Papers" 2023, vol. 7(1), pp. 1–12; G. Teubner, *Good Faith in British Law or How Unifying Law Ends up in New Divergences*, "The Modern Law Review" 1998, vol. 61(1), pp. 11–32.

⁹⁹ B. Gibson, M. Watkins, *op. cit.*, pp. 64–65.

without having a legal background, as opposed to his or her English or Arizonan counterparts. Is it about the different nature of law or impassable cultural obstacles? Would it not be possible to arrange for basic training and some consultation with a legal assistant? Quite surprising is also the view that a legal background is a precondition for judicial independence.¹⁰⁰ Does it mean there are different criteria for measuring judicial independence? Is judicial independence guaranteed in other ways in common law jurisdictions to make up for the lack of justices' legal education? How about Polish lay judges (*lawnicy*), who participate in the administration of justice in certain cases, including the most serious felonies, with the power to outvote professional judges? It seems absurd to assume that lay judges become independent just by sitting alongside a legal professional.

While the legal transplants paradigm seems to offer more questions than answers so far, these questions need to be posed and considered. Legally educated justices of the peace might not be genuine representatives of the community and effectively form just another layer of the regular judiciary, defeating the declared purpose of bringing justice of the peace courts closer to the people. Of course, conversely, there is a risk that without a formal legal education, justices of the peace might operate ineffectively. In this respect, it must be analysed whether such solutions as tasking them with cases of a minor nature, the maximum simplification of proceedings, proper on-the-job training and support from qualified advisors would not compensate for the lack of a legal background without affecting the justices' representativeness.

Assuming that the question of whether to transplant justice of the peace courts to Poland is tentatively answered in the positive and some preliminary choices are made about their shape (the object of the transplant), other adaptations, including not only the institution itself but also the surrounding legal framework, need to be envisaged. As mentioned already, a key issue is whether constitutional amendments are necessary or advisable (and, if so, feasible), given the potential outcomes the introduction of this institution with or without such amendments may have. Constitutional doubts might lead to it being questioned and even entirely paralysed.¹⁰¹ The present author shares the view that convincing arguments can be formulated for the constitutionality of such courts (if properly regulated), given, in particular, the wording of Articles 4¹⁰² and 182 of the Constitution.¹⁰³ Of course, this does not

¹⁰⁰ J. Kielin-Maziarz, *Problem niezawisłości sędziów pokoju*, "Przegląd Konstytucyjny" 2021, no. 4, p. 49.

¹⁰¹ W. Rojek, *Sędzia pokoju w Polsce: jeżeli tak, to jaki?*, "Problemy Współczesnej Kryminalistyki" 2022, vol. 26, p. 292.

¹⁰² See: J. Jachnik, J. Sanocki, *op. cit.*, p. 85.

¹⁰³ See: D. Dudek, *op. cit.*, pp. 126–127. A thought-provoking argument is that justices of the peace with a mandatory legal background are not a form of citizens' participation in the administration of justice. See: A. Rakowska, *Tryb dojścia do urzędu sędziego pokoju w prezydenckim projekcie*

change the fact that there is no consensus on this issue. With the political polarisation in Poland, attempts to undermine such courts – if they were introduced without constitutional changes – by some politicians and legal community representatives would be bound to occur.

A further lesson is to look at the actors involved in the transplant and their motivations. Public support for justices of the peace may encourage political actors to jump on the bandwagon and propose solutions that are not very well-considered and employ the catchy and, as discussed above, polysemous term “justice of the peace” for political gain (perhaps even counting on a so-called entrepreneurial transplant). A group of actors, who, in turn, might work against the transplant is part of the existing judiciary and the legal community. Forming a new layer in the justice system open to people with lower or no legal qualifications and/or democratically elected (in the case of adopting the more American model) would mean a crack in the professional judiciary’s near monopoly. Indeed, as mentioned above, justices of the peace are supposed to bring down the perceived barrier between the judiciary and society. For these reasons, competing interests and biases in the debate need to be anticipated.

Moreover, the debate on the transplant should involve not only lawyers but also other experts. As aptly put by Salvatore Mancuso,

as the surgeon interacts with other medical specialists (...) to verify the feasibility of the medical transplant, the jurist too should not approach the legal transplant from the legal point of view only, but he should be ready to conduct an interdisciplinary analysis and interact with specialists from other fields (sociologists, anthropologists, linguists, economists, historians) who can give him an idea of the different aspects involved in the feasibility – and the subsequent success – of the legal transplant.¹⁰⁴

To summarise, as emphasised in the literature, legal transplants carry the risk of particular unpredictability¹⁰⁵ and lesser effectiveness.¹⁰⁶ On the other hand, “is it not possible to claim, for the mature and constructive attitude of importing and putting to good use other men’s best ideas, as much intellectual grandeur, statesmanship and good sense” as locally created law would be credited with?¹⁰⁷ The decision on

ustawy o sądach pokoju a zasada niezawisłości sędziowskiej, “Przegląd Prawa Konstytucyjnego” 2023, no. 5(75), p. 134; P. Kuczma, *op. cit.*, p. 423.

¹⁰⁴ S. Mancuso, *Legal Transplants and Economic Development: Civil Law Vs. Common Law?*, [in:] *One Country, Two Systems, Three Legal Orders – Perspectives of Evolution: Essays on Macau’s Autonomy after the Resumption of Sovereignty by China*, eds. J.C. Oliveira, P. Cardinal, Berlin 2009, p. 79.

¹⁰⁵ P. Grajzl, V.P. Dimitrova-Grajzl, *The Choice in the Lawmaking Process: Legal Transplants vs. Indigenous Law*, “American Law & Economics Association Annual Meetings” 2008, no. 4, p. 2, 5.

¹⁰⁶ D. Berkowitz, K. Pistor, J.-F. Richard, *The Transplant Effect*, “The American Journal of Comparative Law” 2003, vol. 51(1), p. 189.

¹⁰⁷ S. Strömholm, *Comparative Legal Science – Risks and Possibilities*, [in:] *Law Under Exogenous Influences*, ed. M. Suksi, Turku 1994, p. 6.

a legal transplant must clearly consider whether the balance of expected advantages and disadvantages, including changes and distortions of the transplanted content and foreseeable side effects, is positive.¹⁰⁸ Broadly defined cultural differences and differences in legal traditions, including the rootedness and evolutionary development of justices of the peace in common law jurisdictions, need to be taken into account. It might also be worth exploring the debates this institution engenders in England and Wales and the United States, paying attention to its criticisms on the one hand¹⁰⁹ and the resilience it seems to have demonstrated¹¹⁰ on the other hand.

As for the recent attempts to establish justice of the peace courts in Poland, the ideas put forward make one wonder whether the transplant process has not gone in the wrong direction. Perhaps the moment for those proposals was not the right one. This notwithstanding, sight should not be lost of the fact that legal transplants are an opportunity for the creative use of the accomplishments of other countries for the purpose of legal change,¹¹¹ and the “work of a creative mind” involved in this process¹¹² must not be underestimated.

The present paper, due to its limited scope, does not seek to provide a conclusive answer to the questions of whether, how and in what shape justice of the peace courts should be introduced in Poland, albeit the author’s tentatively positive attitude (and thus perhaps bias) towards this idea needs to be openly admitted and critically considered by the readers. The study does not cover multiple detailed aspects, especially the accidental characteristics of the concept. Nor does it elaborate on models of justice of the peace courts other than the one developed in English law. Yet, the proposed method of analysing legal transplants may be utilised by other authors if they would like to refer to different jurisdictions or perhaps conduct a more wide-ranging study. In this way, the present paper also seeks to show that the legal transplants paradigm, rarely mentioned in Polish scholarship,¹¹³ may prove a useful tool to be applied if the idea of justice of the peace courts is revived or transplants of other foreign normative content or legal methods into the Polish legal system are considered.

¹⁰⁸ Á. Fuglinszky, *The Reform of Contractual Liability in the New Hungarian Civil Code: Strict Liability and Foreseeability Clause as Legal Transplants*, “*Rabels Zeitschrift für ausländisches und internationales Privatrecht*” 2015, vol. 79(1), p. 75.

¹⁰⁹ See an overview in: E. Gmurzyńska, *op. cit.*, pp. 47–53; K. Kozłowska, *op. cit.*, pp. 386–392.

¹¹⁰ K. Kozłowska, *op. cit.*, pp. 401–402.

¹¹¹ See: J. Bardach, *Recepcja w historii państwa i prawa*, [in:] *Themis a Clio czyli prawo a historia*, Warszawa 2001, p. 86, 95.

¹¹² M. Grünhut, *English Law and the History of Continental Legislation*, “*Journal of Comparative Legislation and International Law*” 1938, vol. 20(4), p. 182.

¹¹³ C. Nowak, *op. cit.*, p. 26.

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ABSTRAKT

Niniejszy artykuł ma charakter badawczy i stanowi studium przypadku próby wprowadzenia w Polsce instytucji sądów pokoju. Za punkt odniesienia przyjęto jej angielski pierwowzór. Celem artykułu jest analiza przedmiotowej idei z uwzględnieniem ram pojęciowych prawnoporównawczego paradygmatu przeszczepów prawnych – rzadko przywoływanego w polskiej nauce prawa – a także zgłębienie znaczenia samego terminu „sędzia pokoju”. Praca podkreśla w ten sposób potrzebę zwrócenia uwagi na to, jakie treści kryją się za tym chwytliwym hasłem w poszczególnych propozycjach legislacyjnych, a także na to, jak bardzo odbiegają one od angielskiego pierwowzoru, zwłaszcza w odniesieniu do wykształcenia prawniczego sędziów i związanej z tym ich reprezentatywności dla lokalnej społeczności. Ponadto za pomocą zestawu narzędzi, którego dostarcza paradygmat przeszczepów prawnych, w artykule podjęto próbę wyciągnięcia wniosków potencjalnie przydatnych do wznowienia procesu omawianego przeszczepu prawnego w przyszłości. Wskazano jednocześnie na użyteczność zaprezentowanego podejścia do analizy transferów elementów zagranicznego prawa do rodzimego systemu prawnego.

Słowa kluczowe: sędzia pokoju; przeszczep prawny; Alan Watson; prawo porównawcze; polski system prawny