

Joanna Bodio, PhD

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## **SUMMARY OF PROFESSIONAL ACCOMPLISHMENTS**

### **1. Full name**

Joanna Bodio

### **2. Obtained diplomas, scientific/artistic degrees – state the name, place and year of acquisition and the title of the doctoral thesis**

- 1994-1999: long-cycle LLM programme at the Maria Curie - Skłodowska University of Lublin, Faculty of Law and Administration, major: law, graduated with the final mark "very good"
- 1999: passed a Master in Laws exam with the mark "very good" and was granted the Master of Laws title at the Maria Curie - Skłodowska University of Lublin, Faculty of Law and Administration
- 2000-2003: judicial training in Lublin
- 2003: passed a judge's exam
- 2006: admission to practice the profession of legal adviser (The District Chamber of Legal Advisers in Lublin)
- 2007: defended the doctoral dissertation entitled "*Disciplinary liability of a judge holding an office or function, or sitting at a court, and inactive judge (disciplinary proceedings structure and procedure)*" and was awarded the academic title of Doctor of Laws at the Maria Curie - Skłodowska University of Lublin, Faculty of Law and Administration.

Advisor: Prof. dr hab. Mieczysław Sawczuk, reviewers: prof. dr hab. Andrzej Jakubecki, prof. dr hab. Feliks Prusak

### **3. Employment in research/artistic entities**

1.10.1999-30.09.2007 – an Academic Assistant in the Department of Civil Procedure Law and International Commercial Law, Faculty of Law and Administration at the Maria Curie - Skłodowska University of Lublin

1.10.2007 – present – an Assistant Professor in the Department of Civil Procedure Law and International Commercial Law, Faculty of Law and Administration at the Maria Curie - Skłodowska University of Lublin

2010-2012 – the Helena Chodkowska University of Technology and Economics in Warsaw (contract work)

2007-2008 - Higher School of Humanities and Natural Sciences Studium Generale Sandomiriense in Sandomierz (contract work)

### **4. Indication of the achievement under art. 16.2 of the act of 14 March 2003 on scientific degrees and scientific title and on art degrees and title (Dz. U. 2016, item 882 as amended in Dz. U. of 2016 , item 1311.):**

#### **a) the title of a scientific/artistic achievement**

*„Status dziecka jako uczestnika postępowania nieprocesowego” (“The status of a child as a Participant in non-contentious Proceedings”)*

#### **b) (author/authors, title/titles of publications, year of issue, publishing house, publishing reviewers)**

Joanna Bodio, *„Status dziecka jako uczestnika postępowania nieprocesowego” (“The status of a child as a Participant in non-contentious Proceedings”)*, Warszawa 2019, Wolters Kluwer Publishing Office, pp. 505, ISBN: 978-83-8160-369-0

Editorial reviewers of the monograph: prof. dr hab. Andrzej Jakubecki and dr hab. Łukasz Błaszczak, Associate Professor at the University of Wrocław

**c) discussion of the scientific/artistic purpose of the above-mentioned work(s) and achieved results including the discussion of their potential use**

The monograph referred to in above and submitted for the evaluation addresses the status of a child as a participant in non-contentious proceedings.

The choice of the topic of the dissertation resulted primarily from the lack of a monographic study, which would comprehensively discuss the issues concerned. There is no such a study also as regards the status of a child as a party to the civil process. The existing studies, although certainly important and considerably contributing to the literature on the subject, address either the fragmentary participation of the child (in child custody proceedings<sup>1</sup>) or the general structural issues related to a participant in non-contentious proceedings<sup>2</sup>. From this perspective, it would thus be desirable to attempt to address the issue in question.

The dissertation presents the status of a child as a participant in non-contentious proceedings in a general perspective (by specifying the criteria for obtaining the status of a participant in non-contentious proceedings) as well as a detailed perspective (by specifying the legal position of child in individual non-contentious procedures governed by the Civil Code and other legislation, and by indicating the rights and existing procedural obligations. In order to determine the status of a child as a participant in non-contentious proceedings, it was necessary to combine the general reflection with practical aspects, which affected the choice of problems and the way they have been studied.

The analysis of the status of a child as a participant in non-contentious proceedings required the use of many research methods used in law sciences. I have applied mostly the formal and dogmatic method for these purposes. It is based on the legal regulation of non-contentious proceedings and theoretical assumptions, using known methods of legal interpretation (linguistic, systematic, logical). I also used in the dissertation a legal comparative analysis and historical-descriptive perspective on the status of a child as a participant in non-contentious proceedings. In methodological terms, I also considered the practice of applying the law, and I have therefore extensively used an analysis of the case law of the Polish Supreme Court and of common courts. It should be noted that a broad research perspective was adopted, which goes beyond non-contentious proceedings and includes a reference to procedural solutions as model solutions in

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<sup>1</sup> A. Kallaus, *Udział osoby małoletniej w postępowaniu opiekuńczym*, Poznań 2015.

<sup>2</sup> P. Ryłski, *Uczestnik postępowania nieprocesowego – zagadnienia konstrukcyjne*, Warszawa 2017.

civil proceedings and in relation to the substantive civil law. The research perspective so defined has given the dissertation a feature of originality and has provided a significant contribution to the development of legal sciences.

The structure of the monograph is arranged according to the research objectives and consists of ten chapters.

The first chapter discusses the term "child". The term "child" in law is neither clear nor homogeneous legal category. For the definition of child in various non-contentious procedures, the legislature also uses another terminology, such as juvenile, minor, the person covered by the proceedings, person under parental responsibility, the adopted, and the child conceived but not yet born. It was therefore necessary to define the term of child and to define the points of commencement and termination of its protection. The terms of child and *nasciturus* in civil proceedings was analysed in comparison with other branches of law. This comparison was necessary in order to determine whether the concepts of child and minor used under civil law, criminal law and administrative law, and juvenile under criminal law and the Act on proceeding in juvenile matters, directly translates into the concept of child functioning in the non-contentious procedure. The differentiation of the statutory terminology forced the search for a term that would constitute a "common denominator" for various synonymic terms relating to the subject of the study. I chose that the term "child" is the most complete way of identifying a natural person from conception to age of majority. I did so as the term refers to both a minor (i.e. a child from birth to the age of 18) and *nasciturus*. Therefore, the term "child" was used in the title and content of the monograph.

The complete presentation of the status of a child as a participant in non-contentious proceedings required the clarification of the child's position as it was in formerly applicable legal systems. The historical and legal notes included in the second chapter allowed tracing the existing solutions and changes made in the definition of the position of child as a participant in non-contentious proceedings over the years, beginning with Roman law, through the legislation imposed by the partitioning powers in the era of partitions of Poland, code of non-contentious procedure and numerous non-Code acts, post-war law revisions, until the current times. The discussion of the existing solutions made it possible to state that the status of a child as a participant in non-contentious proceedings was not clearly regulated in any of the laws imposed by the partitioning powers. These laws did not generally regulate the child's participation in non-

contentious *proceedings*, but boiled down only to regulating the issue whether judicial decisions may be challenged by interested parties, and they granted the child the capacity to handle certain matters (especially matters of guardianship) and protected the rights of a minor heir (also *nasciturus*) by establishing a probation officer or security for the inheritance. On the other hand, under the Code of non-contentious *procedure* the provisions regarding the entities participating in a non-contentious *procedure* were much more detailed than in the then applicable Code of Civil Procedure covering parties to the trial. However, they did not concern *expressis verbis* a child. In the Code of non-contentious procedure, therefore, the child's status was shaped on the basis of a general provision (Article 13 of the Code of Non-contentious Procedure) regulating the principle of participation in non-contentious proceedings.

The status of a child as a participant in non-contentious proceedings also required comparison with solutions adopted in foreign legal systems. Such an analysis made it possible to notice problems and dependencies not only within national law, but also foreign laws. Therefore I used the comparative legal method in the third chapter. As regards comparative research in international perspective, I based my study on two legal systems - the Germanic and Romanic systems. The division was made according to the criterion of the method of regulation in the law of non-contentious proceedings - in acts separate from the Civil Procedure Code (Germany, Austria, Spain, Serbia, Montenegro) or by regulating this procedure under the Civil Procedure Code (France, Italy, Switzerland, Lithuania).

The analysis made it possible to state that in the legal systems of foreign states, the status of child in non-contentious proceedings is neither regulated at all nor the status is determined under special provisions. Usually, a minor person is not a participant (party) to non-contentious proceedings, although in some cases he/she has such a status, mainly in family, guardianship and inheritance matters (Germany, Austria, Serbia, Montenegro, Lithuania). More often, child's rights are secured by granting him or her a number of procedural rights related to extending his or her capacity to act in proceedings (with limitation or even lack of capacity to perform acts in law), with the possibility to appeal judgements on one's own, with the obligation of service final judgements to them, with granting a legal representative for them to represent their interests in court, including a probation officer for a conceived child. The most rights were granted to children in the German Act on procedure in family matters and in matters of non-contentious judiciary, in non-contentious laws of Serbia and Montenegro and in the Lithuanian Code of Civil

Procedure. In most cases, the European legislation covered by the analysis rarely confers on the child the status of a participant (party) of non-contentious proceedings, nevertheless, provides him or her with recognition as a subject and guarantees the child influence on non-contentious proceedings by hearing him/her and presenting opinions that are taken into consideration when deciding the case.

As in foreign jurisdictions, the status of a child in non-contentious proceedings in Polish legislation has not been clearly distinguished from the position of adult participants in the proceedings. There is no regulation in the Code of Civil Procedure that would grant *explicite* to a child the status of a participant in the proceedings, so its legal position should be determined on the basis of the general rule of Article 510 of the Code of Civil Procedure setting out the principle of participation in non-contentious proceedings. The granting to a child the status of a participant in non-contentious proceedings entails the determination of criteria needed to be granted such status, which was discussed in chapter four.

In addition to the criteria under Article 510 of the Code of Civil Procedure (i.e. having a legal interest and taking part in the case) the obtaining of the status of a participant in non-contentious proceedings is conditional on having appropriate subjective qualifications (i.e. capacity to be a party in judicial proceedings and capacity to perform actions in judicial proceedings) and on the initiation of non-contentious proceedings. These issues are discussed in in chapter five of the dissertation. The subjective issues are closely linked to the substantive law which is to be implemented using the civil procedural law. Therefore, although the dissertation is intended to determine the status of a child as a participant in non-contentious proceedings, it has become necessary from the point of view of procedural law to extend the analysis to related substantive legal issues. The discussion on substantive legal topics are limited only to those matters which are essential for the interpretation of procedural rules, such as the definition of a child or child's subjective qualifications. In this respect, substantive legal issues cannot be separated from procedural legal issues, especially since a number of legal institutions and concepts are common to both areas of law. It is therefore recommendable, when examining procedural law, to use certain legal concepts which have been developed within substantive law, especially as these concepts complement each other, such as capacity to be a party in judicial proceedings and legal capacity, capacity to perform actions in judicial proceedings and capacity to perform acts in law.

The child's capacity to be a party in judicial proceedings and the capacity to perform actions in judicial proceedings are regulated in the non-contentious procedure similarly as in the litigation procedure. The non-contentious procedure lacks (besides certain exceptions) provisions which specifically govern these capacities, which speaks for the application of the procedural rules *mutatis mutandis* (Articles 64 to 71 in conjunction with Article 13 § 2 of the Code of Civil Procedure). The application *mutatis mutandis* of the provisions on capacity to perform actions in judicial proceedings makes it possible to make certain modifications as regards this capacity. This is so as in non-contentious procedure there are provisions constituting the *lex specialis* in relation to Article 65 of the Code of Civil Procedure. While in the litigious procedure a minor person may be granted the capacity to perform actions in judicial proceedings only where the minor is a child who has at least limited capacity to perform acts in law, in the non-contentious procedure the capacity to perform actions in judicial proceedings was also conferred to a child who does not have the capacity to perform acts in law (e.g. under Article 25 paragraph 2; Article 36, 41 of the Act on the protection of mental health). The extent of the child's capacity to perform actions in judicial proceedings is therefore broader in the non-contentious procedure than in the litigious procedure. However, these situations are exceptional, applicable only to cases related to the protection of purely personal relations, and they should not be extended to other cases.

When analysing the issue of child's capacity to perform actions in judicial proceedings, I concluded that the capacity to perform actions in judicial proceedings conferred to a child under special provisions is the so-called limited capacity to perform actions in judicial proceedings, i.e. the power of independent performance of all procedural actions in certain matters. The fact that the capacity to perform actions in judicial proceedings is conferred to a child in special provisions does not mean a waiver of the general rule of Article 65 in conjunction with Article 13 § 2 of the Code of Civil Procedure which states that a child, in most cases being heard in non-contentious proceedings like in litigious proceedings, has no capacity to perform acts in judicial proceedings. The lack of capacity to perform acts in judicial proceedings does not, however, eliminate children from the group of participants in the proceedings, upon the condition of proper representation by a statutory representative and fulfilment of other criteria for becoming a participant in non-contentious proceedings. The condition for a child to become a participant in non-contentious proceedings is also having a legal interest (within the meaning of Article 510 of the Code of Civil Procedure) and *locus standi*, which is discussed in chapter sixth in the dissertation. Both

substantive preconditions are mutually closely related, since an entity that has a legal interest to apply for the initiation of non-contentious proceedings is provided with *locus standi*, which means that the legal interest determines the occurrence of the *locus standi* itself.

These deliberations led to the conclusion that the status of a child as a participant in non-contentious proceedings is determined only by these criteria. The conditions that are subject to an arbitrary assessment, such as predispositions to perform procedural acts, type of the case, mental maturity, mental development or age of the child, do not constitute a determinant for the legal interest justifying the child's participation in non-contentious proceedings, but decide about the issue of child's independence in the proceeding in question. The analysis of the criteria necessary for the child to become a participant in non-contentious proceedings leads to the conclusion that the outcome of the case concerns equally a child who is 13 years of age and has the capacity to perform actions in judicial proceedings, as well as a younger child deprived of this capacity. The child's ability to independently act in judicial proceedings, which is one of his or her subjective qualifications, does not determine the obtaining of the status of participant in non-contentious proceedings either. It is only the actual possibility of using the capacity to perform actions in judicial proceedings, the absence of which does not preclude the conduct of valid proceedings, but constitutes a condition for the effectiveness of procedural acts. A child who is a participant in non-contentious proceedings may therefore appear in these proceedings without having the ability to independently act in judicial proceedings.

The child's participation in non-contentious proceedings is one of the forms of his or her participation in these proceedings. A child who participates in non-contentious proceedings is not always a participant defined in Article 510 of the Code of Civil Procedure. Therefore, in chapter seven of the dissertation, distinction was made between the broadly understood participation of a child in non-contentious proceedings, which is related to the fact of child's status as a participant in the proceedings, and the participation of a child who is deprived of such status. In the first situation, we can talk about the child's participation in non-contentious proceedings, while in the second – about a child taking part in non-contentious proceedings without being a participant in the procedure. Participation of a child in non-contentious proceedings involves the participation of a child as both an actual participant (within the meaning of Article 510 of the Code of Civil Procedure) and formal participant (applicant and participant by law). However, the participation of a child in non-contentious proceedings occurs in situations where the child may perform



certain procedural actions without obtaining the status of a participant due to non-compliance with the definition criteria specified in Article 510 of the Code of Civil Procedure. The above issue can be illustrated by the participation of a child as a witness, as a person to be heard, and situations where the child is a party interested in the case, but does not voluntarily join the pending proceedings. The very interest in the case does not determine the acquisition of the status of participant in non-contentious proceedings, as a certain procedural act must first be performed in the form of taking part in the case or being summoned by the court to participate in the case. However, if, despite being a party interested in the case, the child does not voluntarily take part in the proceedings, then he or she cannot be considered an entity taking part in the case or a participant in the case.

A child may be a participant in proceedings in most matters (both governed by the Code and other legislation) decided by way of non-contentious procedure. However, there are non-contentious procedures in which the child, despite his or her formal interest, is not a participant in the proceedings, since their participation in the case is pointless, or those matters in which, by virtue of their subject matter, the child's participation is excluded. Therefore, chapter eight deals with specific issues related to the participation of a child in different types of non-contentious proceedings under the Code and other legislation. This required a reflection on the issues which raise controversy both among scholars and within the judiciary, related to the child's participation in specific types of non-contentious proceedings in order to show a certain general relationship or specificity of a particular case. The distinction of the status of a child in various types of non-contentious proceedings is supposed to indicate a non-uniform determination of child's position in the proceedings. In various types of non-contentious proceedings, the child's status varies according to the type of case, the age of the child, his or her capacity to perform acts in law and his or her capacity to perform actions in judicial proceedings. The status is different for a *nasciturus*, a child born, or a minor who is 13 years of age.

The biggest controversy is related to the status of a *nasciturus*. The analysis of the status of a child that was conceived but not yet born allowed to conclude that under currently applicable law the capacity to be a party in judicial proceedings by a conceived child is conditional in property-related matters and unconditional in other matters. The capacity to be a party in judicial proceedings conferred to a *nasciturus* implies the locus standi conferred to him/her in order to act as a participant in non-contentious proceedings. A *nasciturus*, in contrast to a child already born,

may "participate" only in certain cases that are heard in family and guardianship proceedings (for the establishment of a legal guardian for a conceived child or for the recognition of paternity of a conceived child ) and in inheritance proceedings. In the absence of the capacity to perform actions in judicial proceedings, he or she must be represented by a *curator ventris*. The scope of matters in which a child may be a participant in the proceedings is extended after his/her birth. After the birth of the child, his/her status is also changed, and his parents become *ex lege* his/her legal representatives.

The differences in the status of a child as a participant in a non-contentious procedure are adjusted to the type of case, the age of the child and the capacity to perform actions in judicial proceedings conferred to him or her. A minor person over the age of 13 who has the capacity to perform actions in judicial proceedings in guardianship matters is in a better procedural position in comparison to a child deprived of the capacity to perform actions in judicial proceedings. The better procedural position results from the conventionally adopted age limit of acquisition of the limited capacity to perform actions in judicial proceedings. In guardianship proceedings in matters concerning a minor who is over 13 years of age, the minor becomes entitled to form his or her legal sphere by being able to independently perform procedural actions and thus to affect the settlement of the case. The capacity to perform actions in judicial proceedings is conferred to a child to a full extent, which means that the child may perform all procedural acts independently (even without consent or against the will of his or her legal representative), even if under substantive legal provisions the child has the limited capacity to perform acts in law, and sometimes even when he/she is deprived of this capacity (such as a child fully incapacitated due to mental health reasons).

It should, therefore, be stated that under currently applicable legislation, that a child has the strongest position in those non-contentious procedures in which he or she has the status of a participant and where at the same time has the capacity to perform actions in judicial proceedings. In these cases, the legislature has granted a child a formal participation in the proceedings and a procedural position comparable to adult participants in the proceedings. He/she may not only be heard by the court but also may actively affect the outcome of the proceedings, although it cannot be clearly stated whether this always corresponds to the interests of the child or whether it is desirable and recommendable in all cases. The equality between the status of a child and the status of an adult participant results in that the child is in a worse

procedural position than an adult participant. The weaker procedural position of a child is due to the age, lack of education and life experience, and ignorance of law and judicial practice. Although the court has the possibility of instructing a weaker participant in non-contentious proceedings, including instructions on the desirability of hiring an attorney in law, the provisions in force do not appear sufficient to provide children with the possibility of independent claiming their rights in non-contentious proceedings. This is true especially as the child's participation as a participant in non-contentious proceedings should be based on the assumption of active participation of either the child or child's legal representative, depending on whether the child is capable to perform actions in judicial proceedings or not. Therefore, it is recommended as a proposal for the law as it should stand that the option of granting a child an attorney or legal adviser, even without a request from the person concerned. The protection of a child as a weaker participant in non-contentious proceedings results from the principle of equality between participants in non-contentious proceedings.

Chapter nine addresses issues related to child's procedural rights in the context of the principle of equality between participants in non-contentious proceedings. It discusses in detail those of child's procedural rights and obligations which are specific for non-contentious proceedings (such as the right to be heard, the right to personal participation by the child in guardianship proceedings, compulsory appearance in court). Furthermore, this chapter discusses the child's rights and obligations not related to child's participation in non-contentious proceedings, but to a child taking part in the procedure as a witness.

Chapter ten has identified causes of the loss of the status of participant, namely refusal to allow a child to participate in the case, the incapacity to perform actions in judicial proceedings, child's death, and failure to remedy the incapacity.

The observations, assessments and statements presented in the monograph can be a starting point and an area for further scientific discussion on the status of a child as a participant in non-contentious proceedings.

## **5. Discussion of other scientific and research (artistic) achievements**

### **5.1. Introduction**

My other scientific and research achievements include publication activities and active participation in scientific conferences. These achievements will be described based on the characteristics of scientific interests, taking into account the main research topics tackled in the publications and papers, and some basic research results will be indicated.

Before starting to list and present the main areas of the scientific and research output, I would like to point out that my research was documented with publications of various nature. The studies written by me were mostly published in peer-reviewed journals important for the Polish community of legal professionals, such as: "Studia Prawnicze" (in English: "Legal Studies"), "Przegląd Sądowy" (in English: "Court Review"), "Orzecznictwo Sądów Polskich" (in English: "The Jurisprudence of Polish Courts"), "Glosa" (in English: "Gloss"), "Rejent" (in English: "Notary"), "Palestra", "Przegląd Prawa Egzekucyjnego" (in English: "Review of Enforcement Law"), "Studia Iuridica Lublinensia", "Gdańskie Studia Prawnicze – Przegląd Orzecznictwa" (in English: "Gdańsk Legal Studies -Review of Case Law") and others.

Also, many of my studies have been published as part of collective works and jubilee books. I have published several dozen scientific papers and commentaries in these periodicals, collective works and jubilee books. These include also texts published in English.

I am also a co-author of a commentary to the Code of Civil Procedure, co-author of a textbook on the system of legal protection authorities and co-author of a collection of cases in civil proceedings.

## **5.2. Main areas of scientific work**

Having been awarded the degree of Doctor of Legal Sciences I focused my scientific activity on varied subjects. It includes, in particular, issues related to the science of Civil Procedure Law and the system of legal protection authorities. The main directions of my research activity focus on the six main areas characterised below.

### **5.2.1 Entities in civil proceedings**

Subjective issues are one of the most important matters in civil procedure, which is why I have devoted a number of articles to this issue. My research activity covered issues relating to the parties to civil proceedings, not only individuals but also legal persons (J. Bodio, *"Strony postępowania w sprawach o ochronę interesów konsumentów (zarys problematyki na gruncie*

prawa krajowego)" [*Parties to the proceedings in consumer interest protection cases (an outline of the problem in Polish law)*] [in:] *Konsument wobec wyzwań współczesności. Aspekty prawa materialnego i procesowego* [*A consumer facing current challenges. Aspects of substantive and procedural law*] K. Flaga-Gieruszyńska (ed.), D. Szostak (ed.), Katowice 2015, pp. 14-29; J. Bodio, "Skarb Państwa jako strona procesu cywilnego – zarys problematyki" [*State Treasury as a party to civil procedure – an outline of the problem*] [in:] *Obrót powszechny i gospodarczy. Problemy cywilnoprawne* [*General and business transactions. Civil-law problems*] I. Ramus (ed.), Toruń 2014, pp. 75-94, J. Bodio, "Status nasciturusa w postępowaniu cywilnym" [*The status of a nasciturus in civil procedure*] [in:] *Ius est a iustitia appellatum. Księga Jubileuszowa dedykowana Profesorowi Tadeuszowi Wiśniewskiemu* [*Jubilee book dedicated to Professor Tadeusz Wiśniewski*] M. Tomalak (ed.), Warszawa 2017, pp. 81-102), participants in non-contentious proceedings (J. Bodio, "Uczestnicy postępowania w sprawach dotyczących władzy rodzicielskiej" [*Participants in proceedings regarding parental authority*] [in:] *Pro Scientia Iuridica*, M. Chrzanowki (ed.), A. Przyborowska – Klimczak (ed.), P. Sendeki (ed.), Lublin 2014, pp. 33-53; J. Bodio, "Uczestnicy postępowania w sprawach o przysposobienie" [*Participants in proceedings in adoption cases*] [in:] *Aequitas sequitur legem. Księga Jubileuszowa z okazji 75. Urodzin Profesora Andrzeja Zielińskiego* [*Jubilee Book on the occasion of the 75 anniversaries of the birth of Professor Andrzej Zieliński*], K. Flaga-Gieruszyńska (ed.), G. Jędrejek (ed.), Warszawa 2014, pp. 17-34; J. Bodio, "Pojęcie „dobra dziecka” w postępowaniu opiekuńczym – zarys problematyki" [*The concept of "interest" of a child in guardianship proceedings – an outline of the problem*] [in:] *Honeste procedere. Księga jubileuszowa dedykowana Profesorowi Kazimierzowi Lubińskiemu* [*Honeste procedere. Jubilee Book dedicated to Professor Kazimierz Lubiński*], A. Laskowska-Hulisz (ed.), J. May (ed.), M. Mrówczyński (ed.), Warszawa 2017, pp. 67-83) and participants in enforcement proceedings (J. Bodio, "Uczestnik postępowania egzekucyjnego a uczestnik postępowania w celu zniesienia współwłasności nieruchomości w drodze sprzedaży publicznej (zarys problematyki)" [*Participant in enforcement proceedings and participant in the proceedings to abolish co-ownership of immovable property through public sale*] [in:] *Ars in vita, ars in iure. Księga jubileuszowa dedykowana Profesorowi Januszowi Jankowskiemu* [*Ars in vita, ars in iure. Jubilee Book dedicated to Professor Janusz Jankowski*] A. Barański (ed.), S. Cieślak (ed.), Warszawa 2018, pp. 263-279).

Moreover, in the area of subjective issues of civil procedure, I tackled also the problem of implementation of the principle of equality of the parties to civil procedure (J. Bodio, W. Graliński, "Znaczenie zasady równouprawnienia stron w procesie cywilnym" [*The significance of the principle of equality of the parties in civil procedure*] [in:] *Zasady prawa w strukturze systemu prawa. Studium dogmatyczno-porównawcze* [*Principles in the structure of the system of law. A dogmatic and comparative study*], L. Leszczyński (ed.), Studia Iuridica Lublinensia, Lublin 2016, vol. XXV, 1, pp. 251-268 (co-authored by Doctor Wojciech Graliński).

Some of the issues identified were also the subject of my papers at scientific conferences (Appendix 4).

### 5.2.2 Subjective qualifications of the parties to civil proceedings

The issues related to entities in civil law proceedings are extended to cover subjective qualifications of parties to the trial and participants in non-contentious proceedings. This is one of the most important issues of civil procedure, so I addressed this issue in a number of articles and commentaries to judgements.

Three of the articles falling within the research area are of comparative nature within the substantive and procedural civil law. They discuss the relationship between the capacity to be a party to proceedings and legal capacity (J. Bodio, "Zdolność prawna a zdolność sądowa – wybrane zagadnienia materialnoprawne i procesowe" [*Legal capacity and the capacity to be a party to judicial proceedings – selected substantive and procedural legal issues*] [in:] *Profesor Aleksander Wolter w 105. rocznicę urodzin*, [Professor Aleksander Wolter in the 105th birth anniversary], M. Grochowski (ed.), Lublin 2011, pp. 27-48, (second edition, first edition – 2010), the relationship between the capacity to perform actions in judicial proceedings and the capacity to perform acts in law (J. Bodio, "Zdolność do czynności prawnych a zdolność procesowa – na wybranych przykładach w sprawach z zakresu prawa osobowego i rodzinnego" [*The capacity to perform actions in judicial proceedings and the capacity to perform acts in law – based on selected examples in law on persons and family law*], Studia Prawnicze 2011, vol. 2, pp. 135-157) and the relationship between the capacity to be a party to judicial proceedings and the capacity to perform actions in judicial proceedings (J. Bodio, "Zdolność sądowa a zdolność procesowa w postępowaniu cywilnym" [*Capacity to be a party to judicial proceedings and capacity to perform actions in judicial proceedings in civil procedure*] [in:] *Prawo wobec*

wyzwań współczesności [*Law towards the challenges of contemporary world*] P. Ruczkowski (ed.), Kielce 2011, p. 47-69). This area covers the issue of the so-called special capacity to be a party to judicial proceedings, which was addressed by a commentary to a judgement (J. Bodio, *Zdolność sądowa jednostek organizacyjnych niebędących osobami prawnymi - glosa do wyroku SN z dnia 12 marca 2009r.* [*Capacity to be a party to judicial proceedings held by organizational units without legal personality - a commentary to the judgement of the Supreme Court of 12 March 2009 (V CSK 366/08)*], *Glosa* 2012, no. 2, pp. 43-48).

Subjective qualifications of parties to a trial and participants in non-contentious proceedings entail also the issue of legal interest of the prosecutor to bring an action for a specific person (J. Bodio, "*Interes prawny a interes publiczny prokuratora wytaczającego powództwo w trybie art. 7, 57 i 189 k.p.c.*" [*Legal interest and public interest of a prosecutor who brings an action under Articles 7, 57, and 189 of the Code of Civil Procedure*], *Palestra* 2015, no. 1-2, pp. 50-59; J. Bodio, *Prokurator działający na rzecz oznaczonej osoby - Glosa do wyroku SN z dnia 30 marca 2012 r., III CSK 204/11, LEX nr 1212812* [*Prosecutor acting for a specific person - Commentary to the judgement of the Supreme Court of 30 March 2012, III CSK 204/11, LEX no. 1212812*], *Glosa* 2014, nr 4) and the right to apply for non-contentious proceedings in cases concerning parental authority, (J. Bodio, *Glosa do postanowienia SN z dnia 13 grudnia 2013r., III CZP 89/13* [*Commentary to the decision of the Supreme Court of 13 December 2013, III CZP 89/13*], *Orzecznictwo Sądów Polskich* 2015, vol. 1, pp. 23-30), as well as the question of party's capacity to submit to arbitration (J. Bodio, "*Zdatność arbitrażowa a zakres przedmiotowy zapisu na sąd polubowny według Kodeksu postępowania cywilnego*" [*Capacity to submit to arbitration and the objective scope of filing for arbitration according to the Code of Civil Procedure*], *Radca Prawny* (Dodatek naukowy) 2012, no. 125, pp. 2-8).

Subjective qualifications related to the participation of a party in a civil trial were also discussed in my article written in English "*Parties to a Polish civil case*" [in:] *Legal studies*, J. Stelmasiak (ed.), L. Bielecki (ed.), P. Ruczkowski (ed.), München 2013, pp. 61-82).

In addition, the area of subjective issues covers the question of representation of a party, related to the lack of the factual ability to independently act in judicial proceedings (J. Bodio, "*Przymus adwokacko-radcowski – uwagi o stanie obecnym i perspektywach zmian*" [*Mandatory representation by a lawyer – comments on the current state and perspectives for change*], *Radca*

Prawny. Zeszyty naukowe 2015, no. 1, pp. 68-89) and the entities authorized to represent a party (J. Bodio, P. Telenga, "*Magister prawa jako pełnomocnik procesowy – uwagi do projektu ustawy o zmianie ustawy – Kodeks Postępowania Cywilnego i zmianie niektórych ustaw*" [*Master of Laws as a representative in proceedings – comments on the bill amending the Code of Civil Procedure and certain other laws*], *Radca Prawny* 2010, no. 1 (co-author: Doctor Przemysław Telenga), pp. 14-23).

I discussed the issues in this area in papers presented during scientific conferences (Appendix 4).

### 5.2.3 Appeals

My scientific output to date also includes publications regarding the problems of appeals. In these studies, I have analysed selected issues related to entities entitled to appeal against decisions in matters of law on persons (J. Bodio, "*Podmioty legitymowane do zaskarżania postanowień w sprawach z zakresu prawa osobowego*" [*Entities having a legitimacy to appeal against in matters of law on persons*] [in:] *Wokół problematyki środków zaskarżenia w postępowaniu cywilnym* [*Entities having a legitimacy to appeal against in matters of law on persons. The problems of appeals in civil procedure*], M. Michalska-Marciniak (ed.), Sopot 2015, pp. 351-386) and those entitled to appeal in cases on denial of paternity (J. Bodio, *Glosa do wyroku SN z dnia 3 października 2014r., V CSK 281/14*, [*Commentary on the judgement of the Supreme Court of 3 October 2014, V CSK 281/14*], *Orzecznictwo Sądów Polskich* 2015, vol. 6, pp. 878-884). Apart from the issues indicated above, I also made reflections on issues related to formal conditions of an appeal and the consequences of failure to meet them (J. Bodio, "*Wymagania formalne apelacji i skutki ich niezachowania*" [*Formal requirements of an appeal and effects of failure to meet them*] [in:] *Jus et remedium. Księga jubileuszowa Profesora Mieczysława Sawczuka* [*Jus et remedium. Jubilee book in honour of Professor Mieczysław Sawczuk*], A. Jakubecki (ed.), J.A. Strzępka (ed.), Warszawa 2010, pp. 63-84; J. Bodio, *Nieuzupełnienie braku formalnego apelacji a możliwość jej odrzucenia. Glosa do uchwały SN z dnia 27 marca 2008r., III CZP 7/08* [*Failure to remedy a formal defect of an appeal and the possibility to dismiss it. A commentary to the resolution of the Supreme Court of 27 March 2008, III CZP 7/08*], *Gdańskie Studia Prawnicze – Przegląd Orzecznictwa* 2010, no. 2, item 9, pp. 119-127).



The issue of appeals was also the subject of a paper presented by me at a scientific conference (Appendix 4).

#### **5.2.4 Alternative dispute resolution**

Another area of my scientific activity covers the issue of alternative methods of dispute resolution. The research in this area focuses on issues related to mediation, which is supposed to be an alternative to resolving a dispute by way of judicial proceeding. The result of research in this area was the publication of two articles on mediation (J. Bodio, "*Mediacja w sprawach rodzinnych – zarys problematyki*" [*Mediation in family matters – an outline of the problem*] [in:] *Mediacja w teorii i praktyce* [*Mediation in theory and practice*], A. Gretkowska (ed.), D. Karbarz (ed.), Stalowa Wola 2009, pp. 45-60 and J. Bodio, "*Mediacja w sprawach cywilnych – zarys problematyki*" [*Mediation in civil matters – an outline of the problem*] [in:] *Metodologia pracy w SPP* [*Methodology of work in student's legal consultancy facilities*], I. Kraśnicka (ed.), Warszawa 2009, pp. 133-145, 2nd edition and 1st edition [in:] *Biblioteka Studenckich Poradni Prawnych. Prawo cywilne*, Warszawa 2008, pp. 157-171).

#### **5.2.5 Evolution of the Polish civil procedural law**

The issue of the evolution of Polish civil procedural law, which is another area of my scientific research, focuses around the changes in this law and the problems arising in connection with it, both in theory and in the practice of application of law. The subject of scientific research so outlined was chosen due to numerous and frequent amendments to civil procedural law in Poland in recent years.

The results of research conducted within this area have so far been presented in several scientific studies. I analysed the following issues in these articles:

- changes in the regulation of the form of procedural activities, which were related to the computerisation of civil proceedings carried out under the provisions of the Act of 10 July 2015 amending the Act - Civil Code, the Act - Civil Procedure Code and certain other acts (J. Bodio, "*Pisma procesowe w elektronicznym postępowaniu upominawczym – warunki formalne i uzupełnienie ich braków*" [*Pleadings in electronic writ-of-payment proceedings – formal requirements and remedying defects therein*] [in:] *Elektroniczne postępowanie upominawcze, doświadczenia i perspektywy* [*Electronic writ-of-payment proceedings, experiences and*

*perspectives*], K. Flaga-Gieruszyńska (ed.), A. Jakubecki (ed.), J. Misztal-Konecka (ed.), Lublin 2017, pp. 9-36).

- the need to verify the regulations concerning the issue of evidence obtained illegally (J. Bodio, "Dopuszczalność dowodów uzyskanych sprzecznie z prawem. Uwagi prawnoporównawcze w obrębie prawa polskiego" [*Admissibility of evidence obtained illegally. Legal comparative comments within Polish law*] [in:] *Problem dowodów uzyskanych sprzecznie z prawem w procesie cywilnym* [*The problem of evidence obtained illegally in civil procedure*], K. Knoppek (ed.), Poznań 2018, pp. 19-47);

- changes related to the introduction of the option for a party to pay a court fee through payment institutions other than banks and related problematic issue of differentiating the date of payment of these fees (J. Bodio, *Glosa do postanowienia SN z dnia 21 stycznia 2015r., IV CZ 96/14* [*Commentary to the decision of the Supreme Court of 21 January 2015, IV CZ 96/14*], *Orzecznictwo Sądów Polskich* 2015, vol. 12, pp. 1752-1758).

- changes in facilitating the securing of claims, in particular changes in the entry into the land and mortgage register of the prohibition on the sale of a housing cooperative right of ownership of premises (Article 752<sup>3</sup> of the Code of Civil Procedure (the added Articles 756<sup>3</sup> and 756<sup>4</sup> of the Code of Civil Procedure) and the prejudging by the legislature of the effect of invalidity of a legal action made in violation of a security established (the added Articles 752<sup>3a</sup> and 756<sup>4</sup> of the Code of Civil Procedure), which were introduced by the Act of 7 April 2017 amending certain acts in order to facilitate the collection of claims (J. Bodio, "Nieważność czynności prawnych obowiązanych dokonanych wbrew sądowemu zakazowi zbycia nieruchomości lub spółdzielczego własnościowego prawa do lokalu" [*Invalidity of legal actions of an obliged person conducted in violation of a judicial prohibition of sale of a real property or housing cooperative right of ownership of premises*], *Studia Prawnicze. Rozprawy i Materiały* 2017, no. 2, pp. 77-99);

- changes made by the amendment to the Code of Civil Procedure of 9 January 2009, which, by introducing the electronic writ-of-payment procedure, made it possible to append an electronic enforcement clause to enforcement titles, i.e. judgements issued in this proceeding. Thus, an electronic enforcement title with an electronic writ of execution appended has become an electronic enforceable title (J. Bodio, "Elektroniczny tytuł wykonawczy" [*Electronic enforceable title*], *Przegląd Prawa Egzekucyjnego* 2017, no. 1, pp. 21-46);

- changes in the functioning of the General Counsel to the Republic of Poland related to the evolution of powers of this body and the status of its counsels and referendaries (J. Bodio, W. Graliński, „*Ewolucja zakresu kompetencji Prokuratorii Generalnej Rzeczypospolitej Polskiej*” [Evolution of the scope of powers of the General Counsel to the Republic of Poland], Rejent 2018, no. 2, pp. 19-41 (co-authored by Doctor Wojciech Graliński); J. Bodio, W. Graliński, „*Kilka uwag o statusie radcy i referendarza Prokuratorii Generalnej Rzeczypospolitej Polskiej*” [Some remarks on the status of a counsel and referendary at the General Counsel to the Republic of Poland], Przegląd Sądowy 2017, no. 11-12, pp. 153-166, (co-authored by Doctor Wojciech Graliński).

The issue of the evolution of Polish civil procedural law was also the subject of several papers presented by me at scientific conferences (Appendix 4).

#### **5.2.6. The system of legal protection authorities**

In addition to issues related to civil proceedings, my scientific research covers also issues related to the system of legal protection authorities. My analysis of systemic issues concerns first of all the system of judiciary (J. Bodio [in:] J. Bodio, G. Borkowski, T. Demendecki, *Ustrój organów ochrony prawnej. Część szczegółowa* [The system of legal protection authorities. Special part], Warszawa 2016, pp. 23-154) and related regulations concerning the status of judges and assessors of common courts and military judges (J. Bodio, „*Nieskazitelność charakteru*” jako kwalifikacja zawodowa sędziego (wpływająca na jego wizerunek) [“Impeccability of character” as a professional qualification of a judge (affecting his reputation)], Kwartalnik Krajowej Szkoły Sądownictwa i Prokuratury 2013, no. 4, pp. 5-16; J. Bodio, „*Instytucja asesora sądowego*” [The institution of associate judge], Studia Iuridica Lublinensia 2010, Volume XIII, Lublin, pp. 73-89; J. Bodio, „*Status sędziów sądów wojskowego*” [The status of military court judges] [in:] Wymiar sprawiedliwości w siłach zbrojnych [System of justice in the military], K. Dunaj (ed.), M. Stepnowska (ed.), Warszawa 2014, pp. 45-70), the possibility of returning an inactive judge to his previous position in the event of cessation of his permanent inability to perform the duties of a judge (J. Bodio, *Głosa do wyroku Sądu Najwyższego z dnia 17.08.2010r. (III KRS 5/10)* [Commentary on the judgement of the Supreme Court of 17.08.2010], Kwartalnik Krajowej Rady Sądownictwa 2011, no. 1, pp. 29-32) or administrative supervision over common courts (J. Bodio, *Postępowanie związane z*

wydaniem wytyku w trybie art. 40 § 1 p.u.s.p - *Glosa do postanowienia SN z dnia 21 lipca 2011r., V CZ 35/11 [Proceedings on the issuance of a reproach under art. 40 § 1 of the Law on the system of common courts]*, Gdańskie Studia Prawnicze – Przegląd Orzecznictwa 2012, no. 3, pp. 49-58).

The systemic issues examined by me also concern the disciplinary liability of a judge, its definition and distinction of particular disciplinary torts (J. Bodio, *"The notion and the role of the disciplinary liability of the judge – the problem outline"* [in:] *Aktualnye problemy yuridicheskoy nauki i pravoprimeritelnoy praktiki [Current problems of legal sciences and legal practice]*, Moscow 2010, pp. 242-247; J. Bodio, *"Przewinienia służbowe a uchybienia godności urzędu sędziów sądów powszechnych"* [Disciplinary misconduct and offending the dignity of the office of common court judges], *Kwartalnik Krajowej Rady Sądownictwa* 2010, no. 2, pp. 46-54) and the disciplinary liability of attorneys in law (J. Bodio, *Glosa do wyroku SN z dnia 15 lipca 2010r., SDI 12/10 [Commentary on the judgement of the Supreme Court of 15 July 2010, SDI 12/10]*, *Palestra* 2012, no. 5-6, pp. 153-160).

The issue of the system of legal protection authorities is not limited only to judges, as it also covers notaries (J. Bodio, *"Status prawny notariusza – wybrane zagadnienia"* [The legal status of a notary – selected issues], *Rejent* 2011, no. 10, pp. 9-31) and prosecutors. In the area of systemic issues there is a solution, analysed by me, which is extremely important for the functioning of the prosecutor's office, concerning the separation and then combination of the position of the General Prosecutor and the position of the Minister of Justice (J. Bodio, *"Rozdzielenie funkcji Prokuratora Generalnego od stanowiska Ministra Sprawiedliwości – uwagi na tle ustawy o zmianie ustawy o prokuraturze oraz niektórych innych ustaw"* [Separation of the position of the General Prosecutor from the position of the Minister of Justice – remarks under the Act amending the Act on prosecutor office and certain other acts], *Prokurator* 2009, no. 3-4, pp. 11-23).


Some of the presented systemic issues were the subject of a paper at a scientific conference (Appendix 4).

A detailed list of published scholarly papers and detailed information on achievements in teaching, research cooperation and popularization of science is included in Appendix 4.

Therefore, this summary of my scientific and research achievements will be limited to a brief description of my output achieved to date after obtaining the degree of Doctor of Laws:

- I wrote 15 articles published in scientific journals (including 4 co-authored), 18 scientific publications in collective works, 9 commentaries on judicial rulings, I am a co-author of a Commentary to the Code of Civil Procedure, a co-author of a textbook on legal protection authorities, and a co-author of a collection of cases in civil procedure. My scientific output after receiving the doctoral degree comprises a total of 44 scholarly publications (Appendix 4, items I and III. Ba-g). In Appendix 4 I also listed 8 of my scientific publications published before the doctoral defence (item II. Bj).
- I am the scientific co-editor of a scholarly monograph (Appendix 4, point II.Bf).
- I actively took part in 10 international and national scientific conferences, during which I delivered papers and moderated a discussion panel (Appendix 4, item II.I)
- I was a member of the organising committee of a scientific conference and scientific seminar (Appendix 4, item III.C).
- I am an active member of one scientific organization (Appendix 4, III.H).
- I am a laureate of two Awards of the Rector of the Maria Curie - Skłodowska University of Lublin - an individual 3rd-degree award (2010) and a team 3rd-degree award (2005) for scientific achievements (Appendix No. 4, item II. H).
- In my didactic work, I have conducted lectures and practicals – on master's and bachelor's courses at the Faculty of Law and Administration of the Maria Curie - Skłodowska University of Lublin, in the Helena Chodkowska University of Technology and Economics in Warsaw, and in Studium Generale Sandomiriense in Sandomierz. I also delivered lectures for legal advisers and trainee legal advisers of the District Chamber of Legal Advisers in Lublin (Appendix 4, item III.Ia).
- I was a master thesis advisor for 28 students of law and 30 a bachelor thesis advisor for 11 students of administration and 19 students of internal security, conducting master's and diploma seminars in civil procedure and the system of legal protection authorities at the Faculty of Law and Administration of the Maria Curie - Skłodowska University of Lublin, and in the Helena Chodkowska University of Technology and Economics in Warsaw (Appendix 4, item III.Ia).

- I actively participate in the popularization of sciences, especially as an expert of the Centre for Research, Studies and Legislation of the National Council of Legal Advisers in Warsaw, for which I wrote 17 legal opinions (including 5 in co-authorship: 4 co-authored by Przemysław Telenga and 1 co-authored by Wojciech Graliński), as a trainer for legal advisers and trainee legal advisers of the Polish Chamber of Legal Advisers and as a member of the jury of competitions in the field of civil procedure and the system of legal protection authorities at the Faculty of Law and Administration (Appendix 4, item III.Ib).
- I perform various organisational functions - I am the Faculty Coordinator for Erasmus + and a member of the Faculty Didactic Committee at the Faculty of Law and Administration of the Maria Curie - Skłodowska University of Lublin (Appendix 4, item IIIQ).

  
Joanna Bodio