

LEGISLATIVE MATERIALS (LEGISLATIVE HISTORY) AND THE DERIVATIONAL THEORY OF LEGAL INTERPRETATION

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Abstract. The study addresses the issue of using legislative materials (legislative history) to interpret the law. This issue is considered from the point of view of the so-called derivational theory of legal interpretation formulated in Polish legal theory. The derivational theory of legal interpretation is treated as a framework and a starting point for developing an integrated theory of legal interpretation in Polish legal theory. The analyses contained in the article are theoretical in nature and apply a theoretical-legal method. The main thesis of the study is that the use of legislative materials should be included in the derivational model of interpretation, but with the application of the principle of their subsidiarity and the principle of assumed unanimity. The derivational theory is a comprehensive theory that formulates a normative (prescriptive) model of interpretation. The interpretive directives that make up this model refer to factors external to the actual legislator (in particular the rules of language) in order to objectify the interpretation process. It may seem that from the point of view of the derivational theory, the use of legislative history and the intent of the actual legislator for legal interpretation should be rejected. However, a closer analysis reveals that this is a false conclusion. One of the fundamental assumptions of the derivational theory is the postulate of striving for the greatest possible objectivity in the interpretation result. The subsidiary use of legislative materials may contribute to such objectification when reference to factors external to the actual legislator fails – it is inconclusive. However, the subsidiary use of legislative history is only possible if the analysis of legislative materials is conclusive, i.e. if it is possible to determine the clear legislative intent in accordance with the principle of assumed unanimity.

Keywords: theory of law; interpretation of law; legislative intent; intention in interpretation.

1. METHODOLOGICAL REMARKS

Legislative materials are a controversial instrument for interpreting law. Legal theorists in various countries and jurisdictions continue to argue about the permissibility of their use. The most famous version of this dispute is the dispute between intentionalists and textualists (especially in the United States). The use of legislative history is also the subject of discussion in Polish jurisprudence. This study examines legislative materials (legislative

history) from the perspective of the derivational theory of legal interpretation, which is treated as a framework and “launchpad” for developing an integrated theory of legal interpretation in Polish legal doctrine.

At the very beginning, one methodological issue requires emphasizing. Different views on the applicability of legislative history as an instrument of legal interpretation are very strongly dependent on two factors: firstly, the practice and tradition of a specific legal culture, and secondly (and most importantly), a whole range of philosophical and theoretical assumptions related to law. This is primarily about assumptions answering questions such as: what the law is, what is the interpretation of law, what is the purpose of interpretation, and who is the lawmaker. It is impossible to answer the question about the admissibility of using legislative materials apart from these two factors. This means that there is no single universally valid answer to the question (valid in all legal systems and independent of theoretical assumptions). Therefore, it seems methodologically unjustified to simply transfer views on the interpretative role of legislative history from one legal system to another (in particular: transferring views expressed in American jurisprudence and directly applying them to the Polish legal system). Comparing the different views expressed in different jurisdictions can be instructive but cannot be taken as decisive. What should be decisive is the degree of coherence of the theoretical assumptions of a given view and the degree of their integration with a given legal system. The indicated belief constitutes the methodological assumption of this entire study.

2. INTRODUCTION

Polish legal theory has developed a very rich legacy in the field of legal interpretation. Many theories of various methodological and philosophical nature have been created. The so-called “derivational theory of legal interpretation” seems to be one of the most developed, comprehensive and influential normative (prescriptive) theories of contemporary Polish jurisprudence. However, there are many doubts related to some theses and directives of this theory, and some interpretative issues are not taken into account by it (one of them is the issue of legislative materials). For this reason, the need was expressed to reformulate the derivational theory and transform it into an integrated theory of legal interpretation [Bogucki 2023, 81-82]. This need is an expression of the idea that derivational theory should develop by striving for the greatest possible integration with other approaches to interpretation as well as with judicial practice [Zieliński, Bogucki, Choduń, et al. 2009, 23-39; Zieliński 2020, 163-73]. This study is intended to contribute to the achievement of such goals. Due to the limited framework of this study, it is not possible to analyze in more detail the principles of further

integration of the derivational theory, but it should be emphasized that such integration must in some cases make it necessary to give up certain theses of the derivational theory. We can therefore say that integration will entail the transformation of a derivational theory into a post-derivational theory.

The derivational theory of legal interpretation was formulated by M. Zieliński [Zieliński 1972; Idem 1987; Idem 2017] who based it on the distinction (made by Z. Ziemiński) between a norm of conduct and a legal provision [Ziemiński 1960, 105-22]. Since its introduction, the derivational theory has also been improved by other authors.¹ In this study, the name “derivational theory of legal interpretation” will refer to the original version of the theory developed by Zieliński. The derivational theory is a normative (prescriptive) theory. It formulates many more or less detailed rules (directives) specifying how the law should be interpreted. It is impossible to present all of them in this study.² However, it will be necessary to outline the general shape of the interpretation model according to this theory.

According to the derivational theory, the aim of legal interpretation is to reconstruct legal norms from legal provisions (to derive norms from provisions). A norm is defined as an unambiguous linguistic expression ordering specific addressees to act in a specific way in specific circumstances. A legal provision is defined as a sentence (in the grammatical sense) that is part of a legal text. According to the derivational theory, the process of legal interpretation includes three phases. The first phase (initial phase) includes determining the validity of the wording and validity of legal provisions at a given interpretational moment. The second phase (called “reconstructive”) includes the reconstruction (from the relevant provisions) of an expression that will contain all the elements of the norm (order, addressee, circumstances, ordered action). The third phase involves disambiguating all linguistic expressions to obtain a norm of conduct.

According to the derivational theory, the interpretation of law should be a sequential process in which the interpreter first applies linguistic rules of interpretation, and then systemic and functional rules (including the rules of purposive/teleological interpretation). Systemic and functional rules are called extra-linguistic rules. Systemic rules refer to the way the legal system is shaped (especially its hierarchical structure). Functional rules refer to the knowledge, goals and values of a rational lawmaker. Their use is to lead to an interpretation that will have the best possible epistemic and axiological justification. The application of systemic and functional rules of interpretation is intended to confirm the results of the application of linguistic interpretation or to correct them. Correction may consist in selecting

¹ See for example Choduń 2018; Godek 2015.

² For a more extensive introduction in English, see Bogucki 2020, 617-36.

one of the linguistic meanings or in rejecting the linguistic meaning and establishing a different meaning.

From the perspective of this study, it is important to emphasize that, according to the derivational theory, the interpretation of law should be an objective process (as much as possible). This objectivity is to be ensured primarily by referring to the meaning of words recorded in the form of semantic and syntactic rules. An additional source of objectivity is to be a reference to instrumental rationality (selection of appropriate means to achieve specific states of affairs as well as preferences between states of affairs).

The derivational theory treats the principle of *omnia sunt interpretanda* as the fundamental, most important principle of legal interpretation. According to this principle, interpretation should be made even when the legal text *prima facie* seems clear. Derivational theory rejects the understanding of interpretation as a process that takes place only when the text is unclear.

It is also worth adding here that even though the derivational theory was created for the Polish legal system, it can be adapted for interpretation in other legal systems; for example, the legal system of the European Union [Godek 2015, 35-56; Helios and Jedlecka 2018, 131-44]. However, this requires taking into account the features of the language of legal texts in a given legal system as well as its institutional specificity (including the rules formulated in judicial practice).

3. DERIVATIONAL THEORY AND LEGISLATIVE MATERIALS

In the original version of the derivational model of legal interpretation, legislative materials were not taken into account at all [Zieliński 2017, 277-302]. Maciej Zieliński is skeptical about using legislative history as a tool for interpreting law [ibid., 269]. This skeptical attitude is most likely caused by the fact that in the derivational theory the lawmaker is understood in a specific way. On the basis of this theory, it is emphasized that the process of interpretation is about reading the norms created by the rational lawmaker (legislator), who is not identical with the actual (real) legislators [ibid., 258-70]. The concept of a rational lawmaker is an idealization concept aimed at objectifying the interpretation of law. It is assumed that rational lawmaker is instrumentally rational and that he has the best knowledge (in particular knowledge of the language in which the legal text is formulated), and the goals and values he pursues are socially approved [ibid., 258-70]. The extent to which actual legislators meet such characteristics is irrelevant from the point of view of legal interpretation (because it is assumed that a rational lawmaker possesses the above-mentioned characteristics). In other words – according to the derivational theory, the interpretation

of law consists in reconstructing the norms established by a rational legislator (lawmaker) and not in determining the intentions of actual legislators (lawmakers). What matters is what has been enacted, not what the actual (real) legislators intended to enact. The derivational theory of interpretation broadly analyzes the use of sources such as legal definitions, linguistic dictionaries, legal doctrine and court decisions in the interpretation process. Legislative materials are not treated as one such source because they reflect the intentions of actual legislators.

A few observations should be made in relation to the above. Firstly, in the judicial practice of Polish courts, legislative materials are used to interpret the law.³ It is very difficult to statistically assess the scale of this phenomenon, but it is certainly not a marginal phenomenon and cannot be ignored. Some researchers claim that 73.8% of administrative court judges look for information about the legislator's intention in legislative materials [Bielska-Brodziak and Tyrybon 2019, 40]. It seems that if the derivational theory is to become an integrated theory, it cannot fail to expressly address the issue of legislative materials as an instrument of interpretation. The concept of a rational lawmaker does not necessarily entail the exclusion of legislative history. As Michał Krotoszyński shows, the use of legislative history in reasoning about a rational legislator does not violate the logical coherence of the concept of a rational legislator. Moreover, it should be assumed that a rational legislator is aware of the legislative history and the possibility of its use by courts for legal interpretation [Krotoszyński 2018, 57-73].

4. ADMISSIBILITY OF USING LEGISLATIVE MATERIALS

It seems that *a priori* there are three possible ways to resolve the issue of the applicability of legislative materials for the interpretation of law: (1) complete rejection of their applicability; (2) recognizing them as the most important instrument of interpretation and allowing their use without any restrictions; (3) recognizing their applicability but limiting it by certain conditions. Let us consider these possibilities below, paying particular attention to the context of the basic assumptions of the derivational theory of legal interpretation.

The first, most obvious argument that can be raised against the use of legislative materials is the fact that they are not sources of law, and it is difficult to accept that they will determine the content of law. However, such an argument can be raised against all materials used for the interpretation of law, such as language dictionaries or theses of legal doctrine. The need to use materials other than the legal text results from the fact that in many cases

³ See an extensive empirical study on this issue Bielska-Brodziak 2017.

the text itself is unable to determine its meaning (in many cases there are no legal definitions, or they are unclear). Legislative materials or dictionaries are, of course, not sources of law, but they can be described as sources of knowledge about law – sources of knowledge necessary in the process of interpretation. It is worth adding that legislative materials have a greater connection with the lawmaker than, for example, language dictionaries [Konca 2021, 94].

Another argument that can be raised against the use of legislative materials is related to their subjective nature and susceptibility to abusive use. The fact that in relation to some legal regulations significantly different intentions are expressed in the legislative process and, therefore, interpretation may be made arbitrarily, does not in itself speak against the complete rejection of legislative materials. All interpretive materials can be used arbitrarily and abusively, and legislative history is no exception in this respect. This fact speaks not so much against the use of legislative materials, but against their use without any restrictions, which may lead to arbitrary quoting only those fragments of legislative materials that fit the pre-adopted interpretative thesis.

In the light of the derivational theory of interpretation, the content of legal norms is determined primarily by the semantic and syntactic rules of language. However, in the light of this theory, interpretation can never be limited only to linguistic interpretation. For an adequate reading of a legal norm, it is always necessary to take into account the lawmaker's goals and values. Even though semantic rules are not created by the legislator, the final meaning of the legal text is the "resultant" of the language rules and the legislator's goals. Referring to the rules of language can often be inconclusive (primarily due to syntactical and semantic ambiguities). In turn, information about the lawmaker's goals and values is often not included in the legal text itself.

It seems that one of the most important assumptions of the derivational theory is the pursuit of maximum objectivity of the interpretation process (hereinafter referred to as the "postulate of objectivity"). From this perspective, it is difficult to *a priori* exclude legislative materials, which in some cases seem to be a better tool for objectifying the interpretation than the "interpreter's intuition". Taking this into account, it can be said that from the perspective of derivational theory, the solution indicated above as (2) is unacceptable, and solution (1) seems too far-reaching. Therefore, it seems that the option that can be reconciled with the discussed theory of legal interpretation is option (3): allowing the use of legislative materials, but only under certain conditions.

5. THE INTENTION OF THE ACTUAL LAWMAKER (LEGISLATOR)

The legal doctrine indicates many, more or less fundamental, doubts related to the use of legislative materials for the interpretation of law [Bielska-Brodziak 2017, 95-130; Dubiński 2023, 61-76]. Due to the limited volume of this study, it is impossible to discuss all of them here. From the perspective of derivational theory, the basic question concerns: who the actual lawmaker actually is and when he “becomes” a rational lawmaker. In other words – which of the intentions expressed in the process of lawmaking are to be counted as the intention of the actual lawmaker and, moreover, when the intention of the actual lawmaker can be considered the intention of the rational lawmaker.

All documents accompanying the process of enacting legislation reflect the views of individual entities participating in this process (for example, proposers submitting the bill, parliamentary committees or individual parliamentarians), and in particular the discussion on the regulations being created. These documents can be called legislative materials *sensu largo*. This way of understanding legislative materials seems to be the most appropriate on the grounds of the Polish legal system [Dubiński 2023, 61-63]. Legislative materials reflect the intentions of the various actors involved in the legislative process, not the intention of the “actual legislator”. The transition from the intentions of individual actors in the legislative process to the intention of the actual lawmaker requires certain rules for aggregating intentions. Unfortunately, however, it is very difficult to identify relatively uncontroversial rules of this kind.

If legislative materials reveal controversies between participants in the legislative process over the understanding of the meaning of certain linguistic expressions contained in the legislation being created or over the purposes or values that the legislation is intended to serve, then for the objectivization of interpretation such materials are worthless. In such a case, it is very difficult to assume that the vagueness of the text in light of the canons of interpretation that do not refer to the intention of actual legislators (in particular, linguistic rules of interpretation) can be overcome by referring to the understanding of the text by the people who create it. Legislative materials in such a case can be treated as interesting historical documents, but from the point of view of the postulate of objectivity they do not contribute anything to the interpretation of the law. The intention of the actual lawmaker in such a case is impossible to determine. A different conclusion would have to assume the existence of convincing rules for resolving inconsistencies arising from legislative materials. However, it is difficult to identify such rules. It is questionable to create a hierarchy of actors

in the legislative process. The “automatic” application of majority democratic rules is also problematic in this case.

In the Polish legal system, majority rules of parliamentary voting apply to votes taking place on the text of laws and not on the way this text is understood. At the same time, there is no identity between a vote for or against the establishment of a specific legal text (legal provisions) and a vote for or against its specific understanding (as expressing specific legal norms). Voters may agree on how certain provisions should be understood but differ in their views on whether they should be established. However, the opposite situation is also possible. Voting parliamentarians may agree on the text of the legislation being enacted, but actually differ in their beliefs about how it should be understood (what legal norms are included in it). The institutional way of majority determination of collective intention in the latter case is to vote on the establishment of the so-called “authentic interpretation of laws” (enacted by the body creating the legislation in question), but the Polish legal system (like many others) does not contain such a legal institution. Generally speaking, it can be said that the problems of clearly translating the vote on a particular piece of legislation into views about how it should be understood make the view that the opinion of the parliamentary minority should not matter for the interpretation [Nourse 2012, 77] difficult to accept.

The problems with the relationship between voting and beliefs about how to understand what is being voted on can be illustrated by two example situations. In the first case, the act passes unanimously, but during the legislative process significant discrepancies were revealed as to the understanding of some of its provisions. In the second case, there was agreement on how to understand the provisions, but the act passed with the minimum required majority of votes. Interestingly, from the point of view of objectivity in determining the intentions of the actual legislator, the second situation is much better than the first.

In the first situation, the way voters interpreted the provisions created was consistent. In the terminology of the derivational theory, we can say that there was no doubt that the voted provisions expressed certain legal norms. However, many voters opposed the establishment of such standards. Despite this, these norms “won” in the democratic vote. In such a case, the intention to enact these norms can be attributed to the actual lawmaker under democratic voting rules. In the second situation it is difficult to talk about the lawmaker’s clear intention and the fact of unanimous voting is not decisive here. Consistency in voting may be deceptive here, because voters voted for specific legal provisions, but with different beliefs as to how they should be read (in fact, voters voted for something different – different legal norms).

6. THE PRINCIPLE OF PRESUMED UNANIMITY

In the light of the remarks made so far, it is worth emphasizing that the so-called “actual lawmaker” (“actual legislator”) is also a certain conceptual structure (just like the “rational lawmaker”). The intention is conventionally attributed to such a legislator. Scholars believe that even though the legislator is a bicameral collective body, it is possible to attribute an intention to such an entity [Breyer 1992, 864-66; Raz 1996, 263; Ekins 2012, 218-43; Cross 2022, 2221-267]. The actual lawmaker is not a simple sum of actual actors in the legislative process. The actual legislator is “defined” by the adopted rules for assigning intention to him based on information about the beliefs of individual actors in the legislative process, and these rules may be constructed differently. It can be said that given the postulate of objectivity of interpretation and the problems of identifying ways to resolve inconsistencies in legislative materials, it is appropriate to adopt a relatively “safe” principle of attributing intention to the actual legislator. Such a principle seems to be the one that can be called the “principle of presumed unanimity”.

According to the above-mentioned principle, what counts as the intention of the actual lawmaker is the unanimity of beliefs of the actors of the legislative process with regard to the understanding of the text of legal provisions that are created. In the light of this principle, only in such a situation can it be said that the intention of the actual lawmaker is clear (and may be useful for objectifying interpretation). It should be emphasized that this principle requires only (and as much as) unanimity in the way of understanding the regulations that are being processed. There may be fundamental controversy and disagreement as to whether these regulations should be established as law (which will be reflected in a heated parliamentary debate and voting). However, from the point of view of the principle in question, this is not important. It does not require complete agreement of views, but only agreement as to the content of the norms that are actually the subject of a specific legislative process.

In order to assume that the required consistency of intentions exists, two conditions must be met. Firstly, at least one of the entities participating in the legislative process has clearly declared the intention to assign a specific meaning to specific linguistic expressions or the intention to achieve specific goals or values through the provisions being processed. Secondly, in the light of the legislative materials, such intention was not denied by other actors in the legislative process, and even if it was, an agreement was reached during the discussion. This allows us to assume that there was no controversy as to the understanding of the provisions created, although of course there could have been significant controversies as to whether they

should have been enacted. Using the terminology of the derivational theory, it can be said that the votes were taken with the belief that these provisions express certain legal norms.

7. SUBSIDIARY USE OF LEGISLATIVE MATERIALS

Determining the intention of an actual lawmaker based on the principle of assumed unanimity does not in itself determine its interpretative role. The question arises about the relationship of legislative materials to other sources of information used in the interpretation of law. Derivational theory defines in quite some detail the types of these sources, their importance and the order in which they should be used [Zieliński 2017, 277-302]. From the point of view of the derivational theory of interpretation, the most important are the syntactic and semantic rules of the language in which the text of the regulations is written. This theory assumes that a rational lawmaker knows these rules and applies them. They are widely known and in derivational theory they play a primary role in objectifying interpretation. Since legal provisions are created by a rational legislator in language, this theory assumes that the starting point when reading them should be referring to the rules of language. A rational lawmaker may depart from them but must then express this clearly in the legal text (by formulating a specific legal definition).

Two important consequences follow from the above remarks. Firstly, when a clear meaning is established on the basis of linguistic rules, the intention of the actual lawmaker is irrelevant, and the analysis of legislative materials is unnecessary in such a case. Secondly, in the light of the assumptions of the derivational theory, it is impossible to assume that the intention of the actual lawmaker can be used to reject the clear meaning established on the basis of linguistic rules. Therefore, it seems that the only possibility of including legislative materials and the intention of the actual legislator into the derivational model of interpretation is to assign them a subsidiary role.

It is worth noting at this point that the derivational theory overestimates to some extent the possibilities offered by appealing to the rules of language (as well as other criteria “external” to the actual legislator). For this reason, it does not analyze in depth the situation when the reference to such rules is not conclusive and the legal text remains unclear despite taking into account legal definitions, meanings adopted in judicature and jurisprudence, linguistic dictionaries and syntactic rules, as well as the linguistic context. In such cases, derivational theory postulates the application of systemic and functional rules of interpretation. This involves, in particular, trying to determine the meaning that will best suit the goals and values of a rational

lawmaker. This concerns goals and values clearly declared by the legislator in the legal text, as well as goals and values reconstructed by abductive reasoning from the fact that legal norms with specific content are in force, and also goals and values recognized as socially approved [Zieliński 2017, 290-302]. The problem is that this method of determining meaning will not always provide conclusive results and lead to objectivization of interpretation. In a specific case, it may be that the legal text does not clearly indicate goals and values, abductive reasoning gives ambiguous results, and socially approved goals and values are difficult to determine.

In the above-mentioned cases, a subsidiary reference to legislative materials and an attempt to determine the intention of the actual legislator in accordance with the principle of assumed unanimity is an opportunity to objectify the result of interpretation. Of course, it may be that such an attempt will not bring any conclusive results. However, it is difficult to indicate reasons why such an attempt should be *a priori* rejected, and, in such cases, one should rely on the linguistic or axiological “intuition” of the interpreter. Rejecting such an attempt increases the danger of subjectivizing the interpretation of law, i.e. interpreting it according to the interpreter’s own beliefs and choices. Such subjectivization, in turn, is something that the derivational theory tries to avoid at all costs. You could even say that this entire theory was created to reduce subjective elements in legal interpretation.

The concept of a rational lawmaker is a concept intended to increase the objectivity of interpretation. This is because the interpreter attributes objective knowledge and values to the rational lawmaker. Whether an actual legislator has this knowledge and recognizes these values is irrelevant to the interpretation of law. However, a modification can be introduced to such a position, which will be in line with the postulate of objectification (and, in fact, will increase its implementation). This modification consists in the assumption that in situations where the reference to the elements attributed to the rational lawmaker is not conclusive, the intention of the actual lawmaker becomes important. If it can be determined in accordance with the principle of presumed unanimity, it can be attributed to a rational lawmaker.

It should be added here that from the point of view of the postulate of objectivity, the use of legislative history (legislative materials) for interpretation should meet certain general minimum conditions. As Michał Krotoszyński points out: (1) if legislative history is to be used for legal interpretation, it must be publicly available (it must be accessible just as the law is); (2) all legislative materials should be accessible to the members of the legislative body before the vote; (3) the interpreter must examine the whole of the legislative process; (4) due consideration needs to be given to any amendments of a bill (must be critically analyzed whether the intention

expressed at earlier stages of the law-making procedure may still attributed to the form of the final provision) [Krotoszyński 2018, 70].

CONCLUSION

Prima facie, a derivational theory of legal interpretation should exclude the use of legislative materials (legislative history) and intention of actual legislator for legal interpretation. However, after a deeper analysis, legislative materials can be incorporated into the derivational model of legal interpretation. Such incorporation is not only possible, but also desirable from the point of view of the postulate of objectivity (which is a fundamental assumption of the derivational theory).

Including, on the principles described in the study, legislative materials and the intention of the actual lawmaker into the derivational model of interpretation improves the derivational theory and leads to its greater integration. This is an integration in two dimensions: on the one hand, with that part of judicial practice that refers to legislative materials, and on the other, with the increasingly popular position in Polish legal theory, according to which interpretation should aim to determine the legislator's intention.⁴ If the derivational theory is to be a framework and starting point for developing an integrated theory of legal interpretation in Polish legal theory, it should address the use of legislative materials. In turn, the approach to legislative materials described in this study seems to fit best with the basic assumptions of the derivational theory.

In the light of the findings made in this study, the general principle of subsidiarity of legislative materials should be added to the derivational model of legal interpretation. This principle applies to both the so-called linguistic interpretation, as well as the so-called extra-linguistic interpretation (mainly the so-called "functional interpretation"). According to this principle, if, when performing linguistic interpretation, it is not possible to disambiguate the text by referring to legal definitions, findings of judicature and jurisprudence, language dictionaries and the linguistic context, the available legislative materials should be analyzed. If, in accordance with the principle of presumed unanimity, it is possible to determine the intention of the actual legislator to assign a specific meaning to specific linguistic expressions, such meaning should be accepted as the result of interpretation. With regard to extra-linguistic interpretation, the application of the general principle of subsidiarity of legislative materials is that when it is not possible to determine the goals or values of the legislator by referring to the legal

⁴ Intentionalism in Polish legal theory appeared thanks to the work Tobor, which popularized the views present in American legal theory [Tobor 2013].

text, abductive reasoning, findings of judicature and jurisprudence, or social acceptance, then the interpreter should analyze available legislative materials. If, in accordance with the principle of presumed unanimity, it is possible to determine the intention of the actual legislator to implement specific goals or values, an interpretation result that implements them to the greatest possible extent should be adopted.

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