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THE LINGUISTIC MEANING OF A LEGAL NORM IN THE POZNAŃ-SZCZECIN SCHOOL OF LEGAL THEORY IN THE LIGHT OF ANALYTICAL PRAGMATISM*

It is rather surprising that the concept of legal norms is still the subject of an ongoing, unresolved dispute, particularly in terms of their linguistic meaning, despite the fact this concept has fundamental significance for legal theory and philosophy of law. Since this is a prime example of an epistemological dispute, improving the available tools with the help of the philosophy of language should allow theoreticians of law to navigate this field more efficiently, and thus to establish the meaning of legal norms. One of the positions in this dispute was put forward by the Poznan-Szczecin school of legal theory (hereinafter: the School). Consequently, the first aim of this article is to reconstruct the existing concepts developed by Zygmunt Ziembiński, Maciej Zieliński, Leszek Nowak and Wojciech Patryas. Furthermore, there is no doubt that the School extensively drew upon the achievements of analytical philosophy, in particular the thought of Kazimierz Ajdukiewicz, hence this relationship will also be addressed in the text.

Finally, I will draw attention to how Robert B. Brandom's analytical pragmatism can be employed to overcome the difficulties revealed in the assumptions made by the School. I will also address Maciej Dybowski's deployment of analytical pragmatism in the field of Polish legal theory. This direction has proven fruitful for developing the analytical intuitions expressed by the School. I share Dybowski's view that 'the most important challenge that pragmatism posed to the programs of classical analysis in the second half of the twentieth century was its attempt to shift the burden of philosophical considerations – concerning what in Polish jurisprudence is usually referred to as the logical-linguistic plane – from the concept of meaning towards the concept of use [emphasis added – W.R.]'.[1] This entails that there is a need to verify the semantic assumptions adopted by the School, in particular by focusing on the relationship between the determination of meaning and the practice of using language.

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[1] Dybowski (2017a): 21.

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I. THE LINGUISTIC MEANING OF LEGAL NORMS ACCORDING TO THE SCHOOL

In terms of legal theory, the work of Zygmunt Ziembiński was primarily aimed at organizing the conceptual apparatus which had previously been developed in this field. Underlying this project was the conviction that such preliminary work is 'a necessary condition for successfully presenting and solving theoretical-legal problems'.[2] Given Ziembiński's clearly creative approach to ordering the existing conceptual apparatus, it is my view that any reconstruction of the concept of the linguistic meaning of norms should begin by discussing this author. It should be emphasized that the issue of the linguistic meaning of legal norms was not actually raised by the School as an independent issue (thus in contrast to Jerzy Wróblewski's approach). [3] The School tended to address specific problems encountered in the linguistic-logical plane of law research. This means that the entire range of views requires analysis.

Published in 1960, Ziembiński's article *Przepis prawny a norma prawna* [Legal Provision and Legal Norm] became the founding text of the School. Years later, Ziembiński's students wrote that 'the vision of law adopted by the representatives [of the School – W.R.] is based on it [the conceptual distinction between a legal provision and a legal norm – W.R.], and it can be said, without exaggeration, therefore actually all of the School's theoretical achievements'.[4] This should not come as a surprise, especially since Czesław Znamierowski had already suggested that 'the issue of norms of conduct, in particular legal norms, is for the theory of law almost the central issue, or maybe even *strictly sensu* the central issue [...]'.[5]

In his founding article, Ziembiński presents the view that 'provisions express legal norms, i.e. indications of what a certain person should do, according to the will of the legislator; indications that someone has the obligation to do such-and-such in certain circumstances (or, on the contrary, that there is no such obligation). Norms are the content of provisions'.[6] Ziembiński's article merely provides an introduction to reconstructing the concept of the linguistic meaning of a norm which lies at the basis of the School's legal theory. In the text, Ziembiński specifies how legal norms are expressed in provisions (e.g. a distinction is made between applicable and interpretative provisions). Accordingly, the direction of analysis can be reversed, to reconstruct legal norms from provisions – to say how a norm can be derived from such-and-such provisions, corresponding to the scheme: 'in conditions *C*, every person with properties *P* is obliged (not obliged) to perform act *A*'.[7]

[2] Wronkowska (2010): 337.
[3] See Wróblewski (1959).
[4] Czepita, Wronkowska, Zieliński (2013): 9.
[5] Znamierowski (1934): 20.
[6] Ziembiński (1960): 105.
[7] Ziembiński (1960): 105.

If a legal norm is the content of a legal provision (or legal provisions), as Ziembiński postulates, the consequence of this thesis would seem to be the conclusion that the linguistic meaning of legal norms is somewhat mediated, in the linguistic sense, by legal provisions. This thesis is reflected in the following definition of the phrase 'interpretation of a legal text' formulated by Maciej Zieliński: 'The interpretation of a legal text consists of replacing legal text, with the help of rules *R*, with a set of norms of conduct that are synonymous with the legal text [emphasis added – W.R.], on the basis of rules *R*'.[8]

A legal norm, as a statement reconstructed from legal provisions, will be constructed, for example, from vocabulary borrowed from these provisions. Moreover, 'a provision that directly expresses a norm of conduct may, incidentally, contain elements that provide an explanation as to how to understand other provisions'. [9] In this sense, a legal norm derives its meaning from a context (reducible to specific elements) created by legal provisions. Ziembiński and Zieliński clearly postulated the distinction between 'the language of legal provisions' and 'the language of legal norms'.[10] Ziembiński adds that 'the properties of the language of legal texts and the language of legal norms are not identical, while the form of the expression of the language of legal norms largely depends on the adopted interpretative rules'.[11] It can therefore be concluded that the adopted view holds that it is impossible to establish the objective linguistic meaning of legal norms. This entails that if a given group of interpreters adopts one set of rules, this will only allow for an intersubjective interpretative outcome. Moreover, it is not clear whether it is possible to speak about the objectivity of the linguistic meaning of norms at all.

Assuming that 'problems concerning legal norms [...] attain a specific formulation only after a specific methodological paradigm for interpreting the provisions has been adopted',[12] it should be noted that such a model is provided in the School on the basis of the derivational theory of legal interpretation. Zieliński indicates that 'interpretation in the derivational theory is primarily interpretation conceived of pragmatically, that is, as a set of certain actions aimed at understanding legal provisions, and thus as a set of actions aimed at reconstructing legal norms from legal provisions and at achieving their clear perception'.[13] In addition, such interpretation is normative in nature, since it assigns the interpreter certain interpretative rules, which are 'teleological directives that indicate a course of action that is effective for achieving an interpretative purpose (and ultimately for determining the sense of a legal norm reconstructed from legal

[8] Zieliński (1972): 27.
[9] Ziembiński (1960): 110.
[10] Ziembiński (1974): 212; Zieliński (1972): 8.
[11] Ziembiński (1974): 212.
[12] Zieliński, Ziembiński (1988): 77.
[13] Zieliński (2017): 236.

provisions)'.[14] It remains unclear whether the Fregian distinction between *Sinn* and *Bedeutung* was adopted by the School. It seems that the phrase 'sense' in the quoted statement (and other similar statements) was used as a synonym for the phrase 'meaning' – the issue is not to establish the relationship between the object and the sign (*Sinn* in Frege's understanding), but rather the final ability to establish reference, which is the meaning of provisions.

On the basis of the derivational theory of interpretation, a set of rules for assigning meanings to specific expressions was determined. These rules were derived by the School's representatives from the legal culture;[15] they can also be expressed in legal provisions, for example in the form of legal definitions. Ziembiński invokes two positions (normative and non-normative) on the role of definitional provisions, which boil down to deciding who determines the meaning of the expressions defined therein, and how.[16] In his view, the objection against such an outline of the problem of definitions may relate to the fact that the definitions of systematization concepts and definitions of legal institutions are not constructed in the form of normal definitions, but in a way known in logic as definition by postulates, that is, by the exemplary use of a given word, where the role of exemplary sentences is fulfilled in this case by legal provisions. It is not clear, however, whether we are dealing here only with the linguistic meaning of certain expressions or just the meaning of the provision, which is a norm.

These definitions are defined as orders expressed in legal texts, which indicate that a given expression (word, language phrase) should be understood in a certain way.[17]According to Ziembiński, in this way 'legal provisions formulate definitions establishing explicitly binding rules of meaning in relation to the legal language'.[18] He adds in this respect that 'the meta-linguistic nature of legal definitions is noticed by some representatives of the legal sciences, who treat legal definitions as a "pre-parenthetical comment" to legal norms in which the defined term appears'.[19] Legal definitions, however, are atypical rules. While adhering to the division into

[14] Zieliński (2017): 250–251. This author mentions the 'interpretative directive' in the fifth part of the cited text.

[15] As Ziembiński (2002: 232) indicates: 'interpretative directives, inferential rules and rules of collision are partly formulated in legal provisions which concern the way of understanding other provisions (i.e. in the meta-provisions). However, they are usually a product of the legal tradition adopted in the academic legal doctrine [...] or jurisprudence, especially courts'.

[16] The non-normative approach, as Ziembiński points out, strengthens the view that jurisprudence co-legislates, while the normative approach indicates that meaning is determined by the normgiver. The School adopted the latter approach. As Zieliński put it (1972: 20, n. 32): 'normativity of the so-called legal definitions is adopted based on assumptions about the rationality of the legislators'.

[17] In this work, I do not address the issue of how to define the expressions used by the legislator in legal texts. For more detailed discussion of this issue from the perspective of traditional logic, see, for example, Patryas (1997).

[18] Ziembiński (2002): 232.

[19] Ziembiński (1980): 310 and the literature cited therein.

pragmatic and non-pragmatic interpretative rules, it should be pointed out that, according to Zieliński, legal definitions, as rules, play both these roles simultaneously. In his opinion, they are 'guidelines informing about the meaning of a given phrase' and at the same time 'they constitute the basis for reconstructing legal norms from them, as legally binding interpretative rules'.[20]

This last view was criticized by Dybowski, who pointed out that 'legal definitions do not play any non-pragmatic role that is relevant from the point of view of the interpretation of the law'.[21] In his view, on the basis of the derivational theory there is no need to indicate the dual role they can play, and he pays special attention to two difficulties associated with this. The basic one is that there is no practical possibility for distinguishing when the legal definition has a pragmatic role ('should be understood') and when a non-pragmatic one ('should be understood in such-and-such a way'). In support of his thesis, he formulates three arguments. The first, referring to the analysis of the expression 'understand a given phrase', in relation to the assumptions of the derivational theory of interpretation, leads to the conclusion that, on the basis of this theory, the understanding of phrases is not semantic, but *de facto* syntactic.[22] This in turn means that legal definitions, as interpretative rules, require that an expression be used in an anaphoric manner. The second argument refers to the distinction between dictionary non-pragmatic rules and contextual non-pragmatic rules, and to Zieliński's thesis that the former are more primary than the latter. According to Dybowski: 'in the case of legal definitions – unlike the definitions formulated in common language dictionaries – these definitions are not linguistically more primary than contextual rules, because as a pragmatic rule of interpretation a legal definition determines the anaphoric understanding (syntactic substitutability) and "one-contextuality" (and "only contextuality") of using the defining term'. [23] This reasoning reinforces the argument from the linguistic formulation of provisions, where 'the indication of use and multiple occurrences refers to one context in which a given phrase should be substituted'.[24] The last argument is an argument from a possible world and leads Dybowski to the conclusion that 'legal definitions may have some non-pragmatic roles in the linguistic resource , but in interpretation, as it is conceived of in the derivational theory, either they do not fulfil this role at all, or the role is negligible'.[25]

Dybowski also notes a further difficulty regarding proper consideration of meaning resulting from the postulated dual roles of legal definitions. Namely that

[20] Zieliński (2017): 238.
[21] Dybowski (2017c): 115.
[22] Dybowski (2017c): 119–120.
[23] Dybowski (2017c): 121.
[24] Dybowski (2017c): 122.
[25] Dybowski (2017c): 124.

this consideration takes place at a specific 'moment of interpretation'.[26] Dybowski emphasizes that this moment refers to both the plane of the validity of law and the plane of the meaning of names in legal text.[27] In this sense, the interpreter looks at the legal text, and thus also the legal language in which the text is formulated, at a specific moment of its existence. At this moment, the language has a specific set of rules for its interpretation, specific vocabulary and specific meanings of expressions.[28] Then, going one step further, recalling the theoretical postulates of Saul Kripke, Dybowski points out that 'in the case of legal definitions, the identification of the right interpretative moment should also be accompanied by the identification of the right circle of users of such definitions'.[29] Referring to the assumptions of the derivational theory, he concludes that 'when the interpreter draws on dictionary definitions, this is nothing other than basing the interpretation on expert opinions in the field of semantics. [...] Ultimately, therefore, the main problem of legal definitions raised here as pragmatic rules of interpretation is not what actions the interpreter is to determine, but with whom the interpreter should cooperate in implementing these actions'.[30] The above criticism is interesting because it emphasizes the dilemmas arising from the semantic position adopted by the School, while at the same time highlighting the intuition associated with the petrification of certain fragments of linguistic practice in the form of dictionary definitions. In this sense, the pragmatic role of legal definitions would be to indicate the place where the relevant expression should be sought. Syntactic substitutability is not equivalent to correctly assigning linguistic meaning. On the basis of Brandom's pragmatism, such a substitution would be subject to verification by means of the language users' ability to differentiate. This check is carried out as part of a broader linguistic practice involving at least statements (assertions).

It should be recalled that the School's conception of linguistic meaning seems to ensue from two assumptions: firstly, that there is a content-related connection between a legal provision and a legal norm; and secondly, that there is a clear distinction between the provisions and norms, and the indicated rules for reconstructing norms from provisions. Thus outlined, the relationship between a legal provision and a legal norm is not a necessary one, in other words it is contingent, and in particular it is not determined by the nature of these concepts. It is theoretically possible to construct a theory of law which presupposes the existence of legal norms and, at the same time, the non-existence of legal

[26] Cf. Czepita (2010): 230, 252f.
[27] Cf. Dybowski (2017c): 128.
[28] Cf. Ajdukiewicz (1965): 24.
[29] Dybowski (2017c): 129.
[30] Dybowski (2017c): 129–130.

provisions. There is also possible a theory which describes norms as non-linguistic beings, so they could not be interpreted from legal provisions.[31]

The result of the interpretation of law in the derivational theory of interpretation – that is, the legal norm as a statement – must be decoded by the interpreter. In this sense, as Ziembiński emphasizes, 'speaking [...] about any single norm, we obviously conceive the statement under discussion (all examples of a statement of a given form) as having one specific meaning; thus the point is to arrive at an unambiguously interpreted statement'. [32] He suggests that by assigning meaning to normative statements, the meaning of such statements should be grasped by means of synonymous statements. This means that a legal norm defining a recurring obligation for entities designated by the general name is equivalent to a conjunction of a finite number of 'atomic norms', which are *de facto* norms of an individual and specific nature.[33]

This study would be incomplete without a brief discussion of the positions of two of the School's other authors. Firstly, Leszek Nowak held that 'meaning is a special kind of the sense (purpose) of language users. In this case, the question of what an expression in a given language means is a question about the communicative purpose of the (ideal) language user using that expression. Consequently, it is a question about the humanistic interpretation of language behaviour'.[34] As Zieliński points out, 'with this in mind, [Nowak – W.R.] formulated the assumptions behind some juristic rules for the interpretation of legal text', including the assumption of the rationality (ideality) of the legislator.[35]

Nowak explains the meaning of a normative statement as follows: 'the descriptive meaning of a normative statement lies in the fact that it determines – due to the specific rules of the semantic language to which it belongs – a certain ordered system, which I call an intentional objective state determined by this norm'.[36] He also indicates: 'the objective state determined by the general norm [...] I call the ordered triple (relation of doing, class phase $F\frac{w}{t'}$ persons with properties P, and conduct $C_{(t')}$)'.[37] The model of conduct is $C_{(t)}$, if it is designated by the norm $N^{(t)}$.[38] In addition, Nowak recommends introducing to the ordered triple the

[31] It is worth repeating, however, that as part of the theory constructed by the School, it was assumed that the main propositions of this theory include propositions describing the relationship between a provision and a legal norm as a relation of a content nature, while clearly distinguishing the provision from the norm.

[32] Ziembiński (1966): 122.

[33] Cf. Ziembiński (1966): 148.

[34] Nowak (1973): 34.

[35] As Zieliński indicates, another attempt to apply the methods of humanistic interpretation was made in Patryas work (1988), among others. For more detailed discussion on the assumption of the rationality of the (perfect) legislator, see Nowak (1973).

[36] Nowak (1966): 47.

[37] Nowak (1966): 41.

intentionality of the appropriate constants denoting the addressee of the norm and the behaviour indicated by it.[38]

There is significant similarity between the positions of Leszek Nowak and Wojciech Patryas. In the conception presented by the latter, 'the meaning of a norm is a property appertaining to it and to all synonymous norms'.[39] The relationship of synonymy that occurs between norms is possible, according to Patryas, thanks to the possibility of translating the arguments of norms. Such translation is made on the basis of an appropriate definition. Consequently, '[…] the norm and its translation have the same normative expression and equivalent arguments, so they are equivalent'.[40] In this conception, the expression 'linguistic meaning' does indeed appear to be a specific function that attributes arguments to translated norms, which are equivalent to the arguments of superior norms. As Patryas astutely observes, 'a natural language is not a language within the meaning of logical theory',[41] which in fact means that the concept thus outlined has to measure up to Tarski's argument. While it seems that Patryas – in contrast to the position adopted in the School – does not reject the idea of the possibility of establishing the objective meaning of norms on the basis of a specific language, the price for adopting such a position is to adopt the counterfactual thesis that the language of legal norms is an artificial language.

II. THE INFLUENCE OF KAZIMIERZ AJDUKIEWICZ ON THE SCHOOL'S POSITION

When assigning meaning to a legal norm, one should proceed in a similar way to when reconstructing norms from legal provisions. This entails it is necessary to apply the interpretative rules in accordance with the adopted theory of interpretation. A legal norm, as the content of legal provisions, when defining the obligation expressed in the provisions, uses the vocabulary of interpreted provisions and the vocabulary relevant to the adopted concept of a legal norm.[42] The influence of Ajdukiewicz's philosophy is clearly visible here. In his conception of language, Ajdukiewicz understood a language, *L,* to have a fixed vocabulary, rules of syntax and motivational relations, that is, objects being given a certain name in view of them possessing certain features.[43] It is these motivational relations that lead to language directives being understood as models for

[38] Nowak (1966): 41.

[39] Patryas (2001): 109. The author placed this remark in footnote 233, while he presented his conception of the meaning of a norm on pp. 108–110.

[40] Patryas (2001): 110.

[41] Patryas (2001): 118.

[42] The adopted concept of a norm specifies, for example, that the norm is the statement 'prescribing that entities *X* are ordered in circumstances *C* should behave in the manner *N*'.

[43] Ajdukiewicz (1978): 25, 28.

recognizing certain sentences as sentences of a given language.[44] The definition of meaning is created by a self-critical approach to the equivalence definitions previously formulated by Ajdukiewicz. He proposes the following intuition: 'two terms in a language have the same meaning provided that when we are presented with a certain aspect of an object we are prepared to apply to the object either of the two terms.' [45] It seems, therefore, that this readiness to apply names corresponds to the previously discussed motivational relationships. It is particularly noticeable here that Ajdukiewicz perceives the meaning of a name in the context of recognizing sentences and the correctness of using a given name. Avoiding the criticism of Alfred Tarski presented in the form of Tarski's argument,[46] following Ajdukiewicz the definition of equivalence can be taken as: 'An expression *A* in a language *L* is synonymous with another expression *B* if and only if (1) Each and only such an experience (mental act) of type *P* from which in virtue of the rules of *L* a sentence *Z* of *L* containing an expression *A* is immediately inferable in a manner essential for *A* is also an experience from which in virtue of the rules of *L* another sentence *Z'* obtained from *Z* by replacing some occurrences of *A* by *B*, is immediately inferable in a manner essential for *B*.'[47] The definition of meaning obtained by abstraction from the definition above would 'define the meaning of an expression *W* in *L* more or less as that property of *W* which is common to all and only those expressions synonymous with *W* in *L*'.[48] The above conception of meaning boils down to the interchangeability of the names used and readiness to recognize sentences in which such interchangeability, as defined above, may occur.

When transferring the above conclusions to the semantics adopted at the School, we can employ Ajdukiewicz's definition of equivalence and state: An expression belonging to the language of legal provisions is in legal language synonymous with an expression of the language of legal norms, if and only if, each and only such an experience, being an understanding of legal text, from which in virtue of the rules of legal language is immediately inferable in a manner essential for an expression belonging to the language of legal provisions, containing an expression belonging to the language of legal provisions, is also immediately inferable in virtue of the rules of meaning and in a manner essential for an expression belonging to legal norms from the recognition of a sentence belonging to legal language by replacing (everywhere or not everywhere) the expression of

[44] 'Now for every language with fixed motivational relations, i.e. for every language whose command would require dispositions to accept its sentences on the basis of suitable motives (assigned to each sentence-type), one might – theoretically – formulate a rule which would assign suitable acceptance-motives to each sentence-type' – Ajdukiewicz (1978): 28.

[45] Ajdukiewicz (1978): 30.

[46] For more detailed discussion of this issue, see Ajdukiewicz (2006): 397.

[47] Ajdukiewicz (1978): 31.

[48] Ajdukiewicz (1978): 32.

legal language by the expression of the language of legal norms. However, it is not possible to infer the definition of the meaning of norms from such a definition of equivalence, because the definition of meaning presented by Ajdukiewicz is applied to artificial languages, that is, to languages not containing ambiguous expressions. Neither the language of legal provisions nor the language of legal norms is such a language.

Being aware of these difficulties regarding the semantics of natural language, Ajdukiewicz changed his thinking on this issue towards the end of his life. One could even say that the pragmatic turn in his views was based on the fact that he shifted the burden of reflection from defining equivalence to the problem of the subject's readiness to recognize or reject sentences.

This assumption was discussed by Jerzy Hanusek, who pointed out that 'the expressions of each interpreted language used by a language community for communicative purposes have meanings recognizable by language users [emphasis – W.R.]. Otherwise communication would not be possible. For each language of this kind, there is a relation of equivalence between expressions that its users intuitively recognize and use in language practice'.[49] This clear focus on the pragmatic concepts of the recognition and rejection of sentences testifies to the contemporary relevance of the presented conceptions.[50]

III. ANALYTICAL PRAGMATISM AND THE PROBLEM OF THE LINGUISTIC MEANING OF LEGAL NORMS

The philosopher John Wisdom is credited with the sentence: 'You can philosophise about Tuesday, the pound sterling, and lozenges and philosophy itself. This is because the analytic philosopher, unlike the scientist, is not one who learns new truths, but one who gains new insight into old truths'.[51] To some extent, this sentence explains why analytical methods, with all the richness of their varieties, are the best tool for dealing with the problem of the linguistic meaning of legal norms. Analytical philosophy provided theorists of law with tools for dividing law, in its existing entirety, into its component parts.[52] It allowed a terminological order to be introduced into jurisprudence and intuitively perceptible constructs or phenomena to be grasped in concepts. The School adopted the idea of the Lvov-Warsaw School almost in its entirety, on which Isidore Dąmbska wrote as follows: 'The main postulate consistently implemented by the representatives of the School in their work, was the postulate of applying semantic analysis and logical discourse in the study of philosophical methods, while recognizing the role of intuition,

[49] Hanusek (2012): 163.
[50] For more detailed discussion of this issue, see Nowaczyk (2000): 101–113.
[51] I cite from Szubka (2009): 13, and the footnote to this citation.
[52] On analysis as dividing something into its component parts, see Szubka (2009): 37.

broadly understood, in the process of detecting statements; the postulate of clarity, precision and logical correctness in formulating issues, theorems and arguments, and in defining concepts; finally, the postulate of criticism and anti-dogmatism in the assessment of theoretical assumptions.'[53]

In closing, however, I would like to draw attention to a particular direction present in the philosophy of language – the direction that Robert B. Brandom calls analytical pragmatism; and to indicate how its achievements may be usefully employed by legal theory.

As is evident from the name itself, analytical pragmatism does not break with the analytical tradition, but rather tries to overcome the difficulties this tradition encountered. Brandom points out: 'There are a number of different sources of discontent with that analytic project, and I think it is important to disentangle them. A significant element of the enterprise pursued in these lectures is to respond to what I take to be the weightiest, deepest, and most important sort of objection to the classical project of philosophical analysis: the battery of considerations raised by the pragmatists, and above all Wittgenstein.'[54]

In relation to analytical theories of law, therefore, pragmatism is an analytical philosophy that does not negate the existing achievements of these theories, but proposes the replacement of old tools, which have limited possibilities, with improved variations. With regard to the problems outlined here, it is enough to pay attention to Brandom's semantic pragmatism, the assumptions of which are expressed by the following words: 'Pragmatist considerations do not oblige us to focus on pragmatics to the exclusion of semantics; we can deepen our semantics by the addition of pragmatics. [...] If we approach the pragmatists' observations in an analytic spirit, we can understand pragmatics as providing special resources for extending and expanding the analytic semantic project: extending it from exclusive concern with relations among meanings to encompass also relations between meaning and use.'[55]

Dybowski referred to the analytically understood problem of the linguistic meaning of legal texts (thus also indirectly to the linguistic meaning of legal norms). Employing Brandom's terminology, he pointed out that 'this distinction [between a legal provision and a legal norm – W.R.] can be treated as establishing the relationship of analysis between the base vocabulary and the target vocabulary, in which the privileged (base) vocabulary is that of legal norms, constituting the result of using name logic and sentence logic for constructing a syntactic model of a norm. The vocabulary of legal provisions is translated in the vocabulary of this model'.[56] Therefore, the problem of the vocabulary of norms,

[53] Dąmbska (1989): 29. On the Lviv-Warsaw school as a trend in analytical philosophy, see Szubka (2009): 71–73.

[54] Brandom (2008): 202–203.

[55] Brandom (2008): 8.

[56] Dybowski (2017a): 20.

which is richer than the vocabulary of provisions, was noticed. In the above sense, the target vocabulary consists of, among other things, the vocabulary of legal provisions. To understand the meaning of a norm in the spirit of analytical pragmatism, it would be necessary to designate for this translation 'a broader practical context of action in which conceptual content is created'.[57] In this sense, 'it is this act, action, practice that is to play a fundamental role in explaining the conceptual content, and it should have – as Brandom describes it – an explanatory priority over semantics'.[58]

Dybowski defines the semantic position adopted at the School as '*midstream semantics'*, 'because [...] fixing the content of linguistic expressions depends primarily on the transformational rules that serve as an intermediary between antecedents and final results'.[59] In my opinion, this approach to the problem means it is necessary to pay special attention to the thesis that the source of the rules of meaning in the language game called law is legal culture. I understand legal culture as a set of practices in which the practice of using the vocabulary of juristic and legal language plays a special role. In this sense, studying legal culture would also mean studying how the semantic rules for that language game are created, including the assumptions attributed to those rules.[60]

The practice of treating legal norms as elements of language differs in at least one fundamental way from the practice of natural language. It turns out that the structure of legal practice privileges some of its participants, giving them the possibility of arbitrarily determining whether the attribution of meaning took place correctly.[61] Therefore, consideration should be given to how this can be reconciled with Brandom's program, because following Jaroslav Peregrin, who remains within the circle of analytical pragmatism, we can agree that: 'To say that an expression means thus and so is essentially to say that it ought to be used in a certain way.'[62] Thus, privileging selected participants of language practice would be tantamount to granting them a kind of absolute power on the semantic level. Brandom's program is attractive for analytical theories of law also because of the problem of intersubjectivity or the objectivity of knowledge, since in this regard it offers an attempt to answer the question: 'how is it possible for the entire language community to be mistaken about their beliefs?'[63]

[57] This is how Zarębski interprets Brandom's thought (2013): 33.

[58] Zarębski (2013): 34. For more on the possibility of using analytical pragmatism in the theory of interpretation, for example, Canale, Tuzet (2007): 32–44; Klatt (2004); (2008).

[59] Dybowski (2018): 36.

[60] Dybowski also commented on this view (2018): 36.

[61] Here I have in mind, for example: the court and the parties to the proceedings, the authority issuing the interpretation of the tax law, and the applicant.

[62] Peregrin (2012): 499.

[63] Zarębski (2013): 278.

For Dybowski, inferential pragmatism offers a good alternative to one-sided semantics. He also stipulates: 'Law fits into this broadly inferentialist picture of semantics, provided that when legal practitioners use legal concepts (when they engage in legal discursive practice(LDP), they remain within given autonomous discursive practice (ADP) in a natural language'.[64] In this conception, the practice of generating the linguistic meaning of a norm assumes the possibility of its use within the framework of practical reasonings.[65] In his opinion, the order of explanation here goes from the practice of seeking legal reasons for action, to assertions which codify such practices by licensing some conclusions as distinctly legal.[66]

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The School's position on linguistic meaning has its origin in the assumption that there is a content-related relationship between a legal provision and a legal norm, and from the clear distinction between a provision and a norm, and the indication of rules for reconstructing norms on the basis of provisions. The influence of Ajdukiewicz's philosophy on the School, as well as the pragmatic shift that occurred in his thinking towards the end of his life, suggest that it would be fruitful to confront the School's achievements with the challenges of pragmatism. The expectation here is that the result of the meeting of these two currents would be, at least in part, a solution to the epistemological difficulties which arose in the analytical theories of law.

Analytical pragmatism, which is only briefly covered here – seems to be an encouraging proposal for solving the problems faced by analytical theories and philosophies of law, as well as those theories and philosophies that, although they are not included among analytical theories, nevertheless benefit from the analytical apparatus to take on problems of their choice. Brandom's thesis seems to be valuable in this respect, since, without failing to consider semantics, it proposes examining linguistic practice and treats it as the basis for developing analytically understood semantics. The transfer of these considerations to law must take into account the differences related to legal linguistic practice, in particular the asymmetry of the discursive rights of entities playing the language game of 'law'.

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[64] Dybowski (2017b): 62.
[65] Dybowski (2017b): 62.
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THE LINGUISTIC MEANING OF A LEGAL NORM IN THE POZNAN-SZCZECIN SCHOOL OF LEGAL THEORY IN THE LIGHT OF ANALYTIC PRAGMATISM

S u m m a r y

The author first reconstructs standpoints adopted by the scholars from the Poznan-Szczecin school of legal theory regarding the linguistic meaning of legal norms. This reconstruction allows certain dilemmas related to the adoption of analytic philosophy in the theory of law to be visualized. In the next section of the article, attention is paid to the influence of Kazimierz Ajdukiewicz's philosophy on the understanding of linguistic meaning within the School. The problem of linguistic meaning may be explained by the definition of equivalence, the core of which is a set of directives of a specific language. Finally, the author comments on the theses of Robert B. Brandom's analytic pragmatism and the application of the latter to legal theory of Maciej Dybowski. Analytic pragmatism extends semantic research through an attempt to understand practice-related conditions.

Keywords: legal norm; linguistic meaning; analytic pragmatism; Poznan-Szczecin school of legal theory