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Abstract:

In the article the author examines the concept of actions similar to legal actions in civil law proposed by Krzysztof Mularski. These are actions which are based on declaration of intent, but they are not legal actions in strict sense (e.g. forgiveness, consent to medical treatment etc.) Closer analysis shows that forgiveness can be interpreted in two ways: as a performative or as a sign of feelings. When one is willing to accept performative nature of forgiveness, a question may be asked if there are performatives in law, which are not defined in statutory law. The author argues that settling a quarrel involving a point of honor could be such a performative. Although traditional performative ways of settling quarrels (e.g. duels) are no longer approved by law, there are new institutions (colleague arbitration, mediation) which may result in shaping rights and duties in civil law. In conclusion the author shows that the concept proposed by K. Mularski has great potential, and could be used as a tool for integration of theory of Polish civil law with general theory of law and philosophy of language. This is a rare situation when cooperation between dogmatic discipline of law and theory is fruitful for both sides and genuinely fulfils the postulate of interdisciplinarity in jurisprudence.