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ABSTRACTS OF ARTICLES AND KEYWORDS

From Editors

In addition to addressing and briefly discussing the content of the issue, this time we also reflect on an international situation and the barbaric military attack by the Russian Federation on Ukraine on February 24, 2022.

OPERA

Katarzyna Pfeifer-Chomiczewska, *On the impact of artificial intelligence on human relationships and marriage law*

Intensely developing different forms of AI interfere not only in the labour market, consumer protection, the financial sector or the transport sector, but also in family life and marital life. The aim of this article is to assess from a legal point of view: the potential impact of the use of currently available forms of AI on the possibility to pronounce divorce; the possibility to replace a human judge with a robot judge in divorce proceedings; and the possibility to formalise (in the distant future?) relationships with robotic partners.

Key words: artificial intelligence; robot; civil law; marriage; divorce; infidelity.

Katarzyna Brzostek, *Selected problems related to the work of an attorney in civil proceedings initiated through an extraordinary complaint*

The purpose of this study is to present selected aspects of the verification of the scope of attorney's authorization to act in a civil case that is initiated through the

extraordinary complaint (*skarga nadzwyczajna*). A special emphasis in the paper is put on the substantive framework of the power of attorney. The study also discusses the compulsory representation in the course of an extraordinary review (*kontrola nadzwyczajna*) and legal consequences of its violation. It displays issues related to the power of attorney in the form of a document. The article also addresses the admissibility of granting in civil proceedings the power of attorney in a written form with an electronic signature. Sharing her own practical experience, the author presents the most common deficiencies in the assessment of the proper authorization of an attorney that arise in the course of an extraordinary review.

Key words: extraordinary complaint, Supreme Court, professional attorneys, advocate, legal counsel, representation, attorney, power of attorney, scope of authorisation, compulsory representation, capacity to participate in the proceedings (*zdolność postulacyjna*), extraordinary complaint procedure, civil proceedings.

Piotr Szudejko, *Ending a patient's life in the Polish criminal law*

The subject of the article is a review of the regulation concerning an euthanasia and medically assisted suicide in the Polish criminal law. The thesis is that the currently applicable regulations on: mercy killing (article 150 of the Criminal Code) and assisted suicide (article 151 of CC) do not include the medical context nor the health situation of the victim, hence the discussion in the literature on the subject of the penalty and the institution of extraordinary mitigation of punishment is unjustified.

The discussion on the admissibility of the above-mentioned medical procedures is omitted because regardless of its axiological basis, the future regulation will increase the protection of patients' right to life and the legal security of medical staff. Finally, an outline of the future regulation is presented.

Key words: euthanasia; medically assisted suicide; thanatology

Адам Редзкік, *Рафал Лемкін (1900-1959), один із творців міжнародного кримінального права. Коротка біографія (Raphael Lemkin (1900-1959), co-creator of international criminal law. Short biography)*

The study is a slightly modified version of the book published in English in 2017 (*Rafał Lemkin (1900-1959) co-creator of international criminal law. Short biography*, Warsaw 2017) [Raphael Lemkin (1900-1959), co-creator of international criminal law. Short biography]. Owing to the circumstances, including the constantly uncovered crimes committed by the Russian army against the Ukrainian population, we decided to publish an article devoted to Rafał Lemkin in Ukrainian, also because Lemkin himself noticed the tragedy of Ukraine already in the mid-XX century, when he labelled the Holodomor and the policy of Ukraine's denationalization by Russians, and subsequently by the Soviet Russians, a genocide (see the Polish version of Lemkin's 1953 paper – p.).

This article is published in Ukrainian.

For help in the paper's translation and the preparation for publication, the author thanks Dr Ihor Zeman and Ms. Krystyna Potapenko.

Key words: Raphael Lemkin; Juliusz Makarewicz; genocide; international criminal law

SENTENTIAE

Patryk Gacka, *Review of case law of the International Criminal Court (January-June 2022)*

This review of case law provides a brief description of two important legal developments before the ICC from January to June 2022, that is the decision to initi-

ate pre-trial proceedings in the situation of Ukraine in connection with the mass victimization resulting from the Russian aggression in February 2022, and the decision on the claims for damages brought by Charles Blé Goudé under Article 85 of the Rome Statute of the ICC.

Keywords: compensation, wrongful prosecution, International Criminal Court

Monika Strus Wolos, *Comment on the Order of the Supreme Court of May 31, 2022, III CZP 28/22. When a Child brings an Action against a Parent for the Protection of Personal Goods in the Form of Family Ties*

This is a detailed comment featuring a historical analysis of the Supreme Court's decision mentioned in the title. The author adopts an unequivocal position in relation to the issue of family ties as a personal good.

Keywords: case law of the Supreme Court, family relations, personal goods, the family tie

FONTES

Maurycy Allerhand, *The Impact of the Criminal Code on Private Law*

In 1932, the Regulation of the President of Poland – the Criminal Code was issued. This led to numerous comments as well as voices of concern about the content of the uniform criminal law in Poland and its impact on the legal system. One of them was a short article by Prof. Maurycy Allerhand published in “The Voice of Law”. This paper deals with consequences of the decriminalization of adultery and other provisions of the Criminal Code on marriage and inheritance law. Moreover, it discusses an introduction of multiple types of offences instead of one (fraud – *oszukańcza kryda*) and reflects on an impact of this change on civil law and civil procedure.

Only minimal spelling corrections are introduced.

Keywords: The Criminal Code of 1932; Private Law of the Second Republic of Poland; Criminal Law of the Second Republic of Poland; Maurycy Allerhand; Juliusz Makarewicz.

Eugeniusz Waśkowski, *The Essence of the Civil Process*

This article by one of the most eminent civil law scholars in the history of the Polish legal science signals the problem of the legal nature of a civil process; an issue that he had previously addressed, among others, in the 1932 System of the Civil Process (which will be reprinted in “The Library of the Voice of Law” series in a couple of months). The author presents and criticizes three concepts with respect to the legal nature of a civil process and reveals his own viewpoint, whose more detailed treatment can be found in his textbook on civil procedure (to which he refers). The article was originally published in “The Polish Civil Process” (*Polski Proces Cywilny*), a practice-oriented journal that focuses on an interpretation of the Polish civil process.

Minimal textual changes are made through a slight modernization of the spelling.

Keywords: civil process; theory of the civil process; Eugeniusz Waśkowski; Oscar Büllow; Adolf Holmsten; James Goldschmidt; August Hegler

Juliusz Makarewicz, *Criminal Law and Civil Rights*

The reprinted lecture by Prof. Juliusz Makarewicz, one of the most eminent Polish legal scholars of the 20th century, the main author of the 1932 Criminal Code (whose

90th anniversary we celebrate this year) and the founder of the Lwów School of Criminal Law, was delivered on January 20, 1936, in the Auditorium of the Jan Kazimierz University in Lwów, during “the Academy” (an official event) for the 275th anniversary of the founding of the Jan Kazimierz University in 1661. The lecture was previously published in “Ruch Prawniczy, Ekonomiczny i Socjologiczny” from Poznań.

Prof. Makarewicz’s utterance should provide grounds for a serious reflection by legal scholars, for it is a warning (in the context of what happened a few years afterwards) and – as it seems – it remains to a large extent topical also today – at the time of fundamental changes occurring between the legislative authority in the European Union and the European countries. It also allows one to verify the views on the Polish law in the 1930s and on the role of the April Constitution in safeguarding and guaranteeing basic civil rights, which at that time were limited in many European countries.

Only a minimal modernization of the spelling is made.

For the permission to reprint this piece, we would like to thank Dr Jolanta Olbrycht-Roguska – the Author’s granddaughter and heirress.

Keywords: Juliusz Makarewicz; criminal law; the Criminal Code of 1932; civil rights; human rights

Raphael Lemkin, *The Soviet Genocide in Ukraine*

Rafał Lemkin presented this paper to the Ukrainian diaspora in 1953. Lemkin confirmed in it his attitude towards the Soviets and Russians, which was evident already in his early research on the Soviet criminal law conducted at Juliusz Makarewicz’s seminar in Lwów (now: Lviv).

From the perspective of the war that was initiated through the Russian aggression on February 24, 2022, what is striking is the adequacy of the assessment of the Russian mentality. Lemkin – just like Richard Pipes later on – did not see any difference in the policy of expansionism and the denationalization pursued by Russia since the times of the Grand Duchy of Moscow.

Once they were unable to eradicate an entire nation, religion or culture, they eliminated the elites, so that the population could then be Russified. Ukrainians experienced that, and so did Poles. Examples of the Russian genocide against Poles include the crime directed at the elites known as the “Katyń massacre” as well as the 1937 “Polish Operation”. Similarly – as Lemkin writes – Ukrainian elites and leaders of the Ukrainian Orthodox and the Greek Catholic churches were being eliminated. The Russian genocide against Ukrainians took a particular form during the Holodomor.

Keywords: Rafał Lemkin; genocide; the Holodomor; Russian crimes; Soviet crimes.

RES GESTAE

Paweł Księżak, *The Law of Cyborgs (2). The Property and Personal Goods*

The body serves as a boundary between the subject and the object. Things, including those used by a human being, always differ in terms of their legal status from that of a human being. The living organism of *homo sapiens* is a natural person; the subject that is in certain relations with things outside it but is not in an ownership relation with itself. Nevertheless, how to assess objects permanently connected to the body? Do they become part of the body, and consequently an element of the subject, or do they still remain things whose status can be assessed according to regulations applicable to things? Or maybe their status is distinct, in-between the object and the subject? Perhaps answers to these questions necessitate the modification of the paradigm ac-

cording to which the body delimits the subject's boundary. The subject may reach beyond the body, but it can also encompass artificial objects, including but not limited to those that have been connected to the body.

Keywords: cyborgs, transhumanism, civil law, artificial intelligence, new technologies.

Adam Redzik, "The Lexicon of Jurists and Economists" (8): Juliusz Makarewicz (1872-1955)

Over the past few years, the Author has published several studies on Juliusz Makarewicz, which – as the Author announced a few years ago – are a prelude to the publication of the monograph on this outstanding Polish legal scholar. The round 150th birth anniversary creates a good opportunity to reflect on the research conducted so far and to present in a literary form a biographical note on life and achievements of the main creator of the 1932 Criminal Code, whose 90th anniversary is celebrated in 2022.

Keywords: Juliusz Makarewicz; Jagiellonian University; Jan Kazimierz University of Lwów (now: Lviv); the Criminal Code of 1932; Polish criminal law of the 20th century; the criminal law science of the 20th century; philosophy of law in the 20th century; forced settlements in the USSR.

Patrycja Masternak, *I will study, I want to and I must! A Woman at the Law Faculty in the 1920s – a Case Study*

"In the diary like in a mirror, search for images of the past, charming memories, youth, and may they never be covered by the mold of oblivion or masked by the shadow of a new life full of happiness. For one shall remember that the path to the future led through an immortal past" wrote Jadwiga Orłowska, a 20-year-old, on the title page of her diary on May 7, 1918.

The testimony of the era immortalized on yellowed pages is exceptionally valuable since the fate of the author became combined with the history of the reborn Poland. Next to soldiers fighting for the borders, another battle was initiated then also by women. Jadźka, as her relatives called her, was there with them.

The purpose of this paper is to show the situation of women wishing to work as lawyers in the 20th century through the prism of the biography of one female lawyer.

Keywords: Jadwiga Ostrowska; John Paul II Catholic University of Lublin; law studies – women; Polish female lawyers in the 20th century

Marcin Zaborski, *The First Actual Meeting of the State National Council on August 15, 1944, and the Minutes from that Meeting*

This material is about the meeting of the State National Council on August 15, 1944, in Lublin. It consists of two parts: the monographic paper and the source document (minutes from the meeting). The issue was not examined from a historical and legal perspectives after 1990, even though it refers to crucial problems of the Polish legal system between 1944 and 1989. An analysis of the above-mentioned protocol demonstrates the scale of rule of law violations, which were at the roots of the People's Poland (1944-1952) and the Polish People's Republic (1952). A quasi-parliament (the State National Council) confirmed on August 15, 1944, the decrees which were enacted by an organ not only without powers to do so, but also non-existing in legal terms (the Polish Committee of National Liberation). In this issue of "The Voice of Law", the first part – the monographic paper – is published.

Keywords: the State National Council, the Polish Committee of National Liberation, Sejm, parliament, the rule of law, decree, statute, communism, the communist authority, the People's Poland, the Polish People's Republic, Polska Lubelska.

PANOPTICUM

Ewa Stawicka, *De Re Publica*

Another column by Ewa Stawicka, an attorney and the Editor-in-Chief of “Palestra”. This time an inspiration is drawn from Cicero’s *De re publica* and the history of the Sabine Women – their abduction leading subsequently to the state of peace. The author refers to the current situation and the migration of the Ukrainian women because of the war.

MISCELLANEA

Ewa Salkiewicz-Munnerlyn, *Interim measures of protection in the International Court of Justice – order of 16 March 2022 in case Ukraine vs Russia*

This article, which is published in English, examines the ICJ’s order of 16 March 2022 which introduced provisional measures in relation to the application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Ukraine v. Russia*). It discusses the criteria necessary for the International Court of Justice to grant provisional measures. The paper is based on the ICJ’s case law, in particular with respect to their binding character, following the judgment in the *LaGrand* case. The Court explained in that case that its orders on provisional measures are binding. Moreover, the ICJ took into consideration a new requirement – the credibility of protected rights – formulated by the Court for the first time in the case of *Belgium v. Senegal*.

Keywords: International Court of Justice, provisional measures, credibility of protected rights, conditions for granting provisional measures, legal consequences of provisional measures, prevention of disputes.

Review: Luka Breneselović, *Die wissenschaftskritischen Zuordnungen von Franz von Liszt. Ein Beitrag zum Verständnis der Modernen Schule des Strafrechts*, Berlin 2020.

A review of the detailed study devoted to one of the most distinguished Austrian lawyers at the turn of the XIXth and the XXth century, a co-founder of the modern school of criminal law, categorized most often as the sociological school of criminal law.

Keywords: Franz von Liszt (1851-1919), criminal law scholarship, the sociological school of criminal law

ON THE COVER: *Hyökkäys – Attack*

On the cover there is the 1899 painting by the Finnish artist Edvard Isto (1865-1905) – *Hyökkäys*, that is *the Attack*. It depicts a woman with golden blond hair in a white dress with a belt featuring the Finnish emblem (a golden lion), and a blue scarf around her neck symbolizing Finland (the Grand Duchy of Finland) that possesses the right to self-determination, its own laws, its own language and to its own culture. This right – which is represented by the book with the LEX inscription – is attempted to be taken away by the black two-headed eagle, namely the Tsarist Russia. As explained in the commentary (p.), Ukraine these days is like the woman in Edvard Isto’s painting, whereas the colors used more than 120 years ago by the Finnish artist – blue and yellow – are the national colors of Ukraine. These colors attract attention to such an

extent that those unfamiliar with the work's original sense associate them with the current struggle of Ukraine with the Russian aggressor for the right to self-determination, independence and freedom.

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