SPIS TREŚCI
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PRAWO – *THE LAW*

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PRAWO – THE LAW

Renata BABIŃSKA-GÓRECKA

LEGAL CONDITIONS OF INCREASING THE RETIREMENT AGE

(S u m m a r y)

This study concerns the legal aspects of increasing the retirement age in Poland.

It adopts the assumption that from a legal point of view raising the retirement age is changing the scope of using the legal norm as the basis for entitlement to a pension, or change in legal classification of the effects of past events relevant to the rights acquired or purchased.

According to the author, such a change as constituting a potential object of particular protection of legal classification of these events should be assessed from the point of view of development rights derived from the rule of democratic state of law.

The article therefore attempts to evaluate the legal regulation of increasing the retirement age in the context of its impact on situations of the insured with are shaped by the current legal regime.

This area of study focuses on determining whether the new regulations interfere with the social position of the insured shaped to such an extent that in the light of the Constitutional Court and the views of doctrine may be subject of protection under the principle of acquired rights.

The remainder of this paper assesses the changes from the point of view that the principle of citizens' trust in the state and its laws is maintained and respect that the requirement for non-arbitrariness for the adoption of criteria for changing the law.

The article closes with more general observations about the importance of the decision about increasing the retirement age for the assessment of the implementation of postulate of entirely of employees insurance.

In this regard, the article also includes general observations regarding the location of the new benefits, which is a partial pension, in the system of social security benefits, defined as benefits compensating the effects of disability or inability of its provision (social risk).

Maciej CHMIELIŃSKI

LEGITIMATION AND LIMITATION FACTORS OF THE CRIMINAL PUNISHMENT IN THE ENLIGHTENMENT'S THEORIES OF PUNISHMENT

(S u m m a r y)

The article focuses on legitimation and limitation factors of Enlightenment's punishment theories. The author divides the conceptions of the most important punishment theorists of XVIII century into two groups: the first includes deterrent theories of Cesare Beccaria and

Jeremy Bentham, the second amounts to retribution theories of Adam Smith and Immanuel Kant. Arguing that the paradigm of the limitation and legitimation factors of punishment needs to play a key role in the modern theory of punishment, the article shows that the Enlightenment discourse between deterrent and retribution theories delivers many important arguments for the modern practice of lawmaking and law-enforcement in the criminal law sphere.

Adam ERECHEMLA

THE ORIGINS OF THE COMMUNITY ENVIRONMENTAL LAW

(S u m m a r y)

This paper presents the first acts of the Community environmental protection law, adopted before the introduction of the Single European Act to protect air and water. It also includes acts concerning other areas of Community policies that influence the environment, as well as international conventions. It discusses the drafting process for the acts, their scope, duration, as well as the institutions and measures introduced in them. Acts relating to the protection of air and water are arranged chronologically. Final considerations concern the lack of a direct treaty basis for introducing new acts to protect air and water, the solutions implemented due to this situation, the detailed scope of the directives, the characteristics of the introduced acts and their duration. They also list the rules of environmental protection laws included in these acts.

The author also suggests the scope of further studies which would allow for formulating general conclusions and determining the development trends in the environmental law in the period in question.

Anna GŁOGOWSKA-BALCERZAK

CULTURAL ASPECTS OF THE CRIME OF GENOCIDE

(S u m m a r y)

This paper examines cultural aspects of the crime of genocide. Although the concept of cultural genocide was rejected by the drafters of Genocide Convention in 1948, the notion appears from time to time in international discourse. It was associated with colonization process and forced assimilation of indigenous people, however some commentators also use it to describe policies of modern states towards minority groups living on their territories.

International framework for the protection of minorities and indigenous people can be seen as a substitute for the legal concept of cultural genocide, however the scope of the protection offered by these two areas – international criminal law and human rights law – is substantially different. Yet, cultural considerations play a subsidiary role within binding understanding of genocide, which is reflected in the jurisprudence of *ad hoc* criminal tribunals, as they help to establish the specific, genocidal intent and to define the outlines of the groups protected.

Supporters of the notion point out, that cultural genocide can perform another important role – evidence of cultural genocide should be treated as an early warning that can contribute

to prevention of mass atrocities. This is especially important in the light of recent development of the Responsibility to Protect (R2P) doctrine.

To conclude, the international crime of genocide will probably remain limited to the physical and biological dimension, as there is no will of states to expand the notion, however its cultural aspects should not be neglected.

Anna KEMPA-DYMIŃSKA

LEGAL-COMPARATIVE ANALYSIS OF GENETICALLY MODIFIED ORGANISMS REGULATIONS ACCORDING TO POLISH AND SPANISH LAW

(S u m m a r y)

This article is a contribution to the reflection on the issue of genetically modified organisms. The use of transgenic organisms in agriculture and food industry is the subject of unceasing discussion between supporters and opponents of GMOs. The aim of the article is to present Polish and Spanish legislation on genetically modified organisms. The analysis of Polish and Spanish legislation may allow to demonstrate how different is a direction in which the Polish and Spanish model of regulations on GMOs goes. The attention is also paid to the EU law, which serves to choose a model that more meets the EU requirements. The first part of the article presents the definition of genetically modified organisms and the axiological basis. Secondly, are presented the most important EU regulations on GM organisms. The next part of the article describes Polish and Spanish legal acts on genetically modified organisms which allows to compare both legislations at the end of the article.

Vytautas NEKROŠIUS

TENDENCJE W ROZWOJU PRAWA PROCESOWEGO W REPUBLICE LITEWSKIEJ PO WEJŚCIU W ŻYCIE NOWEGO KODEKSU POSTĘPOWANIA CYWILNEGO

(S t r e s z c z e n i e)

1 stycznia 2003 r. w Republice Litewskiej wszedł w życie nowy kodeks postępowania cywilnego. Jego regulacje powstały w oparciu o założenia socjalnego modelu procedury cywilnej, a za wzór posłużył austriacki kodeks postępowania cywilnego z 1895 r. Od chwili wejścia w życie ustawa podlegała stosunkowo nielicznym, choć istotnym nowelizacjom, dotyczącym na przykład pojęcia interesu publicznego, zakazu *ius novorum* czy kwestii związanych z postępowaniem dowodowym i apelacją, wreszcie rozszerzeniem dopuszczalności zastosowania technologii informatycznych.

We wprowadzanych nowelizacjach widoczna jest tendencja do wykorzystania doświadczeń innych ustawodawstw, ciągle jednak pojawiają się problemy związane z autonomią stron i dyspozycyjnością procesu. Okazuje się, że pogląd, zgodnie z którym państwo jedynie w bardzo ograniczonym zakresie może ingerować w prawa podmiotowe i autonomię stron, zyskuje poparcie z dużymi oporami.

Edyta SZPURA

AN UNINCORPORATED ASSOCIATION IN TERMS OF THE AMENDMENTS TO THE CIVIL CODE MADE BY WAY OF THE ACT OF 14 FEBRUARY 2003

(S u m m a r y)

The status of an incorporated association is subject to a continued doctrinal dispute between those who believe that such an association is an agreement of a contractual kind and the exponents of the view that it is an organisational entity with limited legal capacity. This dispute has been going on for years and did not end after the new Associations Act was introduced in 1989, or after the 2003 amendments to the Civil Code.

The amendment to the Civil Code established a new category of entities in civil law, i.e. the so-called unincorporated legal entity (Article 33^1 of the Civil Code). The purpose of this publication is to answer the question of whether an unincorporated association can fall within this category or it should continue to be perceived in terms of an organisational relationship between entities. Indeed, the amended Civil Code fails to provide a definitive solution to this issue, so the doctrinal dispute goes on. In order for the association to receive the status of a legal entity, one must establish when it is organisationally independent enough, and then legislate on the relevant requirements in this area. Indeed, at the heart of the many self-conflicting doctrinal theories is the legislator's failure to clearly define which entities are granted legal capacity. Also, the status of unincorporated associations must be viewed in terms of the provision that governs the liability for obligations assumed by unincorporated legal entities.

TOMASZ TULEJSKI

BURKE *V*. HUME – THE PROBLEM OF THE NATURAL LAW AT THE BEGINNING OF BRITISH CONSERVATISM

(S u m m a r y)

The Author presents two different currents in Anglo-Saxon conservative political philosophy. He argues that their founders – David Hume and Edmund Burke – represent completely different approaches toward the issue of natural law. For Hume, the natural law is nothing but the product of social practices. It is changeable and evolves together with society itself. In turn, Burke appeals to the conception of natural law in its classical version. For him, it is universal, commonly binding and immutable. It constitutes the main source of the legitimacy of all social and political institutions. The Author indicates that it is the reason why it is appropriate to consider these two conceptions of natural law separately. The former accepts slow, evolutionary changes regardless of their direction. The latter assumes that they are bound to be correlated with the natural law order.

EKONOMIA – THE ECONOMY

Tomasz J. DĄBROWSKI

CONTROVERSIES OVER THE VALUATION OF THE RELATIONS WITH STAKEHOLDERS

(S u m m a r y)

The value of contemporary companies is to great extent based on the value of intangible assets. Therefore, the precise valuation of particular elements of those assets constitutes an important issue. The solution to this is regarded as an important challenge both on theoretical as well as on practical level. One of the components of intangible assets are the relations of the company with different groups of its stakeholders. The meaning of the valuation of those relations increased together with the densification of the network of stakeholders resulting from the emergence of new groups of stakeholders and from the increase in the number of contacts with the company. The current approach to the valuation of stakeholders relations (concentrated mainly on clients or employees) seems to be insufficient because the relations with other stakeholders also become a source of future economic benefits for the company. Therefore, there is a need for new approach towards the valuation of relations, embracing broader range of stakeholders, so that the valuation fully reflects the real value of those relations as an element of the intangible assets of the company.

Joanna DZIAŁO

FORMS AND INSTRUMENTS OF STATE AID IN THE EUROPEAN UNION IN THE YEARS 2006-2011

(S u m m a r y)

The paper aims to analyze and evaluate the state aid granted in the Member States of the European Union in the years 2006–2011. The analysis concerns the amount of aid provided, as well as forms and instruments used. The author analyzes the trends of changes in the volume of the aid, as well as changes in the structure of its types and forms. The main conclusion is that the scope of non-crisis state aid granted in the 27 EU countries in the analysed period was reduced both in absolute terms and in relation to the average GDP of the European Union. Structure of state aid has also changed. There was an increase in spending on horizontal and regional aid and a decrease in spending on regional aid. One can also observe the change in structure of state aid instruments; there was an increase in the share of active instruments (subsidies for companies). At the same time a relatively large share as passive instruments (tax and deferred tax) has been observed.

Anita FAJCZAK-KOWALSKA
Jan WIĘCEK

THE ANALYSIS OF CHANGES IN THE NUMBER OF EXAMINED HOUSEHOLD BUDGETS THROUGH THE YEARS 1993–2011

(S u m m a r y)

The purpose of this article is to identify the changes over time in the number of analyzed budgets and to present the opportunities to use the information on the behavior of households in Poland. The information contained in the publications of the "Household Budgets in 1993–2011" allows to conduct economic analyzes in different categories: by voivodeships in 1999–2011, by socio-economic groups and by size of households in 1993–2011. Information used in article allows also to research, inter alia, the relationship between the number of budgets and the number of people living in the sixteen Polish voivodeships.

Maciej KOZŁOWSKI

INFLUENCE OF FINANCIAL PARTICIPATION SCHEMES ON COMPANY RESULTS – A CASE STUDY

(S u m m a r y)

Wider and wider scope of research into the influence of participation on the results achieved by companies confirms the belief that the previous results are not satisfactory, and there is a need for conducting further, even deeper surveys which might contribute to drawing less ambiguous conclusions on the basis of the analyses carried out. It is also necessary to improve the definitions of particular forms of financial participation because their different interpretation by various research teams frequently results in obtaining results that differ considerably. This fact does not allow for evaluation of the real level of employees' participation in those schemes, which in turn does not reflect the results achieved on the grounds of their introduction in companies. The previous research, although not very complex, show that using programs which allow for a participation of employees in profit and/or ownership is often connected with higher efficiency or other benefits achieved by companies and workers.

The research into the employees' attitudes generally show positive relationships between the implemented share ownership programs and employees' attitudes and behaviors, although the strength of this relation is not very great, or in marginal cases there is absence of such a relation.

It is impossible to draw more straightforward causal conclusions because of the cross-section information and short-term data panels. Additionally, there are only a few studies making use of long-term data panel in which it is possible to display positive effects in the longer run. Similar research conducted in the companies using profit sharing show a general, positive impact on efficiency and it is definitely stronger than in the case of employee share ownership schemes. Moreover, in the professional literature there is a shortage of studies which would analyze the mutual interaction of different schemes. One of a few such attempts are the research conducted by G. Braam and E. Poutsma, which make use of the international database of companies, in-

cluding 5000 of the most important enterprises, which contains financial, marketing and other data. The research were conducted in the period 1992–2006 on the sample of 1878 companies, listed on the Dutch stock.

Katarzyna MROCZEK
Tomasz TOKARSKI

REGIONAL DIVERSIFICATION OF HUMAN CAPITAL IN POLAND

(S u m m a r y)

The aim of this article is to compute taxonomic indicators of human capital across Polish regions (voivodships) as well as to determine their impact upon spatial distribution of basic macroeconomic categories (such as production sold per capita, gross capital assets, investment outlays per capita, wages, registered unemployment rate, number of REGON (National Business Registry Number) per 1000 inhabitants), and finally: to estimate the influence of human capital with respect to spatial distribution of taxonomic measures of economic development across the voivodships in the years 2002–2011.

The article is structured as follows. In section 2 main definitions of human capital are presented along with ways of its measurement. Section 3 contains presentation of taxonomic indicators and descriptive analyses of its spatial distribution. In section 4 spatial distribution of an economic development indicator (constructed by analogy with the human capital taxonomic indicator) is discussed. Section 5 analyzes the impact of the human capital indicator upon the macroeconomic variables enumerated in the preceding paragraph. Finally section 6 concludes.

Piotr PIENIĄŻEK

DETERMINANTS OF THE MURDER RATES IN THE USA

(S u m m a r y)

The aim of this study is to evaluate the impact of different factors on crime by estimating structural parameters of a simple model of the supply function of the murder rate in American states in 2009. Results suggest that demographic variables play an important role in explaining this phenomenon, as well as the probability of execution given murder and inequality with its nonmonotonic influence. In the first section research is embedded in a proper context. Second section gives a descreption of the research framework. Third section presents the results of the estimation. Fourth section presents the discussion of the estimates and the final fifth section closes the article with concluding remarks.

Janusz SKODLARSKI

PRINCES ANNA JABŁONOWSKA AS A LAWMAKER AND MANAGER (1728–1800)

(S u m m a r y)

Activity of Princess Anna Jabłonowska as a legislator and manager in Podlasie in the second half of XVIII century is a sensation in the history of law-making and management in land magnate properties. The Princess proved that rational enhancement had been possible on the scalę of rnagnate properties without breakingthe domestic law.

Katarzyna SKORUPIŃSKA

DIRECT EMPLOYEE PARTICIPATION AND INNOVATIVE APPROACH TO THE MANAGEMENT COMPANY

(S u m m a r y)

This article presents the examples of functioning programmes and the systems of direct participation practiced in Polish organizations that serve the reporting by employees of their improvements and encourage them to innovate. These programmes allow better use of knowledge and skills of employees, stimulate their creativity which translates into an increase in labor productivity, improve product quality and reduce costs in the company.

The results of the research in this paper indicate fairly common occurrence of direct participation in Polish companies but they also demonstrate the lack of an integrated approach to participation, i.e. the simultaneous practice of various forms of this participation. Moreover, the research confirmed the relationship between the extent of direct participation and the following factors: job categories, task complexity, work organization, preparation to work and level of qualifications of the largest occupational group.

Jurand SKRZYPEK

POST-CRISIS REGULATIONS IN THE WESTERN DERIVATIVES MARKETS AND THEIR IMPLICATIONS FOR POLAND

(S u m m a r y)

The article deals with over the counter (OTC) derivatives market and necessity for its regulation after the financial crisis 2007–2009. The aim of the article is to determine the impact of present and future regulations on world and domestic OTC derivatives market. First, the issues of derivatives have been brought closer. Next part describes basic elements of derivatives market that cause problems in the western financial markets. In the USA, the main repair tool is the Dodd–Frank Wall Street Reform and Consumer Protection Act. In EU, the remedy for unintelligible market will be Central Counterparty Clearing (CCP). Conducted argument ends with an attempt of identify the impact of implemented regulations on polish and world financial markets.

Iwona STANIEC

CORE COMPETENCIES FOR RISK MANAGEMENT

(S u m m a r y)

The managers roles of the organization are presented in this paper. Special attention is paid to the knowledge and skills needed in every organization's risk manager's work. The importance of the development of risk awareness education was underlined. The popular initiatives (generally available) combining risk managers were described by the Author of this paper.