

Introduction

The thing that allows combining different articles in one volume, is the common denominator contained in the title, which is *security*, but in the broadest sense of the meaning. We understand this as the guaranteed by the law – the legal system in general, different branches of law and their institutions and legal procedures – protection of persons, collectiveness, devices and procedures against all possible dangers to their identity and in the end to their existence. In this sense, the protection of the existence of a certain being, state or structure constitutes, if we may say so, a counterpoint for possible harm.

Under social conditions two types of securities are usually distinguished, namely *public* security, which mainly refers to a state, nation or society, and, on the other hand, *private* security, which is the protection of individuals (natural persons). The issue of security is usually dealt with accentuating its *political* aspects, and in case of public security, emphasizing the need for protection against dangers from foreign political entities (states, criminal groups), which should be guaranteed by the efforts of national authorities, and in the case of private security – creating an effective protection against abuses and dangers from other segments (for example, the executive branch of the government) using one segment of public authority (for example, judiciary).

The first nine successive articles can be categorized under the ones where the political aspects of security are dominant. The actual term *national security* is scrupulously analyzed and the complex and multilateral relations between internal and external security are explained. The author, W.J. Wołpiuk, contributed in an original way to legal semantics.

The permanent and universal problems of external national security are contained in another article (J. Oniszczyk), referring to Kant's idea of perpetual peace and also in the context of the realities of the contemporary world. These realities – among them the final divergence of bipolar international politics being the result of the collapse of the so called real socialism, progress in the European integration and finally the international and transfrontier criminal threat – gave an impulse towards a more detailed





theoretical reflection to a few of the further authors. Thus, the following articles present the complex dilemmas related to the fight against terrorism, pointing out aptly that since the critical date with respect to terrorism, being September 11th (2001), this fight started being perceived as an armed conflict, a state between peace and war (T. Aleksandrowicz).

Thus, since it is an armed conflict, it seems obvious that the state should use armed forces in it, on the condition that – in the light of the international law – it is legal and morally justified, ergo – legitimized. Similar dilemmas arise with respect to the issue of reacting towards the dissemination of weapons of mass destruction (J. Kranz).

Simultaneously, integration in European countries is progressing, also on a political level. In a separate article the role of international and supernational systems of collective security is discussed, showing in what way the Treaty of Lisbon should, according to its assumptions, broaden the sphere of activity of the community in the field of external security as well as internal security (J. Jaskiernia).

The other authors brought up problems of national and regional dimensions (concerning one country or a group of countries), which does not necessarily mean that these problems lack a general significance. These authors discuss such issues as vetting and the significance thereof for the public security in the Third Republic of Poland, being in favor of a continuation of it, on the condition that it is strictly in accordance with the standards of a state ruled by law (R. Bielski). In another article, on the grounds of the Polish law, the issue of civil control over the armed forces is examined, which, despite the fact that it is exercised by politicians, should not lead to violating the axiom of political neutrality of the army (W. Sokolewicz). Another author speculates about combining the protection of national security in Japan with the constitutional restrictions of the right to an own army, imposed on this country after the lost war. Would a flexible interpretation of the constitution be enough, or is a change of it necessary? (T. Suzuki).

And finally a crucial question for the State of Israel – which of the effective methods for the protection of national security will fulfill the requirements of a democratic and libertarian state government and which are a danger to the constitutive qualities of this country (U. Huppert, M. Gajda). A joke is brought up here in the form of an advertisement, which was popular in 1956 and most likely incomprehensible (fortunately!) for the young generations of Poles: I will give up my sovereignty in exchange for a better geographical location.





Apart from the political aspect, public security also has an *economic* aspect, which is discussed mostly in the next four articles. The general problem of public security is materialized in those articles, with references to particular areas of public material activity. They discuss energy security, pointing out the conflict of values that arises in the confrontation of the energy need with the preservation of the natural environment, which is usually resolved also on the level of European law in favor of energy security (W. Hoff, B. Nowak). I am not sure if the residents of Augustów will be happy to accept such an evaluation

Further on, ecological security is discussed, which is considered strictly in relation to the constitution – article 5(!) – being a rather enigmatic theory of balanced development (J. Kielin), and finally the topic of information security is brought up (S. Hoc).

All four of the last mentioned articles point out problems against the broad background of European and international law, though always from a Polish perspective.

Private security is primarily the protection of the human life, which is guaranteed by the state criminal law (L. Paprzycki) as well as the international law (J. Kondratiewa-Bryzik). What needs to be mentioned here is that, irrespectively of the so far legally unresolved issue of the moment of commence of the life of a human being, the Polish law – being rather restrictive in that matter, however not violating the international standards – allows for, which is also confirmed by the *Constitutional* Tribunal as well as the Supreme Court, a differentiation in the intensity of the legal protection of a fetus, depending on its stage of development.

Another criminal legal issue is supplementing the catalogue of summary proceedings, which are applicable in cases of a serious threat for the external national security and are fortified with procedural guarantees of complying with fundamental citizen rights (W. Kozielowicz).

A separate topic in the area of penal law is the security of carrying out osmological expert reports, which are discussed in a very interesting, also for non-experts, criminal study (M. Całkiewicz).

This volume discusses private security in a very broad manner, thus it also includes the security of legal relations between natural and legal persons, and also other corporate entities. The articles that discuss these issues include studies on the topic of security of economic circulation in commercial company law, which contain, among other things, constructive, realistic and well accounted for conclusions *de lege ferenda* (J. Okolski, M. Szyszka),





as well as on security of the parties of a development contract, who are not protected sufficiently by positive law, as the author concludes (P. Staniec).

Despite a certain coherence of theme, the presented volume is not the result of collective work – according to the meaning that in the past century prof. M.Z. Jaroszyński has given to such scientific works – but is simply a collection of articles. The included studies do not form one coherent volume and the viewpoints of the authors are not always in agreement with each other. Even though all the articles cover the same topic, namely security, this is understood, as explained above, in the broadest possible sense.

However, the *legal attitude* towards the issue of security is a common factor in all the articles, certainly dominating even in the articles whose authors try to combine it with a *political* (U. Huppert, M. Gajda, as well as T. Suzuki) or a *philosophical* (J. Oniszczyk) attitude. What makes them different are the various perspectives from given branches of jurisprudence, such as *international law* (J. Kranz, T. Aleksandrowicz, J. Kondratiewa-Bryzik), *supernational*, therefore European law (J. Jaskiernia, W. Hoff, B. Nowak, J. Kielin), *constitutional law* (R. Bielski, W. Sokolewicz, W. J. Wołpiuk, as well as T. Suzuki to a certain extent and U. Huppert with M. Gajda), *civil law* (J. Okolski, M. Szyszka and P. Staniec), and even *penal law* (L. Paprzycki, W. Kozielowicz) and forensic science.

In their articles, the authors present the results of the (to various extents) advanced research studies. Apart from articles that summarize the carried out research, throughout many years and by large teams of people (J. Kranz, W. Hoff, J. Kondratiewa-Bryzik, J. Oniszczyk), there are also articles that constitute an introductory version of a bigger piece of work (for example, the article of the undersigned).

The task of the scientific editor was not to unify the attitudes of the authors and certainly not their viewpoints. He could also not – for objective reasons – guarantee a similar level of maturity of the collected studies or a consistent depth of deduction. The reader can evaluate himself to what extent each of us have fulfilled the in the title of the article contained task and in particular, to what extent the authors did not only pursue the title of this particular volume: *Security*, but also the title of the series: *The critique of law* and its characteristic feature of being a collection of *independent* studies of law.

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