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Report on the Conference ‘Wyzwania dla prawa w dobie pandemii. Doświadczenia Niemiec, Szwecji i Polski’²

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An international conference on challenges for law in the wake of the COVID-19 pandemic was organised on 28 April 2021 by the Legal Interdisciplinary Science Centre at Kozminski University, together with the editorial board of the journal “The Critique of Law”.

The conference was a result of the interest sparked by two articles published in “The Critique of Law”. The purpose of the first one, written by Professor at the University of Zielona Góra, Martyna Łaszewska-Hellriegel, PhD, and by Christoph Hellriegel, PhD (Issue 4/2020), was to compare health policy objectives (goals), based on the theory of distributive justice, with their actual implementation (function) in the form of guidelines or *triage* plans during the COVID-19 pandemic crisis – as exemplified by Sweden and the USA. The second of the above-mentioned articles, written by Jan Henrik Amberg from the Swedish Ministry for Foreign Affairs, presented the Swedish view on the rule of law in the European Union (Issue 1/2021).

The conference was opened by Professor Grzegorz Mazurek, PhD, Rector of Kozminski University. The participants were also welcomed by the Dean of Law School – Professor Kozminski University Robert Zieliński, PhD.

The first speaker was Professor at Adam Mickiewicz University in Poznań Hanna Suchocka, PhD who reflected on the pandemic from the perspective of the Venice Commission. In her presentation, Professor Suchocka paid attention to the fact that applying extraordinary measures must be subject to three fundamental principles: necessity, proportionality, and temporariness. A state of emergency, as emphasised by the Professor, is not introduced *de jure*, but *de facto*, and that is why

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² ‘Challenges for Law in the Era of the Pandemic. Experiences of Germany, Sweden and Poland’ (translator’s note).

it is so important that judicial control be guaranteed, i.a. to prevent abuse and excessive restrictions of human rights.

The next speaker was Jan Henrik Amberg from the Swedish Ministry for Foreign Affairs. Minister Amberg focused on showcasing, in the light of the voluntary subjection to restrictions introduced in the country, the constitutional understanding in Sweden and the values Swedes deem important. He emphasised that the lack of the necessity of implementing a legal obligation to comply with the pandemic restrictions was based on the citizens' trust in state authorities and from a high level of self-awareness and responsibility for themselves and others. He also presented the pandemic act adopted by the Swedish Riksdag.

The German perspective was presented by Professor at the University of Zielona Góra Martyna Łaszewska-Hellriegel, PhD, and Minister-Counsellor Christoph Hellriegel, PhD, from the German Bundestag. They discussed the provisions of the German act targeted at managing the pandemic, emphasising that due to the German federal system, preventing infectious diseases from spreading at the federal level was more difficult; therefore, it was necessary to introduce so-called 'emergency brakes' at the federal level, including a curfew, obligation to wear masks and to work from home, as well as limiting people-to-people contacts.

The last speaker was Professor at the Nicolaus Copernicus University in Toruń Karol Dobrzeński, PhD – the author of the book *Prawo wobec sytuacji nadzwyczajnej. Między legalizmem a koniecznością*³ (Toruń 2018). Prof. Dobrzeński focused on the issue of constitutional states of emergency and against that background he presented the Polish regulations employed during the pandemic, in particular those related to the introduction of state of epidemic emergency and state of epidemic.

The discussion which followed focused i.a. on the citizens' attitudes towards the restrictions imposed, practical aspects related to the introduction of various types of prohibitions and orders in individual countries, as well as the necessity to protect the citizens' mental health, potentially threatened by the restrictions and changes in existing lifestyles.

It was emphasised in the conclusions that the individual countries were not fully prepared for confronting a global epidemic at the legislative level, revealed during the current COVID-19 pandemic. It seems clear that constitutional provisions and associated acts require amendments, and a further discussion how to protect both citizens and economies more effectively in the case of future pandemics.

³ Proposed English title: *Law Facing an Extraordinary Situation. Between Legalism and Necessity* (translator's note).