

Models of Legal Risk Regulation in the Light of the Theory of Reflexivity

The project aims at reconstruction of alternative models of legal regulation of risk, which reflect the existing practical regulatory strategies, and at exposure of their theoretical foundations. In other words, the project objective is to clarify linkages between fundamental theoretical assumptions and practical strategies of the legal regulation of risk.

A theoretical framework is provided by the sociological theory of reflexivity of modernity, as developed by such authors as Ulrich Beck and Anthony Giddens. Such a choice is justified by the fact that this is reflexivity which is a basic methodological principle of dealing with risk.

The basic idea of the project is to link three levels of considerations about risk and reflexivity: firstly, the level of the normative models of risk regulation; secondly, the level of sociological theories of reflexivity, and thirdly, the level of basic philosophical interpretations of the very concept of reflexivity. The research attempts to prove a claim that the level of philosophical comprehension of reflexivity (reflection) establishes the framework for constructing both theories of reflexivity in the sociology of law or sociology of politics, and alternative models of risk regulating. This general claim is developed in relation to two main dimensions of reflexivity, and at the same time to two key aspects of risk regulation, that is the issue of reflexive cognition (respectively, risk assessment) and the issue of reflexive acting (respectively, risk management). As regard the former dimension, in the project we distinguish the self-referential and the dialogical model of risk assessment; as for the latter dimension, we reconstruct the model of global regulation and the model of local regulation. As will be demonstrated, each of those models may be rooted in different philosophical interpretations of reflexivity.

The planned research possesses a vital practical significance due to a dominant role of the risk-based perspective in the present regulatory policies. At the same time, as far as we know, the above problems have not been considered in the legal science thus far neither in Poland, nor in other places in the world.