Iustum Aequum Salutare
XXI. 2025. 1. • 213–219.

SUMMA

THE PERCEPTION OF THE PERSON IN THE CIVIL CODE

Zoltán Csehi

The study is based on a lecture given at the faculty of law on the ceremony held on the tenth anniversary of the entry into force of the new Civil Code of Hungary. It attempts a new, anthropological approach of the Code. It aims to show what kind of person the rules of the Civil Code show and depict, based on the the family and inheritance rules of the Code. In addition hereto property rules and the business nature of the rules typically dominate the Civil Code, which was strengthened by the incorporation of company law into the Code. The rules on the property and business must be interpreted in the light of the family and inheritence rules. In addition hereto, the Civil Code has created a new liability system with the modified regulation of breach of contract and tort. This new concept of liability manifests by the general rule of the human acts, the so called "standard of expectation of behaviour" at the introductory rules of the Code.

* * *

„PARALLEL (?) BIOGRAPHIES": 1960–1970 AND 2014–2024

Balázs Landi

The 1959 Civil Code (rPtk.) and the 2013 Ptk. shows many similarities in preparatory work and codification. The duration of the codification was seven years in the case of rPtk. and fifteen years in the case of Ptk. In the case of both codes, the government created a separate codification committee, in addition to which extensive social and professional consultation played an important role. Neither the rPtk. nor the Ptk. its codification period did not fall into a politically favorable period. In addition, rPtk. and the Ptk. its codification was also integrated into the international legislative processes and they followed several foreign "models". The legislator provided – in the case of rPtk. – 9 months and – in the case of Ptk. – 13 months for entry into force, because both codes resulted significant changes in the legal system. In the first ten years after the entry into force of the two codes, they underwent numerous amendments, which already show several differences. If we compare the temporal distribution of the amendments, it can be concluded that the Ptk. – in the first four years after its

entry into force – was amended more times than the rPtk. in total in the first ten years. Despite all this, the Ptk. continues to self-identify those private law values that help to "keep in check the arrogance and recklessness of a people puffed up in prosperity and arrogant", as happened in the age of Pericles. Quoting the warning of Lajos Vékás: "More respect for the Ptk.!"

* * *

"SPECIAL" VIRTUES IN THE 10-YEAR-OLD CIVIL CODE – FOLLOWING ANDRÉ COMPTE-SPONVILLE

Zsuzsanna Martonyi

The relationship between law and morality is well known. The virtues are a constituent of morality and are therefore also reflected in law. Not only in positive law, but also behind the letter of the law. Virtue, in the traditional sense of the word, can only be human. Virtue is a necessary condition for man's becoming man. The 10-year-old Civil Code provides for a human image whose virtues can be revealed. This raises the question of whether it is possible to find the virtues that have been formed over thousands of years of philosophical history in the lines and between the lines of the 10-year-old Covenant. If so, they can be used to refine the general conception of man in the Civil Code.

The history of moral philosophy abounds with lists of virtues, from the ancient Greeks, through the Romans, Christian moral philosophy, the Enlightenment, and the diverse schools of philosophy of the centuries that followed, to contemporary philosophical trends. Of the virtue catalogues available today, it is the popular contemporary French philosopher André Compte-Sponville's accessible catalogue that has reached a wider audience. From his list of virtues, we seek to identify and briefly explain the virtues of courtesy, loyalty, prudence, temperance, courage, generosity and humour. Some virtues are easier to identify and others are almost impossible to find in the Civil Code. It is by living up to them that one can become what the ideal excellence behind a legal text should be. This experiment – with reference to Montaigne – may help us to play the role of man well and correctly.

* * *

PRACTICAL DILEMMAS OF PERSONALITY RIGHTS IN FAMILY LAW

Sarolta Molnár

The article presents the dilemmas arising at the intersection of personality rights and family law, with special reference to the Hungarian legal system. Family law, which

traditionally reflects moral norms, has undergone a significant transformation in the last century, and this process is still ongoing. The paper points to the problems of dealing with domestic offences such as infidelity, abuse, obstruction of contact and sharenting. These issues often go beyond the traditional family law sanctions, raising the possibility of a personal law-based claim, reflecting a modern, individualistic approach. The article highlights the issues of the unity of family law and civil law and examines the extent to which the use of personal law claims is compatible with the community character and interests of the family.

* * *

‘NUANCES’ OF LEGAL CAPACITY

Towards a broader understanding of the concept of civil legal personality?

Zoltán Navratyil

The study aims to present recent phenomena related to the onset of legal capacity in the areas of abortion and in vitro fertilization. These issues have primarily emerged in the United States’ legislation and jurisprudence in recent years, and have brought the ‘pro life’ and ‘pro choice’ debates back to the surface. In the 2022 Dobbs case, the U.S. Supreme Court overturned long-standing precedents in the field of abortion, leading to fundamental changes at the state level. As a result, significant questions have also arisen regarding the legal status of in vitro embryos in cases of artificial fertilization outside the mother’s body.

While legal regulation and jurisprudence typically treat these two issues separately, the study highlights that the legal environment lacks coherence when the legal status of the embryo and the beginning of legal personhood depend on whether the embryo is physically located inside or outside the mother’s womb. Both legal regulations and jurisprudence show a tendency that emphasize the personhood of the fetus or embryo, extending civil legal personhood to them in some form. Although there is no uniform position, pro-life viewpoints are increasingly articulated in law.

* * *

THE LEGAL CAPACITY OF THE FOETUS IN THE CIVIL CODE

A corrective criticism

András József Pomeisl

The Civil Code, which entered into force ten years ago, has introduced innovations in Hungarian private law in several areas, and has declared the obligation to interpret private law rules in accordance with the constitutional order at a fundamental level. However, it seems that this innovative intention has not been implemented in relation to the much-debated legal status of the foetus. The author of this study, as well as the author of most of the private comments made during the codification of the Civil Code, makes his observations and suggestions on this apparently unchanged issue. The first part of the paper critically analyses the regulation of abortion and the Constitutional Court decisions on the subject, based on the Interim Constitution. Then, based on the provisions of the Fundamental Law, placing it in the context of the historical Constitution, it seeks to answer the question of how the constitutional status of the foetus has changed through the restoration of constitutional continuity. In the second part of the study, the author analyses the beginning of human legal capacity and the legal status of the foetus in the regulation the former Civil Code and the Civil Code in force, examines the concept of so-called conditional legal capacity, and raises some further questions that are actually unsettled regarding the legal status of the foetus. Finally, the author makes *de lege ferenda* proposals to regulate the legal capacity of the foetus more in line with its constitutional status as a human being, and to resolve further problems relating to the legal status of the foetus.

* * *

HUMAN DIGNITY IN TARGET

Observations on judicial practice of human dignity

Helga Kovács

In lawsuits based on defamation, the court cannot avoid clarifying what exactly it considers to be defamatory expression, with which the facts are realized. This is caused by the fact that the old Civil Code over his legal practice - due to the changed legal environment and especially the impact of the Basic Law – time has passed. In order to define the legal concept of human dignity more closely (lacking a legal definition), the Constitutional Court gradually contributed to the development of legal practice with certain interpretation aspects. In this study, I examine how the increasingly permissive interpretation of freedom of speech affected the legal perception of violations of human

dignity. I will also show whether it is conceivable to prevent mass violations in other, indirect ways in order to protect human dignity more effectively.

* * *

CONSUMER RIGHTS TO PROTECT QUALITY – OR IS MORE LESS?

Andrea Gyulai-Schmidt

In civil law the consumer is a legal subject exposed to disadvantages, who needs legal protection not only because of a lack of information, but also of a lack of the appropriate legal competence to prevent poor performance that puts the consumer at a disadvantage. In addition, he or she usually does not have the necessary experience or financial resources to initiate and successfully conduct a legal dispute against a company. If we consider the legal consequences of poor performance for consumers, it can be stated that the EU directives issued in recent years have led to the current Civil Code and the associated government regulations reinterpreting more and more legal redress instruments. Especially in accessory and product liability and warranty, the amending regulations are becoming increasingly dense.

The main goal is to give consumers legal instruments to enforce their primary claim for repairing or replacing defective products as effectively as possible. Recently, in the spirit of the green transition, the EU legislator has increasingly favoured repair and adopted Directive (EU) 2024/1799 on the right to repair, in summer 2024, encourages consumers to use this tool to enforce their claims for the elimination of defects. At first glance, consumers are in an enviable position. However, in the increasingly complex and constantly changing network of measures, consumer confusion can arise, which can easily be exploited by companies or manufacturers to use to their advantage the consumers' right to choose between the remedy options. All of this can undesirably weaken the effectiveness of legal protection.

* * *

NEW DIRECTIONS IN THE CHANGING RULES ON LIABILITY FOR DEFECTIVE PRODUCTS IN THE EU LEGISLATIVE LANDSCAPE

Bálint Bartl

The revision of product liability rules in the European Union began in 2022. The present publication highlights some of the elements of the changing regulation in the context of EU legislation. It shows how the EU is adapting the concept of damage in

product liability, what new conceptual category of psychological illnesses is included in the definition of damage to health, what considerations led to the extension of the objective 10-year limitation period for the enforcement of claims in certain cases, how the EU legislator thinks about software, upgrades and developments, and analyses some of the issues of development risk in the Member States. The legal concept of product liability is of undisputed importance in the 21st century, and it was therefore necessary to examine some of its aspects from an academic point of view and to assess its representation in the current Civil Code from a systematic point of view.

* * *

THE PUBLICIZATION OF PRIVATE LAW IN THE ONLINE SPACE

The Relationship Between Public and Private Law in the DSA

János Tamás Papp

The study examines the phenomenon of the publicization of private law in the online space, with a particular focus on the European Union's Digital Services Act (DSA). In addition to exploring the historical background of the traditional distinction between public and private law, the study demonstrates how the DSA blurs the line between these two areas and how the state intervenes in private legal relationships between digital platforms and users. The increasing number of mandatory rules introduced by the DSA limits private autonomy, especially regarding contractual terms that define the rights and obligations of users. The restriction of platforms' contractual freedom and the integration of fundamental rights protection have become necessary steps to safeguard user rights and ensure the public interest. However, while public law intervention is justified, the enforceability and accountability of fundamental rights requirements raise serious concerns about the regulation's practical effectiveness.

* * *

REFORM OF PUBLIC REGISTERS IN THE NAME OF TRANSPARENCY?

Orsolya Csapó

The article entitled "Reform of Public Registers in the Name of Transparency" examines the transparency of records in relation of the reforms of the two most significant public registries: person and property. Among the legal facts underlying the decisions of legal entities, data from public records are of paramount importance. The meaning of public credibility however, differs from register to register. The article first describes

its normative content, examines the possible approximation of definitions belonging to the meaning range of public credibility on other criteria, including correctness, common knowledge, completeness and good faith through its appearance. The investigation concludes that the legislator did not manage to create a uniform public credibility formula in the laws of both the real estate register and the newly created company register, later the register of legal entities. On the other hand, the article also examines the transparency problems inherent in the electronic process of the already electronically stored data in the procedure. Along the concept of the digital state, digital citizenship aims to connect all state registers and specialist systems, which raises many new questions: the connection itself, the use of data other than their original collection purpose, data different from the original documents entering the system, data transmission, and new ones arising during electronic procedure problems inherent in the data. The article examines the parallels of citizen IDs vs. personal numbers used for data interconnection, the resulting fundamental law problems, and the reservations formulated by the Constitutional Court more than thirty years ago: finding it relevant again, thus it warns of the impairment of the right to informational self-determination.

* * *

DATA PROTECTION IN THE AI AGE

Data protection aspects of prohibited AI practices and the use of certain AI systems generating risks

Dániel Necz

The widespread use of AI today poses particular challenges for the protection of personal data. Thus, through the use of AI systems, the behavior of users can be easily observed, their habits and character can be mapped, from which AI can draw almost innumerable conclusions. The European AI Regulation has defined the scope of AI practices that can be considered prohibited in democratic societies with regard to the risks arising from excessive surveillance and certain other harmful AI practices. In addition, there are other AI applications that can be considered high-risk or potentially harmful and risky, and which have therefore attracted considerable attention in the context of data protection and with respect to the related risks to privacy. In line with the above, the aim of this paper is to present the data protection aspects and main risks associated with the use of prohibited AI practices and certain AI systems, including the challenges of biometric identification, certain risk assessment systems and web scraping.

A folyóiratszámban szereplő tanulmányok a Nemzeti Média- és Hírközlési Hatóság támogatásával valósultak meg.